

REQUEST FOR PROPOSALS

RFP Number: 3120002041

To Provide: Professional Electrical Services

Issue Date: August 11, 2020

CLOSING LOCATION

Pearl River Valley Water Supply District (PRVWSD)

115 Madison Landing Circle

Ridgeland, Mississippi 39157

PROPOSAL COORDINATOR

Sharon Hicks

Telephone: 601-605-6886

Fax: 601-856-2585

E-Mail: slarry@therez.ms

CLOSING DATE AND TIME

Proposals must be received by 10:00 CST A.M. September 11, 2020

SECTION 1

1.1 Proposal Acceptance Period

Respondent (offeror-vendor) shall provide one (1) original copy of the proposal, and one (1) redacted copy of the proposal. Pursuant to *Mississippi Code Annotated* §27-144-7 and §§ 31-7-401 through 31-7-423, the State of Mississippi requires a blind evaluation of certain facts not requiring knowledge of the name of the Offerors. The Offeror is responsible for ensuring that the redacted copy shall have no identifying information, logos, water marks, etc. If this is not followed, then that offer shall be immediately rejected as non-responsive. Identifying information shall be defined as Identifying information includes, but is not limited to, any prior, current and future names or addresses of the offeror, any names of incumbent staff, any prior, current and future logos, watermarks, and company colors, any information, which identifies the offeror as an incumbent, and any other information, which would affect the blind evaluation of technical or cost factors. The redacted copy of the proposal shall have all references to the identity of the Respondent eliminated. The original copy of the proposal shall be signed and submitted in a sealed envelope or package with the redacted copy to the Pearl River Valley Water Supply District Attention: Sharon Hicks, 115 Madison Landing Circle, Ridgeland, Mississippi 39157 no later than the time and date specified for receipt of proposals.

The proposal may be hand delivered, or sent by the United States Postal Service, delivery service or through the Mississippi Contract/Procurement Opportunity Search Portal. Proposals sent by email or fax will not be accepted. All proposals shall be directed to the Proposal Coordinator.

Timely submission is the responsibility of the Respondent. Proposals received after the specified time shall be rejected and maintained unopened in the procurement file. The envelope or package shall be marked with the proposal opening date and time, and the number of the request for proposals. The time and date of receipt shall be indicated on the envelope or package by Sharon Hicks of the Engineering Department. Modifications or additions to any portion of the procurement document may be cause for rejection of the proposal. The PRVWSD reserves the right to decide, on a case-by-case basis, whether to reject a proposal with modifications or additions as non-responsive. As a precondition to proposal acceptance, the PRVWSD may request the Respondent to withdraw or modify those portions of the proposal deemed non-responsive that do not affect quality, quantity, price, or delivery of the service.

1.1.1 Timeline

- Request for Proposal Issue Date:
August 11, 2020
- Questions and Requests for Clarification to PRVWSD Deadline:
August 22, 2020 5:00 PM CST
- Anticipated Posting of Written Answers to Questions:
August 26, 2020 5:00 PM CST

- Proposal Package Submission Deadline:
September 11, 10:00 AM CST
- Proposal Opening:
September 11, 1:30 PM CST
- Anticipated Date of the Notice of Intent to Award:
September 15, 2020
- Anticipated Post-Award Debriefing Request Due Date:
September 18, 2020 5:00 PM CST
- Anticipated Post-Award Debriefing Held by Date:
September 21, 2020
- Anticipated Protest Deadline Date:
September 22, 2020 5:00 PM CST
- Anticipated PRVWSD-Board Approval:
October 15, 2020, contingent on Protests
- Anticipated Public Procurement Review Board (PPRB) for Approval:
November 4, 2020

1.1.2 Rejection of Proposals

Proposals which do not conform to the requirements set forth in this Request for Proposals may be rejected by the PRVWSD. Proposals may be rejected for reasons which include, but are not limited to, the following:

- 1) The proposal contains unauthorized amendments to the requirements of the Request for Proposals.
- 2) The proposal is conditional.
- 3) The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous.
- 4) The proposal is received late. Late proposals will be maintained unopen in the procurement file.
- 5) The proposal is not signed by an authorized representative of the party.
- 6) The proposal contains false or misleading statements or references.

- 7) The proposal does not offer to provide all services required by the Request for Proposal.
- 8) The Proposal does not meet all the requirements of:
 - a. 2.4 Specific Requirements
 - b. 4.1 Minimum Information
 - c. 4.3 Response Format

1.2 Expenses Incurred in Preparing Offers

The PRVWSD accepts no responsibility for any expense incurred by the Respondent in the preparation and presentation of an offer. Such expenses shall be borne exclusively by the Respondent.

1.3 Proprietary Information

The Respondent should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with *Mississippi Code Annotated* §§ 25-61-9 and 79-23-1 (1972, as amended). Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

1.4 Registration with Mississippi Secretary of State

By submitting a proposal, the Respondent certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

1.5 Debarment

By submitting a proposal, the Respondent certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or Federal government and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi.

1.6 Competitive Proposals

Discussions may be conducted with Respondents who submit proposals determined to be reasonably susceptible of being selected for award. Likewise, the PRVWSD also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of proposed terms, services or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

1.7 Additional Information

Questions about the contract portions of the procurement document must be submitted in writing to Sharon Hicks at: 115 Madison Landing Circle, Ridgeland, Mississippi 39157, Fax: 601-856-2585 or Email: slarry@therez.ms. Questions concerning the technical portions of the procurement document should be directed to Sharon Hicks at: 115 Madison Landing Circle, Ridgeland, Mississippi 39157, or Email: slarry@therez.ms. Respondents are cautioned that any statements made by contact persons that cause a material change to any portion of the procurement document shall not be relied upon unless subsequently ratified by a formal written amendment to the procurement document. Discussions may be conducted with Offerors who submit proposals or qualifications determined to be reasonably susceptible of being selected for the award, but proposals or qualifications may also be accepted without those discussions.

1.8 Type of Contract

This contract shall be a firm fixed contract.

1.9 Written Proposals

All proposals shall be in writing.

SECTION 2

2.1 Purpose

The Pearl River Valley Water Supply District (PRVWSD) is seeking Professional Electrical Services related to facilities operation and maintenance on all properties. The PRVWSD's properties are located in Hinds, Madison, Rankin, Leake and Scott Counties. Please visit our website at www.therez.ms.

It is understood that any contract resulting from RFP 3120002041 requires approval by the Public Procurement Review Board (PPRB) and the PRVWSD's Board. If any contract resulting from RFP 3120002041 is not approved by the Public Procurement Review Board, it is void and no payment shall be made.

2.2 Scope of Services

Offeror must provide Professional Electrical Services for the operations of the PRVWSD anywhere within the boundaries of the PRVWSD (see map at www.the rez.ms). Services may be required at any time, twenty-four (24) hours a day, seven (7) days a week. Supported operations shall include, but not be limited to, the following facilities and any new facilities which may be added to the PRVWSD inventory during the contract period:

2.2.1 Facilities and Services

- Offices:
 - Main Office in Ridgeland, MS
 - Rankin County Office
 - Rankin County Maintenance Facility
 - Rankin County Office for Reservoir Police

- Emergency Stand-By Generators
- Electrical Maintenance and Repair
- Heating, Ventilation and Air-Conditioning Systems Service and Maintenance

- Campgrounds (5 each) and Parks (4 each):
 - Management Offices
 - Pavilions
 - Restrooms
 - Residences
 - Camper Pads
 - Roadway Support
 - Boat Ramps
 - Swimming Pool Equipment
 - Maintenance of Lights on Navigable Waters
 - Detection and Marking of PRVWSD Powerlines for Excavation and Directional Boring
 - Overhead and Underground PRVWSD Powerlines and Cables
 - Power Distribution Panels
 - Emergency Stand-By Generators
 - Heating, Ventilation and Air-Conditioning Systems Service and Maintenance
 - Streetlights, Area Lights and Landscape Lighting
 - Power Pedestals (~500)

- Water and Sewer Services for ~5,500 customers:
 - Supervisory Control and Data Acquisition (S.C.A.D.A)
 - Remote Telemetry Unit (R.T.U.)
 - Detection and Marking of PRVWSD Powerlines for Excavation and Directional Boring
 - Water Wells (10 each)
 - Water Storage Tanks (7 each)
 - Sanitary Sewer Pump Stations (90 each)
 - Sanitary Sewer Treatment Units (4 each)
 - Emergency Stand-By Generators
 - Electrical Maintenance and Repair
 - Heating, Ventilation and Air-Conditioning Systems (42 each)

- Tower and Dam Operations for the Ross Barnett Reservoir:
 - Control Tower Operation Center
 - Dam's Hydraulic Components, Generators, Transfer Switches and Power Components
 - Supervisory Control and Data Acquisition (S.C.A.D.A)
 - Remote Telemetry Unit (R.T.U.)
 - Emergency Stand-By Generators
 - Electrical Maintenance and Repair
 - Heating, Ventilation and Air-Conditioning Systems
 - Streetlights

- Navigable Waters
 - Lights on Underpasses Over Waterways
 - Pressure Transducers Mounted on Bridge Piers
- Northshore Causeway
 - Streetlights
- Boom Truck Service
 - Provide and operate boom truck(s) in support of electrical, HVAC and hydraulic systems maintenance and repair work

2.2.2 Scope of Work for Electrical Services

1. Contractor shall provide professional electrical services related to facilities operation and maintenance on all properties of the District, including without limitation any improvements thereon which may be constructed after the date of this Agreement. These services will include all hand tools, testing equipment and other specialty items necessary for electrical maintenance and repairs and necessary labor. The District shall furnish all material and will make available any tools and other equipment of the District not being used for other purposes. These services shall conform to the District's purchase order policies in requesting any materials to be purchased by the District. Any items purchased by Contractor shall be identified by the equipment, specific repairs made, parts identified by number and name and supplies used in such repairs. Invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs. These services will be performed in accordance with all federal, state and other applicable laws, regulations and ordinances, including without limitation the International Building Code, or any other such code as the District may adopt.

These services include the maintenance and repair of all electrical, air conditioning cooling, heating and hydraulic components within the five (5) county boundary of the Pearl River Valley Water Supply District on a twenty-four (24) hour a day, seven (7) day a week, three hundred and sixty-five (365) days a year.

These services require that upon receiving a service phone call from an appointed or authorized employee of the District, the Contractor or qualified employees(s) must arrive in-person at the service-call site within one (1) hour of receiving the service phone call. (Depending on the severity of the service call, additional arrival time may be allowed at the discretion of the appointed or authorized employee of Pearl River Valley Water Supply District.) The Contractor or qualified employee(s) must answer the service call in person. Answering machines, answering services, voice mails, text messages or other means of non-personal communication will not be acceptable. Person to person radio, cell or landline telephone contact will be acceptable.

2. The following specifications will not specifically identify every eventuality or combination of duties and responsibilities that currently exist, or those that result from changing program emphasis in the future. Rather, it is designed to serve as a framework for providing a professional electrical service agreement with Pearl River Valley Water Supply District:

Minimum Specifications:

(a) Trouble-shoot, repair and maintain hydraulic gates, automated controls, Supervisory Control and Data Acquisition (S.C.A.D.A.) components, Remote Telemetry Unit (R.T.U.) components, generators, automated manual transfer switches, electrical and manual power components, and heating/cooling air-conditioning at the Reservoir Control Tower.

(b) Trouble-shoot, repair and maintain sewer pumps, motors, pressure and mercury floats, cables, control boards, panels, and (S.C.A.D.A.) (R.T.U.) components and generators at ninety (90) sewer pump stations and four aerated treatment units within the five county boundary of the Pearl River Valley Water Supply District.

(c) Trouble-shoot, repair and maintain water well pumps, motors, pressure transducers, control boards, panels, (S.C.A.D.A.) (R.T.U.) components and generators at ten (10) water wells and seven water tanks within the Madison and Rankin County boundary of the Pearl River Valley Water Supply District.

(d) Provide and operate a Boom Truck to trouble-shoot, repair and maintain streetlights on overhead supports along roadways, parks, boat ramps, District buildings and campgrounds within the five (5) county boundary of the Pearl River Valley Water Supply District.

(e) Trouble-shoot, repair and maintain lights on underpasses on the navigational waters of the Ross Barnett Reservoir.

(f) Trouble-shoot, repair and maintain pressure transducers mounted on the bridge piers of underpasses on the navigational waters of the Ross Barnett Reservoir.

(g) Trouble-shoot, repair and maintain overhead and underground cables/wires, supplying electrical panels at individual camper pads on five (5) of the District's campground facilities including the residences of the campground managers and assistant managers.

(h) Trouble-shoot, repair and maintain heating/cooling air-conditioning units, buildings electrical systems, lighting and generators at the District's Main Office, Reservoir

Control Tower, Reservoir Patrol, Reservoir Building Department, Reservoir Maintenance Facility and the four (4) campground managers' offices and residences. Universal (Type I, II, III) Certification of Completion in the Refrigerant Transition and Recovery Certification Program is required.

(i) Trace and mark underground power lines for the Operations and Maintenance Division crews prior to repairing water, sewer, lines or any excavation work orders. This minimizes injuries due to electrical shock and the disruption of electrical services to District customers.

(j) Trace and mark underground power lines for the Operations and Maintenance Division crews prior to directional boring under roadways, sidewalks and parking lots.

2.2.3 Materials

PRVWSD will provide all materials required for maintenance and repairs based upon requests submitted by the Contractor. Separate charges for materials shall not be allowed unless specifically authorized by PRVWSD.

2.2.4 Equipment, Tools and Training

Offeror must be capable of providing all necessary tools, equipment and training, including personal protective equipment, for its employees to safely perform required services. Costs of tools, equipment and training shall be absorbed in the proposed labor rates.

2.3 Term

The term of the contract shall be for a period of four (4) years. Upon written agreement of both parties at least sixty (60) days prior to each contract anniversary date, the contract may be renewed by the PRVWSD for a period of one (1) successive one-year period under the same prices, terms, and conditions as in the original contract subject to approval by PPRB. The total number of renewal years permitted shall not exceed one (1).

2.3.1 Multi-Term Contracts

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed four (4) years with an option to renew for one (1) year, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

2.3.1.1 Requirements

- a) The amount of services required for the proposed contract period based upon Section 2.2 Scope of Services and billed as detailed in Section 2.4 and 4.3(9).

- b) A unit price shall be given for each service, and that unit price shall be the same throughout the contract.
- c) A multi-term contract will be canceled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first; however, this does not affect either the State's right or the Contractor's rights under any termination clause in the contract.
- d) The Procurement Officer must notify the Contractor on a timely basis that the funds are or are not available for the continuation of the contract for each succeeding fiscal period.
- e) A multi-term contract may be awarded based upon the considerations in Section 4 of this solicitation.

2.4 Specific Requirements

2.4.1 These services must be provided by an Offeror that is duly registered and entitled to perform Electrical Work by the Mississippi State Board of Contractors and has been for a period of twenty (20) years. The Offeror must provide, as a part of its Proposal, a valid Certificate of Responsibility from the Mississippi State Board of Contractors.

2.4.2 The Offeror must be able to comply with all Federal, State and Local laws and the *International Building Code* (IBC), and the *National Electric Code* (NEC). As a part of the Offeror's Proposal, the Offeror must demonstrate that it has a record of compliance with these requirements.

The Offeror must be able to effectively interact with the PRVWSD's Chief Engineer, a Professional Engineer, P.E., Maintenance Supervisor and Administrative Staff. As a part of the Offeror's Proposal, the Offeror must demonstrate that it has a record of effective interaction with these type positions.

The Offeror must be capable of providing qualified and properly equipped emergency repair personnel to affect all types of repairs listed in Section 2.2 on a twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year basis. Offeror must be able to receive and answer, in person, calls for service on this same basis. Voice mails, answering machines, answering services, text messages and pagers will not be acceptable.

The Offeror must be capable of having qualified and properly equipped emergency repair personnel at the site of requested repairs within one (1) hour of receiving a call for service. A member of the Offeror's staff must accompany any subcontractors.

The Offeror must be capable of performing all electrical maintenance and repairs with its own forces. Subcontracting of electrical work will not be allowed. Subcontracting of HVAC and hydraulic repair work shall be permitted, but is not desirable.

The Offeror must be able to designate a dedicated program manager who will be the single point of contact for all services performed for PRVWSD. This program manager must be an employee of the Offeror. The program manager may also perform other services related to the work covered by this RFP.

Any and all subcontractors will be subject to approval by PRVWSD prior to being allowed to perform services. The Offeror must be capable of supervising and coordinating any subcontracted work. PRVWSD will not deal directly with subcontractors. Subcontractor costs shall be included in the electrical contractor's invoices. The electrical contractor shall make payments to subcontractors.

Payment for services performed under a contract resulting from this RFP shall be made once per month upon approval by the PRVWSD's Board of Directors.

Invoices for services performed under a contract resulting from this RFP shall include the following minimum information:

- Contractor's Business Name
- Dates of the Period Covered by the Invoice
- Labor and Equipment Hours Worked, by Facility
- Labor Classifications and Rates
- Subtotals of Charges, by Facility
- Total Charges for the Invoice Period
- Signature of Contractor's Authorized Project Manager

Proposers shall submit proposed hourly rates for the following labor and equipment classifications:

- Project Manager
- Master Electrician
- Journeyman Electrician
- Electrician Apprentice
- HVAC Repair Technician
- Hydraulic Systems Repair Technician
- General Laborer/Helper
- Bucket Truck

Labor and equipment hourly rates shall include all costs required for performance of the work described in this RFP. These costs shall include, but

not be limited to: labor, labor burden, overhead, profit, equipment, subcontract costs, taxes, bond and insurance. No markup shall be allowed on labor and equipment rates.

SECTION 3

3.1 Insurance

The successful vendor shall maintain at least the minimum level of workers' compensation insurance, comprehensive general liability or professional liability insurance, with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence and fidelity bond insurance with minimum limits of One Million Dollars (\$1,000,000.00). All workers' compensation, comprehensive general liability, professional liability, and fidelity bond insurance will provide coverage to the PRVWSD as an additional insured. The PRVWSD reserves the right to request from vendor's insurance carriers' certificates of insurance regarding the required coverage. Insurance carrier(s) must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. The vendor shall be prepared to provide evidence of required insurance upon request by the PRVWSD at any point during the contract period and should consult with legal counsel regarding its obligations.

SECTION 4

4.1 Written Proposals Shall Contain the Following Minimum Information

- 1) The name of the Respondent, the location of the Respondent's principal place of business.
- 2) Items 1, 2, 3, 4, 5, 6, 7 and 9 described in Section 4.3
- 3) Executed copy of the RFP package
- 4) Attachment A, Certifications and Assurances, signed and dated
- 5) Attachment B, Completed and executed Corporate Information Form
- 6) Attachment C, Completed and executed IRS Form W-9
- 7) Attachment D, Sample Form Contract
- 8) Attachment E, Required Clauses for Service Contracts
- 9) Attachment F, Optional Clauses for Use in Service Contracts

4.2 Evaluation Procedure

4.2.1 Step One:

Proposals will be reviewed to assure compliance with the minimum specifications. Proposals that do not comply with the minimum specifications will be rejected immediately, receiving no further consideration.

4.2.1.1 Responsive Respondent

Respondent must submit a proposal which conforms in all material respects to this Request for Proposals, 3120002041, as determined by the PRVWSD.

4.2.1.2 Responsible Respondent

Respondent must have capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance, as determined by the PRVWSD.

4.2.2 Step Two:

Proposals that satisfactorily complete Step One will be reviewed and analyzed to determine if the proposal adequately meets the needs of PRVWSD. Factors to be considered are as follows:

Technical factors-30%* (Proposed methodology)

Does the Offeror's proposal demonstrate a clear understanding of the scope of work and related objectives? **10%**

(a) Is the Offeror's proposal complete and responsive to the specific RFP requirements? **10%**

(b) Has the past performance of the Offeror's proposed methodology been documented? **10%**

***The percentage assigned is at the Evaluation Committee's discretion.**

Cost factors- 35%* (Factors must be submitted separately from other factors unless specifically approved by the Public Procurement Review Board):

(a) Cost of goods to be provided or services to be performed:

a. Relative cost: How does the cost compare to other similarly scored proposals? **35%**

*** Cost– 35 points (35%). The percentage assigned is mandatory and should be objectively scored.**

Management factors-35%*(Factors that will require the identity of the offeror to be revealed must be submitted separately from other factors):

(a) History and experience in performing the work:

a. Does the Offeror document a record of reliability of timely delivery and on-time and on-budget implementation? **2.5%**

b. Does the Offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance? **10%**

c. Does the Offeror document industry or program experience? **10%**

(b) Availability of personnel, facilities, equipment and other resources:

a. To what extent does the Offeror rely on in-house resources vs. contracted resources?

2.5%

(c) Qualification and experience of personnel:

a. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors? 10%

***The percentage assigned is at the Evaluation Committee's discretion.**

4.2.3 Step Three:

The PRVWSD Executive Director or his/her designee will contact the Respondent with the proposal which best meets the PRVWSD needs (based on factors evaluated in Step Two) and attempt to negotiate an agreement that is deemed acceptable to both parties.

4.3 The Following Response Format Shall Be Used for All Submitted Proposals:

1) **Management Summary:** Provide a cover letter indicating the underlying philosophy of the firm in providing the service.

2) **Proposal:** Describe in detail how the service will be provided. Include a description of major tasks and subtasks based on the Scope of Services in 2.2 and the Specific Requirements in 2.4.

3) **Corporate experience and capacity:** Describe the experience of the firm in providing the service, give number of years that the service has been delivered, and provide a statement on the extent of any corporate expansion required to handle the services.

4) **Personnel:** Attach resumes of all those who will be involved in the delivery of service in 9) Schedule of Rates below that include their experience in this area of services delivery. Indicate the level of involvement by the Supervisor/Master Electrician of the firm in the day-to-day operation of the contract.

5) **References:** Give references for contracts of similar size and scope. Include the name of the organization, the length of the contract, a brief summary of the work, and the name and telephone number of a responsible contact person.

6) **Acceptance of conditions:** Indicate any exceptions to the general terms and conditions of the proposal document and to insurance, bonding, and any other requirements listed and high degree of acceptance of the contract terms and conditions.

7) **Copies:** Two (2) copies of the Proposal must be provided with one (1) copy being fully redacted as to the identity of the Respondent\Vendor.

8) **Additional data:** Provide any additional information that will aid in evaluation of the response.

9) **Cost Data-Schedule of Rates:** The Respondent will provide a Schedule of rates that will include the following positions on a “per hour rate” for Regular Time and Overtime:

- Project Manager
- Master Electrician
- Journeyman Electrician
- Electrician Apprentice
- HVAC Repair Technician
- Hydraulic Systems Repair Technician
- General Laborer/Helper
- Bucket Truck

Include the number of personnel proposed to be assigned to the contract and the total estimated cost of the labor portion of the contract (include a sample staffing chart).

4.4 **Nonconforming Terms and Conditions**

A proposal response that includes terms and conditions that do not conform to the terms and conditions in the proposal document is subject to rejection as non-responsive. The PRVWSD reserves the right to permit the Respondent to withdraw nonconforming terms and conditions from its proposal response prior to a determination by the PRVWSD of non-responsiveness based on the submission of nonconforming terms and conditions.

4.5 **Conditioning Proposal Upon Other Awards**

Any proposal which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

4.6 **Award**

Award shall be made to the responsible and responsive Respondent whose proposal is determined in writing, within sixty (60) days, to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

4.6.1 **Notification**

All participating vendors will be notified of the PRVWSD’s intent to award a contract. In addition, the PRVWSD will identify the selected vendor. Notice of award is also made available to the public via the agency’s website and The Mississippi Contract/Procurement Opportunity Search Portal

4.7 **Acknowledgment of Amendments**

Respondent shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the Proposal. The acknowledgment must be received by the PRVWSD by the time and at the place specified for receipt of Proposal.

- 4.8 The Request for Proposals, its amendments, the Offeror's proposal, and the best and final offer shall constitute the contract, pursuant to MCA 31-7-411(3)(Miss. 1972)

SECTION 5

5.1 Applicable Law

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. Offeror shall comply with applicable federal, state, and local laws and regulations.

5.2 Availability of Funds

It is expressly understood and agreed that the obligation of the District to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the District, the District shall have the right upon ten (10) working days written notice to Offeror, to terminate this Agreement without damage, penalty, cost or expenses to the District of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

5.3 Certification of Independent Price Determination

The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

5.4 Compliance With Laws

Offeror understands that the District is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Offeror agrees during the term of the Agreement that Offeror will strictly adhere to this policy in its employment practices and provision of services. Offeror shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

5.5 E-Payment

Offeror agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on *Timely Payments for Purchases by Public Bodies*, which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. *Mississippi Code Annotated* § 31-7-301 *et seq.*

5.6 E-Verification

If applicable, Offeror represents and warrants that it will ensure its compliance with the *Mississippi Employment Protection Act of 2008*, and will register and participate in the status verification system for all newly hired employees. *Mississippi Code Annotated* §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the *Illegal Immigration Reform and Immigration Responsibility Act of 1996* that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Offeror agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Offeror agrees to provide a copy of each such verification. Offeror further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Offeror to the following:

- (1) termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (2) the loss of any license, permit, certification or other document granted to Offeror by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year or, both.
- (3) In the event of such cancellations/termination, Offeror would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

5.7 Paymode

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Offeror's choice. The State may, at its sole discretion, require Offeror to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Offeror understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

5.8 Procurement Regulations

The contract shall be governed by the applicable provisions of the *Mississippi Public*

Procurement Review Board Office of Personal Service Contract Review Rules and Regulations, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

5.9 Prospective Offeror's Representation Regarding Contingent Fees

The prospective Offeror represents as a part of such Offeror's bid or proposal that such Offeror has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

5.10 Representation Regarding Contingent Fees

Offeror represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Offeror's bid or proposal.

5.11 Representation Regarding Gratuities

The Offeror represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

5.12 Stop Work Order

(1) **Order to Stop Work:** The Chief Procurement Officer, may, by written order to Offeror at any time, and without notice to any surety, require Offeror to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to Offeror, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Offeror shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:

(a) cancel the stop work order; or,

(b) terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

(2) **Cancellation or Expiration of the Order:** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Offeror shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Offeror price, or both, and the contract shall be modified in writing accordingly, if:

(a) the stop work order results in an increase in the time required for, or in Offeror's properly allocable to, the performance of any part of this contract; and,

(b) Offeror asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

(3) **Termination of Stopped Work:** If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

(4) **Adjustments of Price:** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

5.13 Trade Secrets, Commercial and Financial Information

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

5.14 Transparency

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the *Mississippi Public Records Act of 1983*, and its exceptions. *See Mississippi Code Annotated §§ 25-61-1 et seq.*, and *Mississippi Code Annotated § 79-23-1*. In addition, this contract is subject to the provisions of the *Mississippi Accountability and Transparency Act of 2008*. *Mississippi Code Annotated §§ 27-104-151 et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Offeror as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

5.15 Post-Award Vendor Debriefing

A Respondent, successful or unsuccessful, may request a post-award debriefing, in writing, by United States Mail, delivery service, facsimile, personal delivery, or electronic submission. The written request must be received by the Proposal Coordinator, Sharon Hicks, Administrative Assistant, Engineering Department of the PRVWSD within three (3) business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within three (3) business days of receipt of the request. If a Respondent

prefers to have legal representation present, the Respondent must notify the Executive Director of the PRVWSD in writing and identify its attorney by name, address, and telephone number. The PRVWSD will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.07, Post-Award Vendor Debriefing, of the *Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations*.

5.16 Protest of Award

Any actual or prospective Respondent or contractor who is aggrieved in connection with this solicitation or the outcome of the Request for Proposals may file a protest with the Proposal Coordinator, Sharon Hicks, Administrative Assistant, Engineering Department. The protest shall be submitted on or before September 22, 2020 (being seven (7) days from the notification of the contract award) in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. All protests must be in writing, dated, signed by the Respondent or an individual authorized to sign contracts on behalf of the protesting Respondent, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting Respondent must provide facts and evidence to support the protest. A protest is considered filed when received by the Proposal Coordinator, Sharon Hicks, Administrative Assistant-Engineering Department, via either United States Mail, delivery services or personal delivery. Facsimile or email protests will not be considered. Protests filed after September 22, 2020 will not be considered.

5.17 Required Contract Terms and Conditions

Any contract entered into between a Contracting Agency and a vendor/Respondent shall include the required clauses found in **Attachment B** and those required by the *Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations* as updated.

5.18 Optional Contract Terms and Conditions

Any contract entered into between PRVWSD and a vendor/Respondent may have, at the discretion of the PRVWSD, the optional clauses found in **Attachment C** and those within the *Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations* as updated.

5.19 Mississippi Contract/Procurement Opportunity Search Portal

This Request for Proposals, the questions and answers concerning this Request for Proposals, any other amendments and notice of Intent to Award shall be posted on the Contract/Procurement Opportunity Search Portal and the agency's website.

5.20 Attachments

The attachments to this Request for Proposals are made a part of this Request for Proposals as if copied herein in words and figures.

By signing below, the Company Representative certifies that he/she has authority to bind the company, and further acknowledges on behalf of the company:

1. That he/she has thoroughly read and understands this Request for Proposals, 3120002041, and the attachments herein.
2. That the company meets all requirements and acknowledges all certifications contained in this Request for Proposals, 3120002041, and the attachments herein.
3. That the company agrees to all provisions of this Request for Proposals, 3120002041, and the attachments herein.
4. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Proposals.

Printed Name: _____

Signature/Date: _____

ATTACHMENT A

Certifications and Assurances

I/We make the following certifications and assurances as a required element of the offer to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. REPRESENTATION REGARDING CONTINGENT FEES

Contractor represents that it **has/has not** retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's proposal.

2. REPRESENTATION REGARDING GRATUITIES

The Respondent or Contractor represents that it **has/has not** violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations*.

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The Respondent certifies that the prices submitted in response to the solicitation **have/have not** been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Respondent or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate price.

4. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

The prospective Contractor represents as a part of such Contractor's proposal that such Contractor **has/has not** retained any person or PRVWSD on a percentage, commission, or other contingent arrangement to secure this contract.

Name/Title: _____

Signature/Date: _____

Note: Please be sure to circle the applicable word or words provided above. Failure to circle the applicable word or words and/or to sign the proposal form may result in the proposal being rejected as nonresponsive. Modifications or additions to any portion of this proposal document may be cause for rejection of the proposal.

ATTACHMENT B
Corporate Information Form

CORPORATE PROPOSER DISCLOSURE

Please reply to all questions. Use additional sheets if necessary.

The following information is submitted for attachment to and for consideration with proposal for lease of a site at the Ross Barnett Reservoir, as designated in and pursuant to RFP No. 3120002041.

1. Name and address of Proposer.

2. Corporate Proposers (profit or non-profit) must enclose with the proposal a Certificate of Good Standing or similar certificate from the state of its incorporation and a copy of its by-laws or similar governing document. Limited partnerships must enclose a certificate or other evidence of existence of a limited partnership, together with a copy of the partnership agreement certified as a true and correct copy by the general partner. General partnerships must include a copy of the partnership agreement, certified by at least one partner, as a true and correct copy of the agreement. Limited liability companies must provide a certificate of existence, or similar document, from the state of its organization together with an operating agreement or other governing document. Other business entities must include evidence sufficient for a reasonable person to determine legal existence and manner of governing its operations. All Proposers other than individuals making a proposal in their individual capacity must include a resolution authorizing the proposal and identifying those persons authorized to execute the proposal on behalf of the entity. All shareholders, partners, limited partners, general partners, beneficiaries, trustees, equitable owners, and other individuals with any ownership interest must be listed by name, address (residential and business) and type of ownership.
3. The undersigned authorized principals, officers, members or managers of Bidder hereby warrant to the District that they are collectively organized and operate under that certain/insert "Operating Agreement," "Corporate By-Laws," or "Partnership Agreement" /dated/insert date of governing document _____, 20____, which is/are available for confidential review by the District's Directors, Executive Director or Counsel on request. Such other information regarding the legal existence and manner of governing the operations of Bidder shall be submitted for confidential review upon request.
4. The undersigned principals, officers, members or managers of Bidder hereby warrants to the District Bidder's/insert name and title of authorized officer _____ has been duly authorized to submit this Proposal Certificate on behalf of Bidder and additionally is authorized to execute any and all certificates, leases, assignments and other documents for the Bidder and to represent the Bidder at any meeting with the District Staff, Shoreline Development, or other Committee, or Board of Directors.

ATTACHMENT C

Completed and Executed IRS Form W-9

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.			
	2 Business name/disregarded entity name, if different from above			
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>	
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC	<input type="checkbox"/> C Corporation		<input type="checkbox"/> S Corporation
	<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____	<input type="checkbox"/> Partnership		<input type="checkbox"/> Trust/estate
	<input type="checkbox"/> Other (see instructions) ▶ _____			
	5 Address (number, street, and apt. or suite no.) See instructions.		Requester's name and address (optional)	
6 City, state, and ZIP code				
7 List account number(s) here (optional)				

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
[] [] [] []	- [] [] - [] [] [] []
or	
Employer identification number	
[] [] [] [] [] []	- [] [] [] [] [] [] [] [] [] []

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.
² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/identitytheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

ATTACHMENT D

Sample Form Contract

SAMPLE FORM

EQUIPMENT ELECTRICAL REPAIR AGREEMENT

This Equipment Electrical Repair Agreement (“Agreement”) is entered into as of this ____ day of _____, 2020, between the Pearl River Valley Water Supply District, an agency of the State of Mississippi (the “District”), and _____ (“Contractor”).

WITNESSETH

The District and Contractor mutually agree that Contractor will provide services as an independent contractor on the terms and conditions set forth in this Agreement for electrical repairs to equipment.

A. Scope of Work for Electrical Services

1. Contractor shall provide professional electrical services related to facilities operation and maintenance on all properties of the District, including without limitation, any improvements thereon which may be constructed after the date of this Agreement. These services will include all hand tools, testing equipment and other specialty items necessary for electrical maintenance and repairs and necessary labor. The District shall furnish all material and will make available any tools and other equipment of the District not being used for other purposes. These services shall conform to the District’s purchase order policies in requesting any materials to be purchased by the District. Any items purchased by Contractor shall be identified by the equipment, specific repairs made, parts identified by number and name and supplies used in such repairs. Invoices shall identify the equipment, specific repairs made, parts identified by number and name, and supplies used in such repairs. These services will be performed in accordance with all federal, state and other applicable laws, regulations and ordinances, including without limitation the International Building Code, or any other such code as the District may adopt.

These services include the maintenance and repair of all electrical, air conditioning cooling, heating and hydraulic components within the five (5) county boundary of the Pearl River Valley Water Supply District on a twenty four (24) hour a day, seven (7) day a week, three hundred and sixty five (365) days a year.

These services require that upon receiving a service phone call from an appointed or authorized employee of the District, the Contractor or qualified employees(s) must arrive in person at the service call site within one hour of receiving the service phone call (Depending on the severity of the service call, additional arrival time may be allowed at the discretion of the appointed or authorized employee of Pearl River Valley Water Supply District.) The Contractor or qualified employee(s) must answer the service call in person. Answering machines, answering services, voice mails, text messages or other means of non-personal communication will not be acceptable. Person to person radio, cell or landline telephone contact will be acceptable.

2. The following specifications will not specifically identify every eventuality or combination of duties and responsibilities that currently exist, or those that result from changing

program emphasis in the future. Rather, it is designed to serve as a framework for providing a professional electrical service agreement with Pearl River Valley Water Supply District:

Facilities and Services

- Offices:
 - Main Office in Ridgeland, MS
 - Rankin County Office
 - Rankin County Maintenance Facility
 - Rankin County Office for Reservoir Police
 - Emergency Stand-By Generators
 - Electrical Maintenance and Repair
 - Heating, Ventilation and Air-Conditioning Systems Service and Maintenance

- Campgrounds (5 each) and Parks (4 each):
 - Management Offices
 - Pavilions
 - Restrooms
 - Residences
 - Camper Pads
 - Roadway Support
 - Boat Ramps
 - Swimming Pool Equipment
 - Maintenance of Lights on Navigable Waters
 - Detection and Marking of PRVWSD Powerlines for Excavation and Directional Boring
 - Overhead and Underground PRVWSD Powerlines and Cables
 - Power Distribution Panels
 - Emergency Stand-By Generators
 - Heating, Ventilation and Air-Conditioning Systems Service and Maintenance
 - Streetlights, Area Lights and Landscape Lighting
 - Power Pedestals (~500)

- Water and Sewer Services for ~5,500 customers:
 - Supervisory Control and Data Acquisition (S.C.A.D.A)
 - Remote Telemetry Unit (R.T.U.)
 - Detection and Marking of PRVWSD Powerlines for Excavation and Directional Boring
 - Water Wells (10 each)
 - Water Storage Tanks (7 each)
 - Sanitary Sewer Pump Stations (90 each)
 - Sanitary Sewer Treatment Units (4 each)
 - Emergency Stand-By Generators
 - Electrical Maintenance and Repair
 - Heating, Ventilation and Air-Conditioning Systems (42 each)

- Tower and Dam Operations for the Ross Barnett Reservoir:

- Control Tower Operation Center
 - Dam's Hydraulic Components, Generators, Transfer Switches and Power Components
 - Supervisory Control and Data Acquisition (S.C.A.D.A)
 - Remote Telemetry Unit (R.T.U.)
 - Emergency Stand-By Generators
 - Electrical Maintenance and Repair
 - Heating, Ventilation and Air-Conditioning Systems
 - Streetlights
- Navigable Waters
 - Lights on Underpasses Over Waterways
 - Pressure Transducers Mounted on Bridge Piers
- Northshore Causeway
 - Streetlights
- Boom Truck Service
 - Provide and operate boom truck(s) in support of electrical, (HVAC) and hydraulic systems maintenance and repair work

Minimum Specifications:

(a) Trouble-shoot, repair and maintain hydraulic gates, automated controls, Supervisory Control and Data Acquisition (S.C.A.D.A.) components, Remote Telemetry Unit (R.T.U.) components, generators, automated manual transfer switches, electrical and manual power components, and heating/cooling air-conditioning at the Reservoir Control Tower.

(b) Trouble-shoot, repair and maintain sewer pumps, motors, pressure and mercury floats, cables, control boards, panels, and (S.C.A.D.A.) (R.T.U.) components at sixty (60) sewer pump stations and four (4) aerated treatment units within the five (5) county boundary of the Pearl River Valley Water Supply District.

(c) Trouble-shoot, repair and maintain water well pumps, motors, pressure transducers, control boards, panels, (S.C.A.D.A.) (R.T.U.) components at ten (10) water wells and seven (7) water tanks within the Madison and Rankin County boundary of the Pearl River Valley Water Supply District.

(d) Provide and operate a Boom Truck to trouble-shoot, repair and maintain streetlights on overhead supports along roadways, parks, boat ramps, District buildings and campgrounds within the five (5) county boundary of the Pearl River Valley Water Supply District.

(e) Trouble-shoot, repair and maintain lights on underpasses on the navigational waters of the Ross Barnett Reservoir.

(f) Trouble-shoot, repair and maintain pressure transducers mounted on the bridge piers of underpasses on the navigational waters of the Ross Barnett Reservoir.

(g) Trouble-shoot, repair and maintain overhead and underground cables/wires, supplying electrical panels at individual camper pads on five (5) of the District's campground facilities including the residences of the campground managers and assistant managers.

(h) Trouble-shoot, repair and maintain heating/cooling air-conditioning units at the District's Main Office, Reservoir Control Tower, Reservoir Patrol, Reservoir Maintenance Facility and the four (4) campground managers' offices and residences. Universal (Type I, II, III) Certification of Completion in the Refrigerant Transition and Recovery Certification Program is required.

(i) Trace and mark underground power lines for the Operations and Maintenance Division crews prior to repairing water, sewer, lines or any excavation work orders. This minimizes injuries due to electrical shock and the disruption of electrical services to District customers.

(j) Trace and mark underground power lines for the Operations and Maintenance Division crews prior to directional boring under roadways, sidewalks and parking lots.

B. Payment for Work

These services will include keeping an accurate record of all billable time spent in services rendered under this agreement and shall submit such records to the District no less often than once a month. Such statements must be received at least ten (10) days before each monthly meeting of the District's Board of Directors in order to be paid in such month. The Board meets the third Thursday of each month, at which time, payment for the prior months services will be rendered. Compensation for all services rendered shall be paid according to the included schedule based on the total hours billed and accounted for under the preceding paragraph. All expenses are included in such rate and no expense will be reimbursed separately. These rates are effective for the term specified in item C. TERM below.

Schedule of Rates:

Regular Time

Callback/Overtime

These services shall at all times be provided by an independent contractor/master electrician who shall be responsible for all liability insurance, Workers' Compensation coverage, self-employment,

Social Security and other similar matters, and shall not participate in any way as an employee of the District or be eligible for any employee benefits offered by the District to its regular employees nor shall the District be liable in any way other than to make payment as provided herein for services rendered.

C. TERM

This Agreement shall be in full force and effect in accordance with its terms for a term of _____ period from _____ to _____.

D. STANDARD TERMS AND CONDITIONS

Applicable Law:

This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the state. The Contractor shall comply with applicable federal and state local laws and regulations.

Approval:

It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

Availability of Funds:

It is expressly understood and agreed that the obligation of the State to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of this Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the state, the District shall have the right upon ten (10) working days written notice to the Contractor to terminate this Agreement without damage, penalty, cost or expenses to the District of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

Procurement Regulations:

The contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

Confidentiality:

The Contractor agrees to assure the confidentiality of any records obtained from the District as required by state and federal privacy laws. No information, documents or other material provided to or prepared by the Contractor deemed confidential pursuant to state and federal privacy laws, shall be made available to any person or organization without the prior approval of the District. Any liability resulting from the wrongful disclosure of confidential information on the part of the

Contractor shall rest with the Contractor. Any work product produced by Contractor for the District shall be the property of the District, subject to public laws and regulations, and Contractor shall retain no proprietary interest in any such work product.

Stop Work Order:

1. **Order to Stop Work.** The General Manager may, by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or part of the work called for by this contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the General Manager shall either:
 - (a) cancel the stop work order; or
 - (b) terminate the work covered by such order as provided in the "Termination for Default Clause" or the "Termination for Convenience Clause" of this contract.
2. **Cancellation of Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and this Agreement shall be modified in writing accordingly, if:
 - (a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - (b) the Contractor asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the General Manager decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
3. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise
4. **Adjustments of Price.** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

Compliance with Laws:

The Contractor understands that the District is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, gender orientation or any other consideration made unlawful by federal, state or local laws. All such discrimination is unlawful and the Contractor agrees during the term of this Agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this Agreement shall be subject to applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

Representation Regarding Contingent Fees:

Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid or proposal.

Representation Regarding Gratuities:

The bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Board Office of Personal Service Contract Review Rules and Regulations*.

Anti-Assignment/Subcontracting:

Contractor acknowledges that it was selected by the District to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this Agreement in whole or in part without the prior written consent of the District, which the District may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the District of any subcontract shall be deemed in any way to provide for the incurring of any obligation of the District in addition to the total price agreed upon in this Agreement. Subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the District may deem necessary. Subject to the foregoing, this Agreement shall be binding upon the representative successors and assigns of the parties.

Approval:

It is understood that this contract requires approval by the Personal Service Contract Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.

Attorneys' Fees and Expenses:

Subject to other terms and conditions of this Agreement, in the event the Contractor defaults in any obligations under this Agreement, the Contractor shall pay to the District all costs and expenses (including, without limitation, investigative fees, court costs, and attorneys' fees) incurred by the District in enforcing this Agreement or otherwise reasonably related thereto. Contractor agrees

that under no circumstances shall the District be obligated to pay any attorneys' fees or costs of legal action to the Contractor.

Authority to Contract:

Contractor warrants, which warranty will continue throughout this Agreement, (a) that it is a validly organized business with valid authority to enter into this Agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provision of this Agreement to the contrary that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

Change in Scope of Work:

The District may order changes in the work consisting of additions, deletions, or other revisions within the general scope of this Agreement. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to this Agreement, unless such changes or adjustments have been made by written amendment to this Agreement and signed by the District and the Contractor.

If the Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the District in writing of this belief. If the District believes that the particular work is within the scope of this Agreement as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope.

Contractor Personnel:

The District shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the District reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the District in a timely manner and at no additional cost to the District. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.

E-Payment:

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*

E-Verification:

If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008 and will register and participate in the status

verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- (1) termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (2) the loss of any license, permit, certification, or other document granted to Contractor by an agency, department, or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- (3) both. In the event of such cancellation/termination, Contractor shall also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

Failure to Deliver:

In the event of failure of the Contractor to deliver services in accordance with this Agreement’s terms and conditions, the District, after due oral or written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the District may have.

Failure to Enforce:

Failure by the District at any time to enforce the provisions of this Agreement shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of this Agreement or any part thereof or the right of the District to enforce any provision at any time in accordance with its terms.

Force Majeure:

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural

disasters (the "Force Majeure Events"). When such a cause arises, the Contractor shall notify the District immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate this Agreement.

Indemnification:

To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the District, its Directors, Board Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this Agreement. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the District; the Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the District shall be entitled to participate in said defense. The Contractor will be allowed to control the defense of any such claim, suit, etc., unless the District elects to employ, at its expense, its own counsel; however, the Contractor shall not settle any claim, suit, etc. without the District's concurrence, which the District shall not unreasonably withhold. To the extent that the District is either required or elects to obtain consent from the State for any matters referenced herein, the term "District" shall include the State.

Independent Contractor Status:

Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the State and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder, creates or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of the District; and the District shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The District shall not withhold from payments to Contractor any federal or State unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the District shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State for its employees.

No Limitation of Liability:

Nothing in this Agreement will be interpreted as excluding or limiting any tort liability of the Contractor for harm caused by the intentional or reckless conduct of the Contractor or for damages incurred through the negligent performance of duties by the Contractor or the delivery of products that are defective.

Notices:

All notices required or permitted to be given under this Agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Contractor:

For the District:

John Sigman
General Manager
Pearl River Valley Water Supply District
115 Madison Landing Circle
Ridgeland, MS 39157

Oral Statements:

No oral Statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Agreement. All modifications to this Agreement must be made in writing signed by the Contractor and the District.

Ownership of Documents and Work Papers:

The District shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this Agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to the District upon termination or completion of this Agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files, Contractor shall be entitled to use such work papers only after receiving written permission from District and subject to any copyright protections.

Paymode:

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require

Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be made in United States Currency.

Record Retention and Access to Records:

Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the District or any duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the work performed pursuant to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement remaining in Contractor's possession shall be retained by the Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this Agreement is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

Recovery of Money:

Whenever under this Agreement any sum of money shall be recoverable from or payable by the Contractor to the District, the same amount may be deducted from any sum due to the Contractor under this Agreement or under any other contract between the Contractor and the District. The rights of the District are in addition and without prejudice to any other right the District may have to claim the amount of any loss or damage suffered by the District on account of the acts or omissions of the Contractor.

Severability:

If any part of this Agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the Agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

State Property:

Contractor will be responsible for the proper custody and care of any District-owned property furnished for Contractor's use in connection with the performance of this Agreement. Contractor will reimburse the District for any loss or damage, normal wear and tear excepted.

Transparency Clause:

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the *Mississippi Public Records Act of 1983*, and its exceptions. See *Mississippi Code Annotated* §§ 25-61-1 *et seq.* and *Mississippi Code Annotated* § 79-23-1. In addition, this contract is subject to the provisions of the *Mississippi Accountability and Transparency Act of 2008*. *Mississippi Code Annotated* §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective

order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

Termination for Convenience Clause:

1. **Termination:** The General Manager may, when the interests of the District so require, terminate this Agreement in whole or in part, for the convenience of the District. The General Manager shall give written notice of the termination to the Contractor specifying the part of this Agreement terminated and when termination becomes effective.
2. **Contractor's Obligations:** The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The General Manager may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the District. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

Termination for Default Clause:

1. **Default.** If the Contractor refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof or otherwise fails to timely satisfy the provisions of this Agreement, or commits any other substantial breach of this Agreement, the General Manager may notify the Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the General Manager, such officer may terminate the Contractor's right to proceed with this Agreement or such part of this Agreement as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the General Manager may procure similar supplies or services in a manner and upon terms deemed appropriate by the General Manager. The Contractor shall continue performance of this Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
2. **Contractor's Duties:** Notwithstanding termination of this Agreement and subject to any directions from the General Manager, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the District has an interest.

3. **Compensation.** Payment for completed services delivered and accepted by the District shall be at the contract price. The District may withhold from amounts due the Contractor such sums as the General Manager deems to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders and to reimbursement the District for the excess costs incurred in services.
4. **Excuse for Nonperformance or Delayed Performance:** Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this Agreement in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the General Manager within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a Subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the requirements of this Agreement. Upon request of the Contractor, the General Manager shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of this Agreement, the delivery schedule shall be revised accordingly, subject to the rights of the District under the clause entitled "Termination for Convenience". (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier.)
5. **Erroneous Termination for Default.** If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if this Agreement contains a clause providing for termination for convenience of the District shall be the same as if the notice of termination had been issued pursuant to such clause.
6. **Additional Rights and Remedies.** The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

Termination Upon Bankruptcy:

This contract may be terminated in whole or in part by District upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and

equitable compensation for satisfactory work performed under this contract, not in no cause shall said compensation exceed the total contract price.

Third Party Action Notification:

Contractor shall give the District prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contactor by any entity that may result in litigation in any way to this Agreement.

Trade Secrets, Commercial and Financial Information:

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

Unsatisfactory Work:

If at any time during the term of this Agreement, the service performed or work done by the Contractor is considered by the District to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by the District, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, the District shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.

Waiver:

No delay or omission by either party to this Agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this Agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this Agreement will void, waive, or change any other term or condition. No waiver by one party to this Agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

Executed as of the date stated above, with full authority so to do by the representatives listed below.

John Sigman, Executive Director

Witness

ATTACHMENT E

Required Clauses for Service Contracts Resulting from this Request for Proposals

1. **Applicable Law.** The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
2. **Approval.** It is understood that if this contract requires approval by the Public Procurement Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.
3. **Availability of Funds.** It is expressly understood and agreed that the obligation of the PRVWSD to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the PRVWSD, the PRVWSD shall have the right upon ten (10) working days written notice to Contractor, to terminate this Agreement without damage, penalty, cost or expenses to the PRVWSD of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
4. **Compliance with Laws.** Contractor understands that the PRVWSD is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the Agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
5. **E-Payment.** Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. *Mississippi Code Annotated §31-7-301, et seq.*
6. **E-Verification.** If applicable, Contractor represents and warrants that it will ensure its compliance with the *Mississippi Employment Protection Act of 2008*, and will register and participate in the status verification system for all newly hired employees. *Mississippi Code*

Annotated §§ 71-11-1 et seq. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the *Illegal Immigration Reform and Immigration Responsibility Act of 1996* that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- b. the loss of any license, permit, certification, or other document granted to Contractor by agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- c. both.

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

7. **Paymode.** Payments by state agencies using the State’s accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor’s choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
8. **Procurement Regulations.** The contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.dfa.ms.gov>.
9. **Representation Regarding Contingent Fees.** Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor’s proposal.

10. **Representation Regarding Gratuities.** Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.
11. **Stop Work Order.**
 - a. ***Order to Stop Work:*** The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to Contractor unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:
 - i. cancel the stop work order; or
 - ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
 - b. ***Cancellation or Expiration of the Order:*** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
 - i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and,
 - ii. Contractor asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
 - c. ***Termination of Stopped Work:*** If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
12. **Termination for Convenience.**
 - a. ***Termination.*** The PRVWSD's Executive Director or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of

the State. The PRVWSD's Executive Director or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.

- b. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The PRVWSD's Executive Director or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

13. **Termination for Default.**

- a. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the PRVWSD Executive Director or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the PRVWSD's Executive Director or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the PRVWSD's Executive Director or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the PRVWSD Executive Director or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
- c. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the PRVWSD's Executive Director or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
- d. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the PRVWSD's Executive Director or designee within fifteen (15) days after the cause of the delay and the failure arises out of

causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the PRVWSD's Executive Director or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled in fixed-price contracts, "Termination for Convenience". (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier.)

- e. ***Erroneous Termination for Default.*** If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.
 - f. ***Additional Rights and Remedies.*** The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.
14. **Termination Upon Bankruptcy.** This contract may be terminated in whole or in part by PRVWSD upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.
15. **Trade Secrets, Commercial and Financial Information.** It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.
16. **Transparency.** This contract, including any accompanying exhibits, attachments, and appendices, is subject to the *Mississippi Public Records Act of 1983*, and its exceptions. See *Mississippi Code Annotated §§ 25-61-1 et seq.* and *Mississippi Code Annotated § 79-23-1*. In addition, this contract is subject to the provisions of the *Mississippi Accountability and Transparency Act of 2008*. *Mississippi Code Annotated §§ 27-104-151 et seq.* Unless

exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

ATTACHMENT F

Optional Clauses for Use in Service Contracts Resulting from this Request for Proposals

1. **Anti-assignment/Subcontracting.** Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this Agreement. Subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this Agreement shall be binding upon the respective successors and assigns of the parties.
2. **Attorney's Fees and Expenses.** Subject to other terms and conditions of this Agreement, in the event Contractor defaults in any obligations under this Agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this Agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.
3. **Authority to Contract.** Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this Agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.
4. **Information Designated by Contractor as Confidential.** Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of *Mississippi Code Annotated* §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.

Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its subcontractor without the express written approval of the PRVWSD shall result in the immediate termination of this Agreement.

5. **Confidentiality.** Notwithstanding any provision to the contrary contained herein, it is recognized that PRVWSD is a public agency of the State of Mississippi and is subject to the

Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 et seq. If a public records request is made for any information provided to the PRVWSD pursuant to the Agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, the PRVWSD shall follow the provisions of *Mississippi Code Annotated §§ 25-61-9 and 79-23-1* before disclosing such information. The PRVWSD shall not be liable to the Contractor for disclosure of information required by court order or required by law.

6. **Contractor Personnel.** The PRVWSD shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the PRVWSD reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the PRVWSD in a timely manner and at no additional cost to the PRVWSD. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
7. **Debarment and Suspension.** Contractor certifies to the best of its knowledge and belief, that it:
 - (1) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
 - (2) has not, within a three (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
 - (3) has not, within a three (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (4) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs (2) and (3) of this certification; and,
 - (5) has not, within a three (3) year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.
8. **Disclosure of Confidential Information.** In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or

completion of this Agreement. The parties agree that this section is subject to and superseded by *Mississippi Code Annotated* §§ 25-61-1 *et seq.*

9. **Exceptions to Confidential Information.** Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party (“disclosing party”) which:
 - (1) is rightfully known to the recipient prior to negotiations leading to this Agreement, other than information obtained in confidence under prior engagements;
 - (2) is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
 - (3) is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
 - (4) is independently developed by the recipient without any reliance on confidential information;
 - (5) is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
 - (6) is disclosed with the disclosing party’s prior written consent.
10. **Errors in Extension.** If the unit price and the extension price are at variance, the unit price shall prevail.
11. **Failure to Deliver.** In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the PRVWSD, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the PRVWSD may have.
12. **Failure to Enforce.** Failure by the PRVWSD at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the PRVWSD to enforce any provision at any time in accordance with its terms.
13. **Final Payment.** Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the PRVWSD a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment

under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.

14. **Force Majeure.** Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.
15. **HIPAA Compliance.** Contractor agrees to comply with the "Administrative Simplification" provisions of the *Health Insurance Portability and Accountability Act of 1996*, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.
16. **Indemnification.** To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.
17. **Independent Contractor Status.** Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly,

expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the PRVWSD, and the PRVWSD shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The PRVWSD shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the PRVWSD shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

18. **Integrated Agreement/Merger.** This Agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This Agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

19. **Modification or Renegotiation.** This Agreement may be modified only by written Agreement signed by the parties hereto. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

20. **No Limitation of Liability.** Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.

<p><u>Notices.</u> All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address. For the PRVWSD:</p>	<p>For Contractor:</p>
<p>[Name, Title]</p>	<p>[Name, Title]</p>
<p>[PRVWSD Name]</p>	<p>[Contractor Name]</p>
<p>[Address]</p>	<p>[Address]</p>
<p>[City, State, Zip]</p>	<p>[City, State, Zip]</p>

21. **Non-solicitation of Employees.** Each party to this Agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this Agreement terminates unless mutually agreed to in writing by the State and Contractor.
22. **Oral Statements.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the PRVWSD and agreed to by Contractor.
23. **Ownership of Documents and Work Papers.** PRVWSD shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this Agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to PRVWSD upon termination or completion of the Agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from PRVWSD and subject to any copyright protections.
24. **Priority.** The contract consists of this Agreement with exhibits, the procurement Request for Proposals Number 3120002041 (hereinafter referred to as RFP and attached as Schedule [], and the response dated [date] by [CONTRACTOR NAME] (hereinafter referred to as Proposal and attached as Schedule [____]). Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the RFP and, if still unresolved, by reference to the Proposal. Omission of any term or obligation from this agreement or attached Schedules [____] or [____] shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
25. **Quality Control.** Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the PRVWSD.
26. **Record Retention and Access to Records.** Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement shall be retained by Contractor for three (3) years after final payment is made under this Agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period,

the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

27. **Recovery of Money.** Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the PRVWSD, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the PRVWSD. The rights of the PRVWSD are in addition and without prejudice to any other right the PRVWSD may have to claim the amount of any loss or damage suffered by the PRVWSD on account of the acts or omissions of Contractor.
28. **Right to Audit.** Contractor shall maintain such financial records and other records as may be prescribed by the PRVWSD or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three (3) years after final payment, or until they are audited by the PRVWSD, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three (3) year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
29. **Right to Inspect Facility.** The State may, at reasonable times, inspect the place of business of a Contractor or any subcontractor which is related to the performance of any contract awarded by the State.
30. **Severability.** If any part of this Agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the Agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
31. **State Property.** Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this Agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
32. **Third Party Action Notification.** Contractor shall give PRVWSD prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this Agreement.
33. **Unsatisfactory Work.** If, at any time during the contract term, the service performed or work done by Contractor is considered by the PRVWSD to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the PRVWSD, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the PRVWSD shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

34. **Waiver.** No delay or omission by either party to this Agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this Agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this Agreement will void, waive, or change any other term or condition. No waiver by one party to this Agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.
35. **Requirements Contract.** During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the PRVWSD shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the PRVWSD for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the PRVWSD is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the PRVWSD may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.