



**APACHE JUNCTION  
SEWER DISTRICT**  
RECLAIMING WATER FOR THE FUTURE

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## CONSTRUCTION CONTRACT

**PROJECT 25.08**

**Construction of Recharge Basin No.12**

**Contractor:** Contractor Name

**Contract Date:** November \_\_, 2024

**Amount:** \$0.00

Apache Junction Sewer District

**CONSTRUCTION CONTRACT INDEX**

**Project 25.08**

**Construction of Recharge Basin No.12**

Contractor: **Contractor Name**

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**CONSTRUCTION CONTRACT**  
**Project 25.08**  
**Construction of Recharge Basin No.12**

**Contractor: Contractor**

This Agreement is made and entered into this \_\_\_<sup>th</sup> day of **November, 2024** by and between the Apache Junction Sewer District (“District”) and **Contractor Name** (“Contractor”).

**RECITALS**

- A. In response to District’s Notice and Call for Bids dated **October 10, 2024**, and any addendums applicable thereto, Contractor submitted a proposal dated **November , 2024** in which Contractor asserts its willingness, ability and qualifications to provide this Work and service.
- B. District and Contractor desire to set forth herein their respective responsibilities and the manner and terms upon which Contractor shall render the services.

NOW, THEREFORE, District retains Contractor to perform and Contractor agrees to render the services in accordance with the terms and conditions set forth below:

**AGREEMENT**

**1. PROJECT DESCRIPTION**

Contractor shall do and perform or cause to be done and performed in a workmanlike manner, and provide the construction and services required by the Contract Documents, whether completed or partially completed, including all labor, materials, equipment, services and each and every item of expense provided or to be provided by the Contractor to fulfill the Contractor’s obligations and that are necessary for the construction and installation of the following:

In efforts to expand District treated effluent recharge area, mitigating groundwater declines Apache Sewer District is requesting the construction of Recharge [Basin 12] to its designed depth and slope, accompanying access roads, and the roads surrounding the basin as outlined in the Project Drawings of **Exhibit A**. The Technical Specifications of **Exhibit B** provide support data. Only the civil work required for the construction of the project shall be included in this contract; no piping, valves or miscellaneous appurtenances will be included at this time. Removed soil will be stockpiled onsite at location indicated on **Exhibit C**, reducing the total cost for disposal.

This project will be partially funded by an awarded grant issued by the American Rescue Plan Act (ARPA) and contributed by the Water Infrastructure Finance Authority (WIFA) and is subject to federal regulations detailed in **Exhibit D** WIFA Federal Provisions.

**2. DEFINITIONS**

All capitalized terms used herein, if not defined herein, shall have the same meaning as those terms have in the Contract Documents.

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### A. Abbreviations

Where any of the following abbreviations are used in the Contract Documents, they shall have the meaning set forth below.

ACI	American Concrete Institute
ADOT	Arizona Department of Transportation
ADEQ	Arizona Department of Environmental Quality
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ARPA	American Rescue Plan Act
ARS	Arizona Revised Statutes
ASCE	American Society of Civil Engineers
ASTM	American Society for Testing and Materials
AWWA	American Water Works Association
MAG	Maricopa Association of Governments
OSHA	Occupational Safety and Health Administration
WCGF	Water Conservation Grant Fund
WEF	Water Environment Association
WIFA	Water Infrastructure Finance Authority

### B. Application for Payment

The Contractor's application for payment by the District in a form acceptable to the District.

### C. Change Order

A written instrument prepared by the Engineer or the District and signed by the Engineer, if any, the District and the Contractor to make changes in the Work or to perform extra Work, and setting forth the amount of any adjustment in the Contract Sum, and any adjustment in time of completion set forth in the Contract.

### D. Claim

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Construction Contract terms, payment of money, extension of time or other relief with respect to the terms of the Construction Contract or the Construction Documents. The term "Claim" also includes other disputes and matters in question between the District, or a public entity, or a private individual arising out of or relating to the Work. Claims must be made by written notice. The responsibility to substantiate a Claim shall rest with the party making the Claim.

### E. Competent Person

As defined by OSHA in 29 CFR Part 1926 and used in this Agreement a Competent Person for the Work to be performed means one who through training and experience is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

### F. Contract Documents

The Contract Documents consist of this written Construction Contract between the District and the Contractor ("Construction Contract"), Project Descriptions, Drawings and Addenda issued prior to execution of the Construction Contract and Addenda, Change Orders and modifications issued after the execution of this Construction Contract (the "Contract

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Documents”). A modification is (1) a written amendment to the Construction Contract signed by both parties, and/or (2) a Change Order.

The Contract Documents do not include any oral modifications.

G. Contract Sum

The amount the District is to pay the Contractor for the Work as provided in the Construction Contract. This amount may be changed from time to time by Change Order only.

H. Contractor

The word Contractor means either an individual or other entity employed to do the Work as specified in the Contract Documents.

I. Construction Contract

This written agreement between the District and the Contractor made as of the \_\_\_<sup>th</sup> day of November, 2024, properly signed by an authorized representative of both the Contractor and the District by which the Contractor is bound to perform the Work specified, and by which the District is obligated to compensate the Contractor at the prices set forth therein.

J. District

The word District means the Apache Junction Sewer District.

K. District Authorized Representative

The District Manager, or the Chairman of the Board of Directors of the District, or any other person designated in writing by the District Manager or Chairman of the Board of Directors of the District as a District Authorized Representative.

L. Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedule and diagrams.

M. MAG

The term “MAG” refers to Uniform Standard Specifications for Public Works and Uniform Standard Details for Public Works Construction published by the Maricopa Association of Governments.

N. Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the District or by contractors other than the Contractor.

O. Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

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P. Subcontractor

A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work.

Q. Unconditional Waiver and Release on Final Payment

A certificate executed by the Contractor that warrants all labor, services, equipment and materials furnished for or to the Project have been paid in full or will be paid from the monies received from the District for the Work and that the Contractor waives and releases all right to liens, bond rights, claim and payment rights related to the Project.

R. Work

The construction and services required by the Contract Documents whether completed or partially completed, and includes any and all of the improvements and construction services mentioned and authorized to be made by the Contract Documents, and all expenses, labor, materials, permits, equipment, services, utilities, transportation, and management provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract Documents and necessary or incidental thereto.

### 3. RULES OF CONSTRUCTION AND MISCELLANEOUS PROVISIONS

For all purposes of this Agreement except as otherwise expressly provided or unless the context of this Construction Contract requires otherwise:

A. References

The words "herein", "hereby", "hereunder", "hereof", and other words of similar import refer to any one of the whole Contract Documents in which it is used, not solely to the particular portion, section, paragraph, sentence of the Contract Documents in which any such word is used.

B. Pronouns

All pronouns used in the Contract Documents shall be deemed to include masculine, feminine, and neuter and the plural shall be deemed to include the singular, or vice versa, whenever necessary or appropriate to effect the intent of the Contract Documents.

C. Accounting Terms

All accounting terms not otherwise defined herein have the meaning assigned to them in accordance with generally accepted accounting principles as in effect from time to time.

D. Counterparts

This Construction Contract may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute a single instrument.

E. Headings

The subject headings included in the Construction Documents are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

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- F. Incorporation of Definitions, Recitals and Exhibits  
The parties hereto acknowledge the accuracy of the definitions and recitals set forth in this Construction Contract and incorporate the same herein. All exhibits and appendices and documents identified or described herein are incorporated in this Construction Contract as a part of this Construction Contract.
- G. Merger  
All prior and contemporaneous agreements, statements, and understandings with respect to the subject matter of this Construction Contract, if any, among the parties hereto, or their agents, are merged into this Construction Contract, and this Construction Contract and the other Contract Documents shall constitute the entire agreement among the parties.
- H. Successors  
The terms of this Construction Contract shall be binding upon and inure to the benefit of, and shall be enforceable by, the successors, assignees, and transferees of the parties hereto.
- I. Severability  
Each provision of this Construction Contract shall be construed to preserve its validity and enforceability to the extent possible. In the event any provision of this Construction Contract is declared void or unenforceable, the party who would have the provision enforced shall be entitled to elect whether (i) the provision should be modified to the extent necessary to make it valid and enforceable or (ii) the provision shall be deemed not to be a part of this Construction Contract.
- J. Waivers  
The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Construct Contract shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.
- K. Counsel  
Each of the undersigned has been represented by separate counsel of their choice in connection with the preparation and execution of this Construction Contract, or such persons have elected not to be represented by counsel. Accordingly, this Construction Contract shall be construed only in accordance with its fair meaning.
- L. Contract Documents Govern  
The Contract Documents govern all Works of installation and construction. In circumstances where the Contract Documents do not provide for the construction improvements, the appropriate MAG specification shall be used.
- M. Obligation to Report Inconsistencies and Omissions  
The Contractor shall carefully study and compare the Contract Documents with each other and with information supplied by the District and shall at once report inconsistencies or omissions discovered. If the Contractor performs any construction activity knowing or when it reasonably should know that the activity involves an error, inconsistency, ambiguity or omission in the Contract Documents without such notice to the District, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

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- N. Execution of Construction Contract Infers Review by Contractor  
Execution of the Construction Contract by the Contractor is a representation that the Contractor by careful examination of the Contract Documents and field conditions has satisfied itself as to the nature and location of the Work and all other matters which can be expected to affect the Work thus enabling the Contractor to determine the cost of the Work, perform the Work and otherwise fulfill all its obligations under the Construction Documents.
- O. Obligation for Field Review Prior to Commencing Work  
The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing the Work.
- P. Verbal Agreements Not Binding  
Verbal agreements or conversations with a District Authorized Representative, or any other employee of the District either before or after the execution of the Construction Contract are not binding upon the District and shall not modify any of the terms or obligations of any of the Contract Documents.
- Q. Work Not Permitted on Weekends or Holidays  
Unless stated to the contrary in Bid Documents or agreed to in writing by the District Authorized Representative, the Contractor shall not perform the Work on Saturday, Sunday or State or national holidays.
- R. Minimum Obstruction to Traffic  
All Work shall be planned and performed so as to cause a minimum of interference with normal vehicular and pedestrian traffic.
- S. Contract Documents Required at Work Site  
The Contractor shall maintain at the site for the use of the District Authorized Representative one copy of all Contract Documents. The Contractor shall mark promptly on the Contract Documents or save all related documents to record and substantiate all approved changes made during performance of the Work.

#### 4. INDEPENDENT CONTRACTOR

Contractor shall at all times during Contractor's performance of the Work maintain Contractor's status as an independent Contractor. Contractor's employees shall under no circumstances be considered or held to be employees or agents of the District and the District shall have no obligation to pay or withhold state or federal taxes, or provide workers' compensation or unemployment insurance for or on behalf of them or the Contractor. Contractor shall supervise and direct the Work to be done using its best skill and attention. Except as provided in this Agreement, Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work required by the contract documents. Contractor shall be responsible to the District for the acts and omissions of its employees, Subcontractor's and their agents and employees and other persons performing any of the Work under any contract document.

#### 5. COMPLIANCE WITH LAWS

The Contractor shall keep itself fully informed of all existing and future federal, state, and local laws,

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ordinances, rules, and regulations affecting the Work, the materials and equipment used in the Work and the performance of the Work. This Construction Contract shall be governed by the laws of the State of Arizona.

### 6. UNCONDITIONAL WAIVER AND RELEASE AT FINAL PAYMENT

At the time of final payment for the Work, the Contractor shall furnish to the District an Unconditional Lien Waiver and Release on Final Payment warranting that the Contractor has already paid or will use the monies received from final payment to promptly pay in full all his laborers, subcontractors, material men and suppliers for all Work, materials, equipment or services provided for or to the Project. If any such liens against the District resulting from the Contractor's discharge of the Work remains unsatisfied after all payments are made, the Contractor shall refund to the District all money that the District may be compelled to pay in discharging such liens, including all costs, expenses and legal fees.

### 7. LABOR AND MATERIAL

Unless otherwise provided in the Contract Documents, the Contractor shall provide, pay and insure under the requisite laws and regulations, all labor, materials, equipment, tools and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

### 8. LICENSES

The Contractor shall have valid licenses applicable to the Work to be performed. Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for all legally required permits, governmental fees, licenses and inspections necessary for the proper execution and completion of the Work. These are customarily secured after execution of the Construction Contract.

### 9. INSURANCE

Contractor, at its own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly authorized to transact insurance business in the State of Arizona, possessing a current Best's Rating Guide not less than A- VII with carriers, policies and forms satisfactory to the District.

All insurance required herein shall be maintained in full force and effect until all Work or service required to be performed under the terms of the Contract Documents is satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of the District, constitute a material breach of this Agreement.

Contractor's insurance shall be primary insurance as respect to District, and any insurance or self-insurance maintained by District shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect District.

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The insurance policies, except Workers' Compensation, shall contain waiver of transfer rights of recovery (subrogation) against the District, its agents, officers, officials and employees for any claims arising out of Contractor's acts, errors, mistakes, omissions, Work or services.

The insurance policies may provide coverages which contain deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to District under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and District, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

The District reserves the right to request and to receive within ten (10) working days, certified copies of all of the required insurance policies and endorsements. District shall not be obligated, however, to review same or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of District's right to insist on strict fulfillment of Contractor's obligations under this Agreement.

The insurance policies, except Workers' Compensation and Professional Liability, required by this Agreement, shall name the District, its Board of Directors, appointees, agents, officers, officials and employees as additional insured parties.

### **REQUIRED COVERAGE**

#### **A. Workers' Compensation**

Coverage A. Statutory Benefits.

Coverage B. Employer's Liability.

Bodily Injury by accident	\$1,000,000 each accident
Bodily Injury by disease	\$1,000,000 policy limit
Bodily Injury by disease	\$1,000,000 each employee

Coverage must include a Waiver of Subrogation endorsement.

#### **B. Commercial Auto Coverage**

Auto Liability limits of not less than \$1,000,000 each accident, combined Bodily Injury and Property Damage Liability insurance. Certificate to reflect coverage for "Any Auto" (Symbol 1) or "All Owned, Scheduled, Hired and Non-Owned" (Symbols 7, 8, 9).

#### **C. Commercial General Liability**

Each Occurrence Limit	\$1,000,000
Personal Injury/Advertising Injury Limit	\$1,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
General Aggregate Limit (other than Products/Completed Operations)	\$2,000,000

Coverage must include a Waiver of Subrogation endorsement.

Both policy forms must include:

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- a. Premises and Operations coverage with no explosion, collapse or underground damage (XCU) exclusions and no Subsidence Exclusion.
- b. Products and Completed Operations coverage. Contractor agrees to maintain this coverage following completion of the Work and to continue to name the District as an Additional Insured for a period at least equal to the applicable statute of repose for latent defects.
- c. Blanket contractual coverage for the indemnity/hold harmless agreements assumed in this the Contract.
- d. Broad Form Property Damage coverage, including completed operations or its equivalent.
- e. An endorsement naming the District, any other party required to be named as an additional insured under the Contract Documents, and any other parties in interest as Additional Insured(s) under the coverage specified under Comprehensive General Liability or Commercial General Liability. The endorsement shall be on ISO forms CG2010 10/01 and CG2037 10/01 or equivalent. Any form that does not grant additional insured status for both the ongoing operations and products/completed operations coverages IS NOT ACCEPTABLE.
- f. An endorsement stating: "Such coverage as is afforded by this policy for the benefit of the additional insured(s) is primary and any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under this policy."
- g. Coverage on an "Occurrence" form. "Claims Made" and "Modified Occurrence" forms are not acceptable.
- h. Coverage to include general aggregate limits on a "per project" basis.

### D. Excess Liability

Umbrella or Excess Liability of \$5,000,000 to extend the above liability coverages and limits to reach a total combined limit of:

Each Occurrence	\$6,000,000 (GL and Automobile)
Aggregate	\$7,000,000 (GL)

### E. Other Requirements

- 1) All policies must be written by insurance companies whose rating, in the most recent Best's Rating Guide, is not less than A- VII. All coverage forms must be acceptable to Owner.
- 2) Certificates of Insurance with the required endorsements evidencing the required coverages must be delivered to the District prior to commencement of any Work. Failure of the District to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the District to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance. The District shall have the right, but not the obligation, to

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prohibit Contractor or any of its subcontractors from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the District.

- 3) The District reserves the right, in its sole discretion, to require higher limits of liability coverage if, in the District's opinion, operations by or on behalf of Contractor create higher than normal hazards and, to require Contractor to name additional parties in interest to be Additional Insureds.
- 4) In the event that rental of equipment is undertaken to complete and/or perform the Work, Contractor agrees that it shall be solely responsible for such rental equipment. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
- 5) In the event that materials or any other type of personal property ("personal property") is acquired for the Project or delivered to the Project site, Contractor agrees that it shall be solely responsible for such property until it becomes a fixture on the Project, or otherwise is installed and incorporated as a final part of the Project. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
- 6) The District does not provide insurance for any tools or equipment owned or rented by Contractor including trailers, excavators, scaffoldings, or forms. Contractor is responsible for providing insurance coverage for such items.
- 7) If the Contract Documents provide for an Owner Controlled Insurance Program ("OCIP") which provides coverage for the Work, the Contractor shall comply with all provisions of any such OCIP.

### 10. TAXES

The Contractor shall pay all license, sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted at the time the bids are received, whether or not yet effective or subsequently applicable due to acts of jurisdictions or bodies other than the District.

### 11. LIENS

If at any time there shall be evidence of any lien or claim for which the District might become liable or the District's property encumbered and which is chargeable to the Contractor, the District shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient to completely indemnify the District against such lien or claim. If the District determines that such lien or claim is valid, the District may pay and discharge the same, and deduct the amount paid from any money which may be or become due and payable to the Contractor.

### 12. INDEMNITY

To the fullest extent permitted by law, the Contractor shall appear, defend, pay the cost thereof, indemnify and hold harmless the District and its agents, employees and attorneys for, from and against all Claims, damages, losses and expenses including, but not limited to, attorney fees arising out of or resulting from the performance of the Work providing that any such Claim, damages, losses and expenses is (1) attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom: and

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(2) is caused in whole or in part by any negligent act or omission of the Contractor, a subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not such Claim, damage, loss or expense is caused in part by a party indemnified hereunder.

### **13. ASSIGNMENT**

The District and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents.

The Contractor shall not assign the Construction Contract nor shall the Contractor assign any money due or to become due the Contractor hereunder without the previous written consent of the District.

### **14. SUBCONTRACTORS**

The Contractor shall not use any Subcontractor to whom the District has a reasonable objection.

### **15. SAFETY**

The Contractor will provide the Work while at all times in compliance with the applicable provisions of both State and federal laws, which laws include, but are not limited to, the following (including the latest amendments):

- i. Federal Occupational Safety & Health Act of 1970 (P.L. Law 91-596).
- ii. State of Arizona, Occupational Safety and Health Standards for General Industry, 29 CFR Part 1910.
- iii. State of Arizona, OSHA Safety and Health Standards for the Construction Industry, 29 CFR Part 1926

The Contractor shall provide all shoring, safety devices and personal protective equipment etc., and take any other needed actions, on its own responsibility, as reasonably necessary to protect the life and the health of employees on the job, and the safety of the public.

The Contractor shall provide a Competent Person for the Work to be performed, that is capable of identifying existing and predictable hazards in the surroundings, or Working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

The Competent Person shall on a daily basis provide a safety inspection of the Work site and record such inspections in a log, binder, or journal that shall be made available for District inspection.

### **16. SUPERVISION AND COMMUNICATIONS**

The Contractor shall assure adequate supervision of the Work by a foreman or superintendent and a Competent Person, with full authority to act on behalf of the Contractor, and who will be on the job

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at all times when the Work is in progress. The District shall have the right to require that the Contractor replace the foreman or superintendent.

Communications given by the District Authorized Representative to the foreman or superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing, and other communications shall be similarly confirmed on written request by either the District or the Contractor.

### **17. WRITTEN NOTICE**

Every "request", "order", "demand", "application", "notice", "statement", "certificate", "consent", or similar action required hereunder shall be in writing and signed by the appropriate party, as outlined on [Appendix B](#).

Written notice or request shall be deemed to have been duly served by the Contractor if delivered in person to a District Authorized Representative, and likewise by the District if delivered in person to the Contractor's foreman or superintendent. Written notice or request shall also be deemed to have been duly served if sent by registered or certified mail to the last business address known by the entity giving the notice or request.

### **18. CHANGES AND CHANGE ORDERS**

The District Authorized Representative shall have the authority to order minor changes in the Work not involving an adjustment in the Construction Contract sum or extension of Construction Contract time, and not inconsistent with the intent of the Contract Documents. All such changes shall be effected by written order and shall be binding upon the District and the Contractor.

The District, without invalidating the Construction Contract, may order changes in the Work within the general scope of the Construction Contract consisting of additions, deletions or other revisions, the Contract Sum and the Construction Contract time being adjusted accordingly. All such changes in the Work shall be authorized by a Change Order, a written order issued by the District to the Contractor to make changes in the Work or to perform extra Work, and setting forth conditions for payment and any adjustment in time of completion. A Change Order signed by the Contractor indicates its agreement therewith.

### **19. REMOVAL, SUSPENSION AND RIGHT TO TERMINATE WORK**

The Contractor shall remove, at its own expense, any Work or material found defective or not in conformance with the Contract Documents by the District Authorized Representative and shall rebuild and replace the same without extra charge; in default thereof, the same may be done by the District, at the Contractor's expense.

The District Authorized Representative may at any time and for any reason suspend all or any portion of the Work under the Construction Contract. This right to suspend Work shall not be construed as denying the Contractor compensation for actual, reasonable and necessary expenses due to suspension to which the Contractor may be entitled.

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The District Authorized Representative may order the Contractor to suspend any Work because of certain conditions, such as inclement weather, violations of federal and State safety regulations or because the Contractor is in violation of other provisions of the Contract Documents. It is understood that expenses will not be allowed for such suspensions when ordered by the District Authorized Representative on account of such conditions.

If the District finds the Contractor is adjudged to be bankrupt, makes a general assignment for the benefit of its creditors, or if found to be in material violation of any provision of the Construction Contract, or provisions of the other Contract Documents, or if the Contractor refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete the Work within such time, or when any other cause exists to justify such action, the District may, without prejudice to any other right or remedy, by ten (10) days written notice to the Contractor and its surety, terminate the right to proceed with the Work or such part of the Work as to which there has been such violation, delay or other cause.

In the event the Contractor's right to proceed is terminated, the District may take over the Work and take possession of, and utilize in completing the Work, such materials as may be on the site of the Work and necessary therefore, and prosecute the Work to completion by whatever method it may deem expedient. The Contractor and its sureties shall be liable to the District for any excess cost caused thereby.

In the event the Contractor's right to proceed with the Work is terminated, the Contractor shall not be entitled to receive any further payment until the Work is completed or the Work is canceled. If the unpaid balance of the Construction Contract sum exceeds the expense of finishing the Work, including compensation for additional managerial and administrative services by the District, such excess shall be paid by the Contractor. If such expenses exceed such unpaid balance, the Contractor shall pay the difference to the District.

### **20. CLAIMS**

Claims by either the Contractor or the District shall be made by written notice within fifteen (15) days after occurrence of the event giving rise to such Claim, or within fifteen (15) days after the claimant first recognizes the conditions giving rise to the Claim, whichever is later except for Claims for extension of time which shall be made within seven (7) days. Pending final resolution of a Claim, unless otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the District shall continue to make payments in accordance with the Contract Documents.

### **21. CONTRACT TIME FOR COMPLETION**

Contractor hereby fixes the time for beginning Work to achieve completion no later than [January 30, 2025](#). Upon failure to complete Work within the time specified, the Contractor shall pay as liquidated damages for the loss of use of the benefit of this project the sum as provided in Table 108-1 of the MAG Uniform Standard Specifications and Details for Public Works Construction for each day the Work remains unfinished. This provision does not limit the liability of Contractor for actual damages sustained by the District as a result of any breach of contract or warranty by the Contractor.

### **22. PARTIAL OCCUPANCY OF THE WORK**

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The District shall have the right to take possession of and use any completed or partially completed portions of the Work. If such prior possession or use increases the cost of or delays the Work, the Contractor will be entitled to extra compensation or extension of time or both, as the District may determine.

Immediately prior to such partial occupancy or use, the District Authorized Representative and the Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of the Work that does not comply with the requirements of the Contract Documents.

### **23. INSPECTIONS AND QUALITY OF THE WORK**

The Contractor understands and specifically agrees that all Work is to be performed pursuant to the specifications set forth in the Contract Documents. The Contractor understands and agrees that inspection of the Work being performed hereunder will be done by the District. The Contractor agrees that the District will have the exclusive right to determine, in its sole discretion, whether or not the Work has been performed in accordance with the Contract Documents. The Contractor further agrees to make such corrections to the Work as may be directed by the District Authorized Representative to conform to the Contract Documents without requirement of Change Order or any additional charge or cost to the District whatsoever. The Contractor further agrees to make such corrections to the Work within the time for completion of the Work as specified in Section 21 herein and shall not be entitled to additional time for completion for any corrections to the Work needed to be performed hereunder.

### **24. TIME IS OF THE ESSENCE**

All time limits stated in the Contract Documents are of the essence of the Construction Contract. The Contractor shall begin Work on the date of commencement specified in Section 21 above. The Contractor shall carry the Work forward expeditiously. If the Contractor is delayed at any time in progress of the Work by an act or neglect of the District, or of a separate Contractor employed by the District, or other causes which the District Authorized Representative determines are justifiable, the Construction Contract time shall be extended by Change Order for such reasonable time as the District Authorized Representative may determine.

Any claim for extension of time shall be made in writing to the District Authorized Representative not more than seven days after the commencement of the delay, otherwise said Claim shall be waived by the Contractor. In the case of a continuing delay, only one Claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work. This Section does not exclude the recovery of damages for delay by either party under the provisions of the Contract Documents.

### **25. CLEAN-UP**

The Contractor shall remove from the District's property and from all public and private property, at its own expense, all temporary structures, rubbish and waste materials resulting from its operations and leave all parts of the property affected in a neat and clean condition, satisfactory to the District.

## APACHE JUNCTION SEWER DISTRICT

In the event the Contractor fails to do so, the District may remove same and effect clean-up at the expense of the Contractor.

### **26. RECORD DRAWINGS**

The Contractor shall provide a set of record Drawings for the Work. The record Drawings shall consist of a set of Drawings which indicate all field changes that were made to adapt to field conditions, changes resulting from Change Orders, and all concealed and buried installations of piping, conduit, and utility services changed as part of the Work. The record Drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color.

### **27. PAYMENT**

The Contract Sum shall be the total amount payable by District to the Contractor in the amount of **\$0.00** for the performance of the Work under the Contract Documents except for changes authorized by properly executed change orders. Upon notice that the Work is ready for final inspection or acceptance, District representatives shall promptly inspect the Work. When the District finds the Work acceptable under the Contract Documents, the District shall promptly submit for processing a certificate for payment stating that to the best of its knowledge, information and belief and on the basis of its observation and inspection, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that partial payment or the entire balance due the Contractor is payable. No final payment shall become due until the Contractor submits to the District all required documents, drawings, lien waivers, releases and any other data establishing payment or satisfaction of all Contractor's obligations. If any Subcontractor refuses to furnish a release or waiver required by District, Contractor may furnish a bond satisfactory to the District to indemnify District against any lien filed by that Subcontractor. If any such lien remains unsatisfied after all payments are made, Contractor shall pay to District all monies that the latter may be compelled to pay in discharging such liens, including all costs and reasonable attorney's fees.

Progress payments, if any, shall be made as described on [Appendix A](#) which is incorporated herein and made a part hereof. Upon notice that the Contractor has made Application for Progress Payment, the District Authorized Representative shall promptly cause an inspection to be made. When the District Authorized Representative finds the interim Work acceptable under the terms of the Contract Documents, the Authorized District Representative shall authorize the Application for Progress Payment. Applications for Progress Payments received and properly authorized for payment by the District Authorized Representative shall be paid to the Contractor not later than thirty days after the District Authorized Representative receives the Application for Progress Payment.

Upon completion of the Work, the District will, after receipt of proper invoice and an Unconditional Waiver and Release on Final Payment, and in accordance with the policies and procedures below, pay the final amount due the Contractor. If the District believes that additional Work, such as clean-up is required, it may deduct the total cost of such additional Work from the final amount to be paid to the Contractor.

Upon notice that the Work is ready for final inspection or acceptance, the District Authorized Representative shall promptly cause an inspection to be made. When the District Authorized Representative finds the Work acceptable under the terms of the Contract Documents, the Authorized District Representative shall submit for processing a completion notice stating that to the best of his

## APACHE JUNCTION SEWER DISTRICT

knowledge, information and belief, and on the basis of his observation and inspection, the Work has been completed in accordance with the terms and conditions of the Contract Documents.

Provided that payment is due and the Application for Payment is received and properly authorized for payment by the District Authorized Representative, payment shall be made to the Contractor not later than twenty days after the District Authorized Representative receives the Application for Payment.

### **28. GUARANTEE**

The Contractor shall warrant to the District that materials and equipment furnished under the Construction Contract will be of good quality and new, that the Work will be free from defects and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

The Contractor shall guarantee all labor and Workmanship and any materials it installs for a period of one (1) year following the date of completion and acceptance by the District. The guarantee will not apply to normal wear and tear, and defects caused by abuse. Any omission on the part of the District Authorized Representative or inspector to condemn defective Work or materials at the time of construction shall not be deemed an acceptance, and the Contractor will be required to correct defective Work or materials at any time before final acceptance and within one year of the date of final acceptance.

If any portions of the Work or any of the materials become defective within the guarantee period, the District will notify the Contractor of the defect. The Contractor must repair the defect within fifteen (15) days of such notification. If repairs are not completed within this time period, the District may repair the defect, or cause the defect to be repaired, and the cost of the repairs shall be paid by the Contractor. The District reserves the right to determine which defects are the result of poor labor and Workmanship and which are caused by defective materials. The guarantee period for any defect of the Work that is repaired or replaced shall be one (1) year following the date of the repair or replacement.

### **29. RIGHTS AND REMEDIES**

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available to each party in law or in equity. No action or failure to act by the District or Contractor shall constitute a waiver of any right or duty afforded any of them under the Construction Contract, nor shall any action or failure to act constitute an approval of or an acquiescence to any failure by the Contractor thereunder except as may be specifically agreed to in writing.

All Claims, disputes and other matters in question arising out of, or relating to, this Construction Contract or the breach thereof, except for claims which have been waived by the making or acceptance of final payment shall be decided by proceedings in a court of competent jurisdiction in the State of Arizona or as the parties hereto may otherwise agree. Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain the Contract completion date during any court or other proceeding agreed on by the parties, and the District shall continue to make payments in accordance with this Construction Contract. All claims that are related to or dependent upon each

## APACHE JUNCTION SEWER DISTRICT

other shall be heard in the same proceeding as permitted by the court even though the parties are not the same unless a specific contract prohibits that consideration.

If as a result of any Claim, dispute or other matter rising out of, or relating to this Construction Contract or the breach thereof, the District employs attorneys or incurs other expenses for the enforcement of the performance or observance of any obligation or agreement on the part of the Contractor, the Contractor shall, on demand, reimburse the District for the reasonable fees of such attorneys and such other reasonable expenses so incurred.

### **30. CONFLICT OF INTEREST**

The provisions of ARS § 38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this contract.

### **31. COMPLIANCE WITH FEDERAL AND STATE LAWS**

The Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

The Contractor must also comply with ARS § 34-301, "Employment of Aliens on Public Works Prohibited", and ARS § 34-302, as amended, "Residence Requirements for Employees".

Contractor must also comply with ARS § 34-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

Under the provisions of ARS § 41-4401, Contractor hereby warrants to the District that the Contractor and each of its Subcontractors will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and ARS § 23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the District.

Neither the Contractor nor any of Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by ARS § 23-214, Subsection A.

Prohibition to Contract with Contractors who engage in Boycott of the State of Israel. The parties acknowledge ARS §§ 35-393 through 35-393.03, as amended, which forbids public entities from contracting with Contractors who engage in boycotts of the State of Israel. Should Contractor engage in any such boycott against the State of Israel, this Contract is automatically terminated. Any such boycott is a material breach of this Contract and will subject Contractor to monetary damages, including but not limited to, consequential and liquidated damages.

## APACHE JUNCTION SEWER DISTRICT

The Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

**Non-Discrimination.** Grantee certifies and warrants that it shall comply with the provisions of State Executive Order 2009-9. In performing this Agreement, Grantee shall not, and shall ensure that any and all contractors, subcontractors, employees, agents, volunteers, officers, officials, directors, volunteers, and affiliates, also shall not discriminate, harass, or allow harassment against any person on the basis of sex, race, color, ancestry, religious cred, national origin, physical disability, mental disability, medical condition, age, marital status, or any other basis prohibited under law. Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

**Compliance with Applicable Law and Regulations.** Grantee agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Grantee also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Grantee shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award as outlined in **Exhibit D** WIFA Federal Provisions.

**Debarment and SAM.GOV Certification.** Contractor certifies with signed WIFA AFFIRMATIONS Form, issued with bid submittal that Contractor, any subcontractors, material supplier, or vendor used has not been debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency as outlined in **Exhibit D** WIFA Federal Provisions.

**Lobbying Certificate Disclosure.** Per WIFA Federal Provisions 5.1. the following shall apply:

5.1.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

5.1.2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The provisions of this section must be included in any contract the Contractor enters into with any and all of its Subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or Subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

[SIGNATURES ON FOLLOWING PAGE]

APACHE JUNCTION SEWER DISTRICT

CONTRACTOR: Contractor Name

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

STATE OF ARIZONA )

)ss.

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 2024, before me personally appeared \_\_\_\_\_, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument and acknowledged that he/she executed same.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

APACHE JUNCTION SEWER DISTRICT

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

Darron Anglin  
District Manager

STATE OF ARIZONA )

)ss.

County of Pinal )

On this \_\_\_\_\_ day of \_\_\_\_\_ 2024, before me personally appeared **Darron Anglin**, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument and acknowledged that he/she executed same.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

APACHE JUNCTION SEWER DISTRICT

Appendix A  
Compensation & Term

Project 25.08  
Construction of Recharge Basin No.12

Progress payments may be requested as outlined below:

COMPENSATION

COMPENSATION:

**NOT TO EXCEED \$0.00**

BILLING FREQUENCY:

**Monthly, by calendar month**

INVOICES ADDRESSED TO:

Apache Junction Sewer District  
Attention: Accounts Payable  
5661 S Ironwood Dr  
Apache Junction, AZ 85120  
OR  
[accounting@ajsewer.org](mailto:accounting@ajsewer.org)

TERM

EFFECTIVE DATE:

**Upon execution of Agreement**

END DATE:

**Upon successful completion of  
project unless terminated earlier  
as provided for in the Agreement**

RENEWAL PROVISIONS:

None

**APACHE JUNCTION SEWER DISTRICT**

**Appendix B  
NOTICES**

**Project 25.08  
Construction of Recharge Basin No.12**

Notices required by this Contract should be delivered as follows:

**FOR DISTRICT**

DISTRICT MANAGER  
MAILING AND DELIVERY  
ADDRESS:

Darron Anglin  
Apache Junction Sewer District  
5661 S Ironwood Dr.  
Apache Junction, AZ 85120

ELECTRONIC MAIL

[danglin@ajsewer.org](mailto:danglin@ajsewer.org)

**FOR CONSULTANT**

**VICE PRESIDENT**  
MAILING AND DELIVERY  
ADDRESS:

**Name**  
**Contractor Name**  
**Mailing Address**  
**City, State, Zip**

ELECTRONIC MAIL

**Email Address**