ORIGINAL

# SOUTH FLORIDA WATER MANAGEMENT DISTRICT
# WATER PROTECTION AND SUSTAINABILITY PROGRAM
## Alternative Water Supply (AWS)

| | |
|---|---|
| **Recipient:** City of Stuart<br><br>**Recipient's Project Manager:** Tim Voelker<br><br>**Address:** 121 SW Flagler Ave<br>Stuart FL 3494<br><br>**Telephone No:** 772-288-5332<br><br>**E-mail Address:** tvoelker@ci.stuart.fl.us | **Agreement Number: 4600004158**<br><br>**Governing Board Approval Date:** December 12, 2019<br><br>**District Funding Amount:** $100,000<br><br>**Contract Term: December 12, 2019 – June 30, 2021***<br><br>PO Number_____<br>Reference on all Invoices<br><br>***All deliverables are due by May 31, 2021** |

**SFWMD Project Manager:** Brian Moore

**Telephone No.:** (561) 682-6720

**E-mail Address:** bmoore@sfwmd.gov

**Contract Specialist:** Sharman Rose

**E-mail Address:** shrose@sfwmd.gov

**Telephone No.:** (561) 682-2167

**Fax No.:** (561) 682-5624

**Address:**
3301 Gun Club Road
West Palm Beach, FL 33406

**Insurance: Not Applicable**

**Federal Employer Identification Number:** 59-6000433

**Project Title: Project** #UEC-301 Construct Floridan Aquifer System Production Well FA-1

This **Agreement** is entered into between "the Parties," the South Florida Water Management **District**, the **"District",** and the undersigned party, hereinafter referred to as the "**Recipient**." The **Recipient** warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms and conditions of this **Agreement**, and shall abide by all legal, financial and reporting requirements, such as matching funds and final reports for all funding received by the **Recipient** from the **District**.

## ARTICLE 1 – PROJECT

1.1 The **Recipient** shall, to the satisfaction of the **District**, fully and timely construct and perform all work items described in the "Statement of Work," herein referred to as the "Project", attached hereto as Exhibit "A", and made a part of this **Agreement**.

1.2 As part of the deliverables to be provided by the **Recipient** under this **Agreement**, the **Recipient** shall substantiate, in whatever forum reasonably requested by the **District**, any supporting documentation utilized as a basis for payment by the **District**. This paragraph shall survive the expiration or termination of this **Agreement**.

1.3 Attached to this **Agreement** are the following exhibits, which are incorporated herein:

| | |
|---|---|
| Exhibit A | Statement of Work |
| Exhibit B | Summary Schedule of Tasks and Deliverables |
| Exhibit C | Quarterly Status Report |
| Exhibit D | Final Project Summary Report |
| Exhibit E | Federal/State Appropriations |

## ARTICLE 2 – TERM OF THE AGREEMENT

2.1 The period of performance of this **Agreement** shall be the dates noted on the cover page of this **Agreement.**

2.2 The Parties agree that time is of the essence in the performance of each and every obligation under this **Agreement**.

## ARTICLE 3 – COMPENSATION / CONSIDERATION

3.1 As consideration for the Project required by this **Agreement**, the **District** shall pay the **Recipient** the funding amount as specified on the cover page of this **Agreement**. Such amount is a not-to-exceed the specified amount and therefore, no additional consideration shall be authorized. The **Recipient** shall provide *at least* sixty percent (60%) or more of the Project's actual construction cost, unless a different amount is authorized pursuant to Section 373.707, Florida Statutes. The **Recipient** acknowledges that the **District** may authorize an amount less than forty percent (40%); and, if current fiscal year construction costs decrease, the approved funding may be decreased. The approved funding is a percentage, *up to* forty percent (40%) based on the estimated current fiscal year project construction cost. Payment will be made by the **District** for work authorized and completed between

December 12, 2019 and May 31, 2021. The **District** will not reimburse the **Recipient** for work that commences prior to the start date of the **Agreement** or for work completed after May 31, 2021.

3.2 The **Recipient** assumes sole responsibility for all work, which is performed pursuant to Exhibit "A". By providing funding hereunder, the **District** does not make any warranty, guaranty or any representation whatsoever regarding any of the work performed hereunder, including but not limited to, the adequacy or sufficiency of all or any part of work described in Exhibit "A".

3.3 The **Recipient** hereby agrees *not* to use **District** funding for any work associated with the research, design and permitting aspects of the Project. **District** funds shall only be used for the construction activities described in Exhibit "A".

3.4 The **Recipient** agrees to reimburse the **District** funds provided through this **Agreement** for facilities (i.e. test/production wells, etc.) that do not become an operational component of the overall alternative water supply facility within the timeframe established in the application. Notwithstanding anything in this **Agreement** to the contrary, this paragraph shall remain in full force and effect for twenty (20) years from the date of contract execution.

3.5 Notwithstanding any provisions of this **Agreement** to contrary, the **District** reserves the right, without financial or other penalty or obligation, to (1) cancel this contract and/or (2) reduce the amount of funding to be provided by the **District** pursuant to this **Agreement** in the event the **District** does not receive all or any state appropriation for the alternative water supplies program from the State of Florida as provided in the State's 2019-2020 fiscal year budget (2019-2020 General Appropriations Act Line 1642).

## ARTICLE 4 – FUNDING PAYMENTS AND REPORTING

4.1 The **Recipient** shall provide a completed Quarterly Status Report attached hereto as Exhibit "C" within ten (10) business days of the following due dates March 31, 2020, June 30, 2020, September 30, 2020, December 31, 2020, March 31, 2021, June 30, 2021, September 30, 2021, December 31, 2021, March 31, 2022, June 30, 2022, and September 30, 2022. Reports shall provide detail on the progress of the Project; amounts expended to date per task and outline any potential issues affecting Project completion or overall schedule. In addition, on or before May 31, 2021, the **Recipient** shall provide a completed Final Project Summary Report, attached hereto as Exhibit "D" and the Final Reimbursement Request Package. Concurrent with delivery of the final deliverable(s), the **Recipient** shall provide certification that all construction has been completed in accordance with Exhibit "A" of this **Agreement**.

4.2 In the event actual construction costs are less than the not-to-exceed amount for a particular task stated in Exhibit "B", the **Recipient** will have the right to apply the unexpended balance toward another task, unless the total current fiscal year construction cost has decreased. The **Recipient** shall provide prior written notice of its decision to exercise this right. If the **Recipient** does not exercise this right, the **Recipient** agrees to amend the contract to revise the approved funding consistent with the original percentage to the lower construction cost. In no event, shall the **District**'s total obligation exceed the amount specified in Exhibit "B"

for this **Agreement**; however, an actual construction cost less than an estimated construction cost may result in a reduced final payment. The **Recipient** is responsible for any additional funds either through local revenues, grants, other appropriations, and/or other funding sources.

4.3 The **District** shall make payment to the **Recipient** upon completion and acceptance of the deliverable(s) as described in the "Payment and Deliverable Schedule", and receipt of a fully documented reimbursement request package. The **Recipient's** reimbursement request package shall contain the backup documentation required (see Attachment 1 to Exhibit "B"). The request shall include but is not limited to:

- **Recipient's** invoice (include the **District's Agreement** Number and Purchase Order number);
- Signed certification letter on **Recipient's** letterhead (signed by an authorized representative of the **Recipient**);
- Tasks completed per the **Agreement** (if all tasks finished, a statement indicating that the project is completed per the **Agreement**); and
- Vendor invoices/application for payment) for the **District Project Manager(s)** to ascertain that each deliverable in the invoice has been substantially complete.

The **Recipient** shall submit the final reimbursement request package and Exhibit "D" on or before May 31, 2021. Failure of the **Recipient** to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

4.4 **Recipient** shall send its invoices and attachments to **APInvoice@sfwmd.gov** and a copy to the **District** Project Manager. All invoices must reference the **Recipient's** legal name as authorized to do business with the State of Florida; **District's Agreement** Number and Purchase Order (PO) Number as specified on the cover page of the **Agreement**; a unique invoice number not previously used; date; a description of the services performed, and the amount to be invoiced. **Recipient** shall: 1) submit invoices using a pdf file at a resolution of no less than 300 dpi; 2) name the pdf file with the **Recipient's** name, Agreement number, and the PO number; 3) provide all required attachments with the invoice file, and 4) include the PO number and Invoice number in the subject line of the email. If email or pdf filing is not possible, the **Recipient** must provide the above to the following address:

**South Florida Water Management District**
**Accounts Payable**
**P.O. Box 24682**
**West Palm Beach, FL 33416-4682**

4.5 **Recipient** must submit its invoices in compliance with the requirements of this subsection and all other terms and conditions of this **Agreement** in order to receive prompt payment by the **District** as described in the applicable sections of Chapter 218, Florida Statutes. **Recipient's** failure to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

4.6 Upon completion of the Project, any data that was generated during the performance of the Project shall be submitted to the **District** upon request.

4.7 New Well Construction Projects: For projects involving construction of new wells, the **Recipient** shall:

1. Submit design of well construction and testing programs to the **District** for review and comment prior to implementation. The **Recipient** shall integrate the **District's** comments into the final testing plan where feasible.

2. Submit all pertinent well information collected during well construction and testing (i.e., depths, cuttings descriptions, geophysical logs, aquifer test data, etc.), as available. Submissions shall be provided electronically as specified by the **District**.

3. If the final location of the well(s) varies from the original location specified in the Consumptive Use or other permit or permit applications, the **Recipient** shall provide the **District Project Manager(s)** with written proof that the appropriate permitting agency contact is aware of and agrees with the changes.

The data shall be archived in the **District's** permanent database and available to the public. Please contact Emily Richardson (561) 682-6824, ehopkins@sfwmd.gov, for instructions on submitting data.

## ARTICLE 5 – CONTRACT MANAGEMENT

5.1 The Parties shall direct all matters arising in connection with the performance of this **Agreement** to the attention of the **District** Project Manager(s) for attempted resolution or action. The **District** Project Manager(s) shall be responsible for overall coordination and oversight relating to the performance of this **Agreement**.

5.2 All notices under this **Agreement**, other than those set forth in paragraph 4.2 above, shall be in writing and shall be deemed received if sent by electronic mail, overnight mail, or for cure and default notices, certified mail, to the respective addresses specified on the cover page of the **Agreement**.

5.3 Should either Party change its address, written notice of such new address shall promptly be sent to the other Party.

5.4 All correspondence to the **District** under this **Agreement** shall reference the **District's Agreement** Number and PO Number.

## ARTICLE 6 – TERMINATION / REMEDIES

6.1 It is the policy of the **District** to encourage good business practices by requiring the **Recipient** to materially perform in accordance with the terms and conditions of the

**Agreement**. In accordance with Chapter 40E-7.215, Florida Administrative Code, "Material Breach" is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the **Agreement**.

If the **Recipient** materially fails to fulfill its obligations under this **Agreement**, the **District** will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The **Recipient** shall have thirty (30) days to cure the breach. If the **Recipient** fails to cure the breach within the thirty (30) day period, the **District** shall issue a Termination for Default Notice. Once the **District** has notified the **Recipient** that it has materially breached its contract with the **District**, by sending a Termination for Default Notice, the **District's** Governing Board shall determine whether the **Recipient** should be suspended from doing future work with the **District**, and if so, for what period of time. Should the District terminate for default in accordance with this provision, the **District shall be entitled** to recover procurement costs in addition to all other remedies under law and/or equity.

6.2 The **District** may terminate this **Agreement** at any time for convenience upon thirty (30) calendar days prior written notice to the **Recipient**. The performance of work under this **Agreement** may be terminated by the **District** in accordance with this clause in whole, or from time to time in part, whenever the **District** shall determine that such termination is in the best interest of the **District**. Any such termination shall be affected by delivery of a Notice of Termination to the **Recipient**, specifying the extent to which performance of work under the **Agreement** is terminated, and the date upon which such termination becomes effective. In the event of termination, the **District** shall compensate the **Recipient** for all accepted work performed through the termination date. The **District** shall be relieved of any and all future obligations hereunder, including but not limited to, lost profits and consequential damages under this **Agreement**. The **District** may withhold all payments to the **Recipient** for such work until such time as the **District** determines the exact amount due to the **Recipient**.

6.3 In the event a dispute arises, which the **Project Managers**' cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties, and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

6.4 Notwithstanding anything in this **Agreement** to the contrary, the **District** reserves the right to terminate this **Agreement** immediately without notice in the event any of the representations contained in the **Recipient's** project application are found to be false or if the **Recipient** fails to complete the construction activities described in Exhibit "A", Statement of Work.

## ARTICLE 7 – RECORDS RETENTION

7.1 The **Recipient** shall maintain records and the **District** shall have inspection and audit rights as follows:

A. Maintenance of Records. The **Recipient** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **Agreement**, including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment under this **Agreement**.

B. Examination of Records. The **District** or designated agent shall have the right to examine in accordance with generally accepted governmental auditing standards all records directly or indirectly related to this **Agreement**. Such examination may be made only within five (5) years from the date of final payment under this **Agreement** and upon reasonable notice, time and place.

C. Extended Availability of Records for Legal Disputes. In the event the **District** should become involved in a legal dispute with a third party arising from performance under this **Agreement**, the **Recipient** shall extend the period of maintenance for all records relating to this **Agreement** until the final disposition of the legal dispute. All such records shall be made readily available to the **District**.

D. Periodic Audits. The **District** shall perform audits periodically to ensure funding objectives are being met.

7.2 Public Records

A. **Compliance with Florida Laws: Recipient** must provide public access to all records concerning this Agreement according to applicable Florida laws including Chapter 119, Florida Statutes. If **Recipient** asserts any exemptions to Florida's public records laws, Recipient has the burden of establishing and defending the exemption. Recipient's failure to comply with this section is a breach of this **Agreement**.

B. **Recordkeeping and Public Access:** Under the applicable sections of Chapter 119, Florida Statutes, a request to inspect or copy public records relating to a **District** contract for services must be made directly to the **District**. In addition, **Recipient** must: (1) keep and maintain public records required by the **District** in order to perform the service; (2) upon request from the **District's** custodian of public records, provide the **District** with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the **Agreement** term and following completion of the **Agreement** if the **Recipient** does not transfer the records to the **District**; and (4) transfer, at no cost, to the **District**, all public records in possession of the **Recipient** or keep and maintain public records required by the **District** to perform the service. If the **Recipient** transfers all public records to the **District** upon completion of the **Agreement**, the **Recipient** shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **Recipient** keeps and maintains public records upon completion of the **Agreement**, the

**Recipient** shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the **District** upon request from the **District's** custodian of public records, in a format that is compatible with the information technology systems of the **District**. At the conclusion of the **Agreement** with the **District**, **Recipient** shall provide all applicable records associated with this **Agreement** on electronic media (CD-ROM or USB flash drive).

C. **IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NUMBER (561) 682-2729, EMAIL ADDRESS PUBLICRECORDS@SFWMD.GOV AND MAILING ADDRESS: 3301 GUN CLUB ROAD, WEST PALM BEACH, FL 33406.**

## ARTICLE 8 – STANDARDS OF COMPLIANCE

8.1 The **Recipient**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, local laws and regulations and requirements relating to the performance of this **Agreement**. The **District** undertakes no duty to ensure such compliance, but will attempt to advise the **Recipient**, upon request, as to any such laws of which it has present knowledge.

8.2 The laws of the State of Florida shall govern all aspects of this **Agreement**. In the event it is necessary for either party to initiate legal action regarding this **Agreement**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims, which are justifiable in federal court.

8.3 Under the applicable sections of Chapter 216, Florida Statutes, the **Recipient** is prohibited from the expenditure of any funds under this **Agreement** to lobby the Legislature, the judicial branch or another state agency.

8.4 The **Recipient** has obtained, at its sole expense, all necessary licenses, authorizations and permits from the appropriate private party or federal, state, municipal or local agency, and other governmental approvals, prior to commencing performance of this **Agreement**. A delay in obtaining permits shall not give rise to a claim by the **Recipient** for additional compensation. If the **Recipient** is unable to obtain all necessary permits in a timely manner, either party may elect to terminate this **Agreement**, each party to bear its own costs, notwithstanding other provisions of this **Agreement** to the contrary. The **Recipient** agrees to comply with the terms and conditions of all permits.

8.5 The **Recipient** hereby assures that no person shall be excluded on the grounds of race, color, creed, national origin, handicap, age or sex, from participation in, denied the benefits of, or is otherwise subjected to discrimination in any activity under this **Agreement**. The **Recipient** shall take all measures necessary to effectuate these assurances.

8.6 The **Recipient** is hereby authorized to contract with third parties (subcontracts) for services awarded through a competitive process required by Florida Statutes. The **Recipient** shall not subcontract, assign, or transfer any other work under this **Agreement** without the prior written consent of the **District's** Project Manager. The **Recipient** agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the **Recipient** that the **District** shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract(s).

8.7 Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list may not submit a bid, proposal, or reply to a request to provide any goods or services related to the construction of the Project contemplated herein. **Recipient** also assures that it is not on the **District**'s Suspension of Contractors List. **Recipient** agrees to include a provision to this effect in all requests for proposals and subcontracts related to construction of this Project.

8.8 The **Recipient** shall comply with Section 287.135, Florida Statutes. The **Recipient** further understands and accepts that this **Agreement** shall be either void by the **District** or subject to immediate termination by the **District** in the event there is any misrepresentation or false certification on the part of the **Recipient**. The **District**, in the event of such termination, shall not incur any liability to the **Recipient** for any work or materials furnished.

8.9 This paragraph shall remain in full force and effect for twenty (20) years from the date of contract execution. After construction is completed on the Project, the **Recipient** shall continuously operate the Project as described in the Project application and consistent with the application water use permit(s). In the event the Project is not operated or completed in accordance with these requirements, the **Recipient**, if requested by the **District**, agrees to reimburse the amount of funding the **District** provided to this project. This amount may be prorated based on the number of years the completed project is operated using an assumed project life of 20 years. Furthermore, the **District** may cease funding for this Project and any future Projects proposed by the **Recipient**.

## ARTICLE 9 – INDEMNIFICATION AND INSURANCE

9.1 For value received, which is hereby acknowledged, the **Recipient** shall, subject to the limits permitted in Section 768.28, Florida Statutes, defend, indemnify, save, and hold the **District**, its officers, directors, board members, agents, assigns, and employees harmless from liabilities, damages, losses, and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the **Recipient** and other persons employed or utilized by the **Recipient** in the performance of the **Agreement**. The **District** shall have the right to approve counsel selected by the **Recipient** to defend the **District** in the event the **District** is named in any legal action. Pursuant to Section 768.28, Florida Statutes, nothing herein shall require the **Recipient** to be liable for intentional or reckless acts or for actions committed in bad faith or malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or

property. However, nothing contained here shall constitute a waiver by the **Recipient** of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

The **Recipient** further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this **Agreement**. This paragraph shall survive the expiration or termination of this **Agreement**.

## ARTICLE 10 – RELATIONSHIP BETWEEN THE PARTIES

10.1 The **Recipient** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **Agreement** shall be interpreted to establish any relationship other than that of an independent contractor between the parties and their respective employees, agents, subcontractors, or assigns during or after the performance of this **Agreement**. Both parties are free to enter into contracts with other parties for similar services.

10.2 The **Recipient** shall not assign, delegate or otherwise transfer its rights and obligations as set forth in this **Agreement** without the prior written consent of the **District**. Any attempted assignment in violation of this provision shall be null and void.

10.3 It is the intent and understanding of the Parties that this **Agreement** is solely for the benefit of the **Recipient** and the **District**. No person or entity other than the **Recipient** or the **District** shall have any rights or privileges under this **Agreement** in any capacity whatsoever, either as third-party beneficiary or otherwise.

## ARTICLE 11 – GENERAL PROVISIONS

11.1 Notwithstanding any provisions of this **Agreement** to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this **Agreement** that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God or for any other cause of the same character, which is unavoidable through the exercise of due care and beyond the control of the Parties. Failure to perform shall be excused during the continuance of such circumstances, but this **Agreement** shall otherwise remain in effect. This provision shall not apply if the Statement of Work, Exhibit "A" of this **Agreement** specifies that performance by the **Recipient** is specifically required during the occurrence of any of the events herein mentioned.

11.2 Any inconsistency in this **Agreement** shall be resolved by giving precedence in the following order:

(a) Terms and Conditions outlined in Articles 1-11
(b) Exhibit "A" Statement of Work
(c) Application
(d) All other exhibits, attachments and documents specifically incorporated herein by reference

11.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **Agreement** by the Parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other Party from performing any subsequent obligations strictly in accordance with the terms of this **Agreement**. No waiver shall be effective unless in writing and signed by the Party against whom enforcement is sought. Such waiver shall be limited to provisions of this **Agreement** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

11.4 Should any term or provision of this **Agreement** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **Agreement**, to the extent the **Agreement** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

11.5 This **Agreement** may be amended only with the written approval of the Parties.

11.6 This **Agreement** states that all publicity/outreach media will be jointly planned by the **Recipient** and the **District** and any and all materials, events, or endorsements arising out of this award will acknowledge the participation and funding by the **District**.

11.7 This **Agreement** may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this **Agreement** and any signatory hereon shall be considered for all purposes as original.

11.8 This **Agreement** states the entire understanding and **Agreement** between the Parties and supersedes any and all written or oral representations, statements, negotiations or **Agreements** previously existing between the Parties with respect to the subject matter of this **Agreement**. The **Recipient** recognizes that any representations, statements or negotiations made by **District** staff do not suffice to legally bind the **District** in a contractual relationship unless they have been reduced to writing and signed by an authorized **District** representative. This **Agreement** shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **Agreement** on the date written below.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD**

By: _____
Drew Bartlett, Executive Director

Date: _____

By: _____
Candida Heater, Director
Administrative Services Division

Date: _____

**SFWMD Procurement Approved:**

By: _____ Date: 1/21/20

**SFWMD OFFICE OF COUNSEL APPROVED:**

By: _____ Date: 1-21-2020

**Recipient**'s Legal Name: **CITY OF STUART**

By Authorized Official: _____

Printed Name: _____

Title: _____

Date: _____

**EXHIBIT "A"**

**STATEMENT OF WORK**

Construct Floridan Aquifer System Production Well FA-1

City of Stuart

## A. INTRODUCTION/BACKGROUND

The City of Stuart (City or Recipient) is facing factors that threaten the reliability and availability of the surficial aquifer system (SAS). These factors include groundwater contamination, potential for saltwater intrusion, and potential impacts on adjacent wetlands and other legal users. Due to the ongoing threats to the existing water supply and potential for more stringent future drinking water regulation, the City needs to diversify its options by investing in an alternative water supply.

The City owns and operates a lime softening water treatment plant (WTP) that is permitted for treating water at a capacity of 6 million gallons per day (mgd). Currently, the City treats raw water from the SAS. The shallow wellfield includes 30 production wells, of which 23 are active and 7 inactive due to some form of contamination. Although the City's SAS water supply is sufficient to meet the population and water demand forecasts under existing water quality regulations, the existing surficial well withdrawals are limited due to the potential for wetland impacts, potential for saltwater intrusion, and contamination. Due to these various threats on the reliability and availability of the City's water source, an alternative water source and treatment process was evaluated and recommended. The City is proactively planning to phase in a 3.0 MGD Reverse Osmosis (RO) Water Treatment Facility by the year 2032 utilizing the Floridan Aquifer System (FAS). Each phase will add 1 mgd. Phase 1 of the RO Facility is anticipated to be completed by 2022, Phase 2 by 2027 and Phase 3 by 2032.

This project is for construction of the FAS Production Well FA-1 (excluding wellhead and raw watermain), which is the raw water well associated with Phase 1. Construction is expected to be completed by June 2020. Design of the RO Facility Phase 1 will be simultaneous with the construction of well FA-1.

## B. OBJECTIVES

The objective is to implement the FAS as an alternative water supply source, diversify its options, and ultimately reduce the City's reliance upon its SAS water supply. This would allow the City to meet its mission of supplying the highest quality drinking water to its customers.

## C. SCOPE OF WORK

Construction of FAS Well FA-1 includes drilling, setting of steel and PVC casings, grouting, flow testing, acidizing (if necessary), well logging, pump testing, and restoration of well site. Wellhead assembly, raw watermain installation, and disinfection will be performed as part of future RO Facility activities.

Well FA-1 will be drilled to the upper Floridan aquifer by open hole construction with both steel and PVC well casing. The well casing shall be telescoped in nature and include an upper larger casing to accommodate the potential for a future vertical turbine or submersible type pump, and a smaller lower casing down to the top of the open hole. **Figure 1** shows the supply well construction details. Well FA-1 is to be constructed as a test/production well, which will be drilled to 1,700 below land surface (bls) to allow for collection of more information (water

quality, yield) of the FAS at the water treatment plant site. The test well will then be converted to a supply well upon completion of water quality testing. **Figure 2** shows the well casing termination configuration at the end of this project.

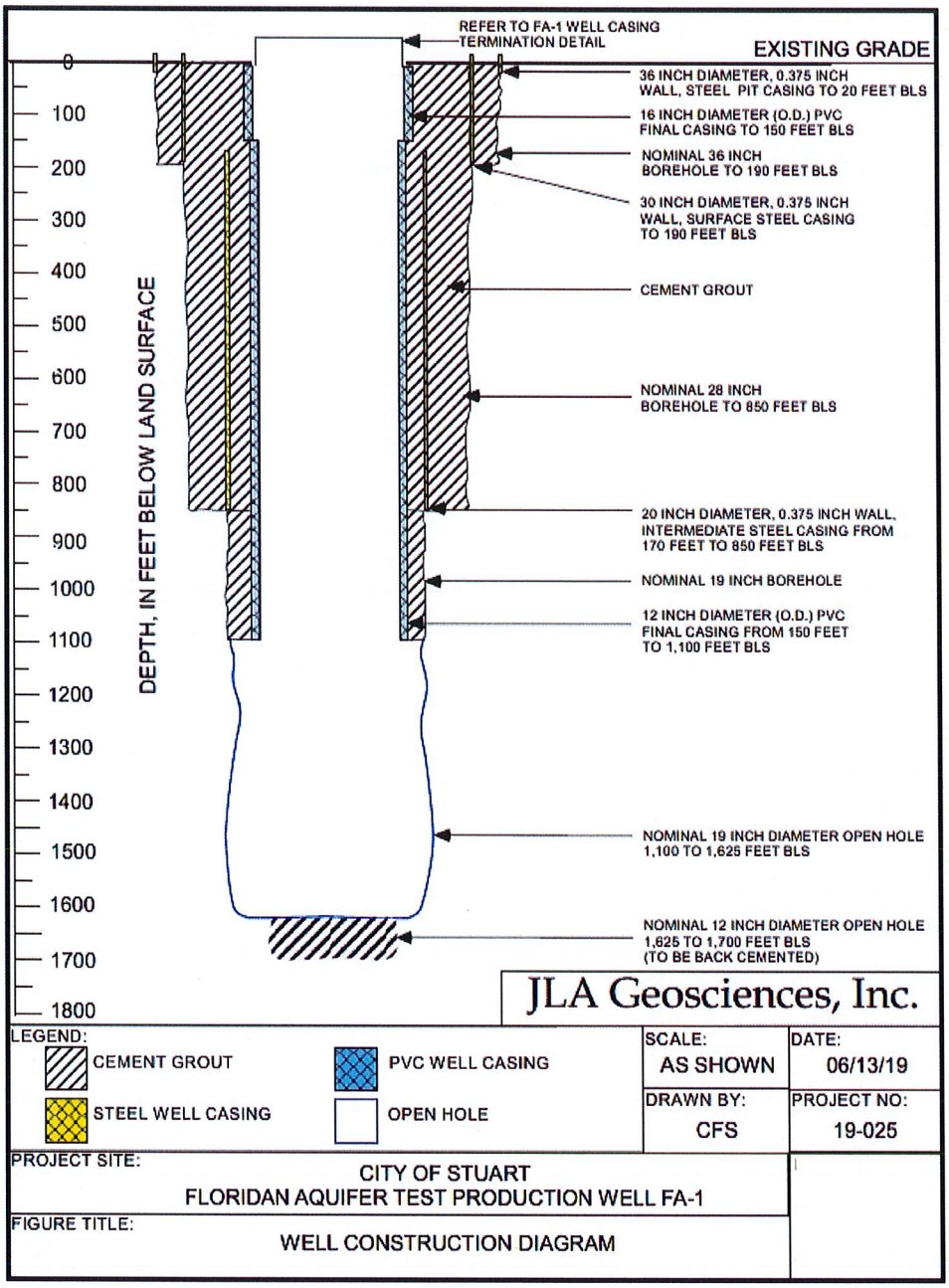



**Figure 1.** Well Construction Diagram

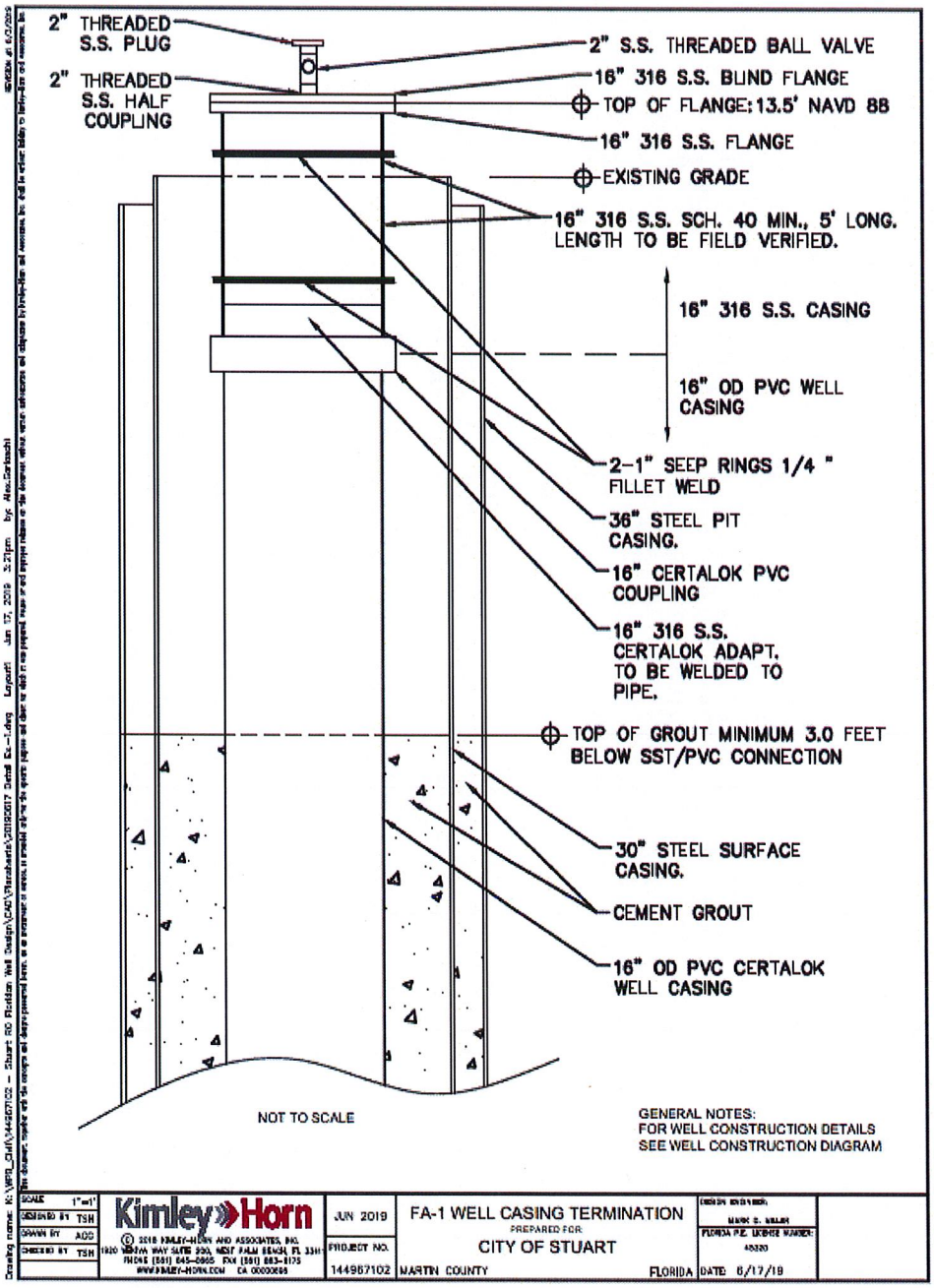



**Figure 2.** Well Casing Termination

## D. WORK BREAKDOWN STRUCTURE

The work breakdown structure associated with this project is described below. Note that if the project is complete prior to the due date of a Status Report (Tasks 2-6), then Exhibit "D" shall replace the Status Report and subsequent Status Reports shall not be required.

Task 1: – **Recipient** shall submit to the project manager an electronic submittal of final project bid amount and/or vendor estimates for tasks to be completed by May 31, 2021.
**Due Date:** Upon contract execution

Task 2 – Exhibit "C" Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.
**Due Date:** March 31, 2020

Task 3 – Exhibit "C" Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.
**Due Date:** June 30, 2020

Task 4 – Exhibit "C" Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.
**Due Date:** September 30, 2020

Task 5 – Exhibit "C" Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.
**Due Date:** December 31, 2020

Task 6 – Exhibit "C" Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.
**Due Date:** March 31, 2021

Task 7 – **Recipient** shall construct FAS Well FA-1, including drilling, casing installation, grouting, flow testing, acidizing (if necessary), well logging, pump testing, and restoration of well site/ Reimbursement Request Package.
**Due Date:** Upon Task Completion

Task 8 – Final Reimbursement Request Package & Project Summary Sheet (Exhibit "D"): **Recipient** shall submit to the project manager the final reimbursement request package, to include but not limited to, signed certification letter that the project is complete per the agreement, recipient invoice, copies of vendor invoices, and Final Project Summary Report (Exhibit "D").
**Due Date:** May 31, 2021

# EXHIBIT "B"

## PAYMENT AND DELIVERABLE SCHEDULE

Construct Floridan Aquifer System Production Well FA-1

City of Stuart

- A summary deliverable schedule associated with this project is set forth below.
- The **Recipient** shall submit all deliverables to the **District's** project manager. All deliverables submitted hereunder are subject to review by the **District**. The **Recipient** hereby agrees to provide the **District** all deliverables, data and information described in the Statement of Work.
- Payment shall be made following receipt and acceptance by the **District** of the Reimbursement Request Package(s) in accordance with the schedule set forth below. The **Recipient** shall submit a reimbursement request upon completion of each Task noted below. If applicable, the **Recipient** shall submit a final reimbursement request package for payment and Exhibit "D" on or before May 31, 2021 for reimbursement. All reimbursement request packages shall be accompanied by adequate documentation to demonstrate completion of each Task in accordance with Exhibit "A" the Statement of Work (SOW).
- Reimbursement Request Packages shall include but not be limited to, a copy of **Recipient's** invoice, signed certification letter for partial payment that the task(s) is (are) complete per the SOW or that the project is complete per the SOW, Exhibit "D" Final Project Summary Report, copies of vendor invoices and payments, and any other documentation supporting payment. Timely payment of invoices shall be contingent upon the District's review and acceptance of all invoice(s). Final payment is subject to the final project construction cost. The Reimbursement Request Package shall be submitted on or before May 31, 2021.
- The **District** shall only be obligated to pay for documented actual construction costs within the not-to-exceed amounts specified below. In the event actual construction costs by the **Recipient** are less than the not-to-exceed amount for a particular task, the **Recipient** shall have the right to apply the unexpended balance toward another task, unless the total current construction cost has decreased. The **Recipient** shall provide prior written notice of its decision to exercise this right to the **District's** Project Manager. If the **Recipient** does not exercise this right, the **Recipient** agrees to amend the contract to revise the approved funding consistent with the original percentage to the lower construction cost. In ***no event*** shall the **District's** total obligation exceed the amount specified below for the total **Agreement**; however, an actual construction cost less than the estimated construction cost may result in a reduced final payment. The **Recipient** is responsible for any additional funds either through local revenues, grants, other appropriations, and/or other funding sources.
- Total reimbursement payment by the **District** for all work completed herein *shall not exceed* the amount of $100,000. If the total consideration for this **Agreement** is subject to multi-year funding allocations, funding for each applicable fiscal year of this **Agreement** will be subject to Governing Board budgetary appropriation. In the event the **District** does not approve funding for any subsequent fiscal year, this **Agreement** shall terminate upon expenditure of the current funding, notwithstanding other provisions in this **Agreement** to the contrary.

| Task No. | Deliverable(s) | Invoice Date[1] | Report Due Date | District Not-To-Exceed Payment |
|---|---|---|---|---|
| 1 | Electronic submittal of final project bid and/or vendor estimates for tasks to be completed by May 31, 2021 | N/A | Upon Contract Execution[2] | N/A |
| 2 | Exhibit "C" – Quarterly Status Report[3] | N/A | March 31, 2020 | N/A |
| 3 | Exhibit "C" – Quarterly Status Report[3] | N/A | June 30, 2020 | N/A |
| 4 | Exhibit "C" – Quarterly Status Report[3] | N/A | September 30, 2020 | N/A |
| 5 | Exhibit "C" – Quarterly Status Report[3] | N/A | December 31, 2020 | N/A |
| 6 | Exhibit "C" – Quarterly Status Report[3] | N/A | March 31, 2021 | N/A |
| 7 | Construct FAS Well FA-1, including drilling, casing installation, grouting, flow testing, acidizing (if necessary), well logging, pump testing, and restoration of well site/ Reimbursement Request Package | Upon Task Completion | Upon Task Completion | $100,000 |
| 8 | Reimbursement Request Package & Project Summary Report (Exhibit "D") | May 31, 2021 | May 31, 2021 | N/A |
| | | | **Total District Funding** | **$100,000** |
| | | | Current Fiscal Year(s) Construction Costs | $1,332,425 |
| | | | Total Project Construction Cost | $2,340,000 |

[1]If applicable, interim Reimbursement Request Package shall be submitted upon completion of the task(s) noted above. Reimbursement Request Packages must be submitted on or before May 31, 2021 for reimbursement, *no exceptions*.

[2]If construction bids and vendor estimates have not been completed upon execution of the **Agreement**, the **Recipient** shall submit this information as soon as it's available to the **District** Project Manager.

[3]Exhibit "C" Quarterly Status Reports are due within ten (10) days of the due date.

Note: Ineligible costs include, but not limited to, permits, as-builts, videos, early completion bonus, bonds and insurance, etc.

Note: If the project includes well drilling and testing, deliverables must include copies of all hydrogeologic data collected in the course of drilling and testing, in the **District** specified format. An electronic copy of the **District** specified format is available via email. Contact the appropriate **District** Project Manager to request one.

**EXHIBIT "C"**

**Alternative Water Supply**

Quarterly Status Report

To comply with the AWS quarterly status report requirements specified in your contract, this form shall be completed and submitted via email to your **District** Project Manager. Please attach backup documentation (e.g. pictures, drawings, etc.) that will provide an understanding of project construction to date.

| | | | |
|---|---|---|---|
| **Agreement Number:** | 4600004158 | **Purchase Order Number:** | |
| **Reporting Quarter:** 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ | | | |
| | | | |
| **Project Title:** | Construct Floridan Aquifer System Production Well FA-1 | **Recipient:** | City of Stuart |
| **Overall status of project:** | On Schedule ☐ | Behind Schedule ☐ | |
| If behind schedule, provide an explanation: | | | |
| **Project Summary (to date):** | | | |

**Actual Phase Construction Costs**

| | Date | Amount |
|---|---|---|
| Bid Document | | |
| Final Contract (with vendor) | | |
| Total expended to date | | |
| Change order(s) | | |

| | | | |
|---|---|---|---|
| **Submitted by:** | | **Title:** | |
| **Email:** | | **Date:** | |

**Report submittal and/or questions:** Email or call Brian Moore at bmoore@sfwmd.gov or 561-682-6720

| | | | | | |
|---|---|---|---|---|---|
| **SFWMD staff only:** | | | | | |
| **Date received:** | | **Received by:** | | | |
| | | | | | |
| **Status:** | Commenced ☐ | On Schedule ☐ | Behind Schedule ☐ | Completed ☐ | Closed ☐ |

Construction Deliverables Status – provide the following information for each deliverable listed in Exhibit "B" of the Agreement:

| Task No. | Exhibit "B" Deliverables | Is the Task Complete? Y/N | Estimated Finish Date | Task Status and Comments |
|---|---|---|---|---|
| 1 | Electronic submittal of final project bid and/or vendor estimates for tasks to be completed by May 31, 2021 | | Upon contract execution | |
| 2 | Quarterly Status Report | | 3/31/20 | |
| 3 | Quarterly Status Report | | 6/30/20 | |
| 4 | Quarterly Status Report | | 9/30/20 | |
| 5 | Quarterly Status Report | | 12/31/20 | |
| 6 | Quarterly Status Report | | 3/31/21 | |
| 7 | Construct FAS Well FA-1, including drilling, casing installation, grouting, flow testing, acidizing (if necessary), well logging, pump testing, and restoration of well site | | Upon Task Completion | |
| 8 | Reimbursement Request Package & Project Summary Report (Exhibit "D") | | 5/31/21 | |

**EXHIBIT "D"**

**Alternative Water Supply**

Final Project Summary Report

loridan Aquifer System Production Well FA-1

| **Project Title** | **Recipient Project Manager** |
|---|---|
| 4600004158 / | City of Stuart |
| **SFWMD Agreement / PO Numbers** | **Recipient Name (Project Owner)** |

**Describe project constructed:**

| **Type of Alternative Water Supply** | **Quantity of Water Made Available** | | **Construction Duration** | |
|---|---|---|---|---|
| | **Proposed** | **Actual** | **Start Date** | **Finish Date** |
| Brackish | | | | |

| **COST FOR THIS PHASE (Phase refers to the current work)** | | |
|---|---|---|
| | **Proposed Costs** | **Actual Costs** |
| Current Fiscal Year(s) Construction Cost | $1,332,425 | $ |
| **FUNDING BREAKDOWN FOR THIS PHASE** | | |
| District Funding | $100,000 | $ |
| Local Funds | $1,232,425 | $ |
| Other Funding Source<br><br>From: | $ | $ |
| **TOTAL PHASE COSTS** | **$1,332,425** | **$** |

Attach map and photo(s) of project on CD, if available. The District will make funding payments only to reimburse for work completed between December 12, 2019 and May 31, 2021.

To the best of my knowledge, the above information is correct.

**Chief Financial Officer**

**Recipient Project Manager**

# EXHIBIT "E"

FUNDS AWARDED TO THE ENTITY PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

| **Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:** | | | | | |
|---|---|---|---|---|---|
| Federal Program Number | Federal Agency | CFDA Number | CFDA Title | Funding Amount | State Appropriation Category |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| **State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:** | | | | | |
|---|---|---|---|---|---|
| Federal Program Number | Federal Agency | CFDA Number | CFDA Title | Funding Amount | State Appropriation Category |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| **State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:** | | | | | | |
|---|---|---|---|---|---|---|
| Federal Program Number | State Agency | State Fiscal Year | Number | CSFA Title or Funding Source Description | Funding Amount | State Appropriation Category |
| | Department of Environmental Protection | 2019-2020 | | Water Protection Sustainability Program | $50,000 | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| | | |
|---|---|---|
| Total Award | $50,000 | |

For each program identified above the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [https://beta.sam.gov/help/assistance-listing] and/or the Florida Catalog of State Financial Assistance (CSFA) [https://apps.fldfs.com/fsaa/catalog.aspx]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.