

**CARROLL ENGINEERING CORPORATION**

949 Easton Road, Warrington, PA 18976  
215-343-5700 / FAX: 215-343-7947

630 Freedom Business Center, Third Floor  
King of Prussia, PA 19406  
610-489-5100

433 Lancaster Avenue, Suite 200  
Malvern, PA 19355  
610-489-5100

**Letter of Transmittal**

**Via UPS and Email**

[chenry@bgcwws.com](mailto:chenry@bgcwws.com)

[lyerkes@bgcwws.com](mailto:lyerkes@bgcwws.com)

DATE 7/27/2023	JOB NO. 19-2198.004
ATTENTION: Carley Henry, President	
RE: Castle Valley Diversion Booster Pump Station	
Contract CB-75A	

TO Blooming Glen Contractors, Inc.  
P.O. Box 55  
Skippack, PA 19474

WE ARE SENDING YOU  Attached  Under separate cover via \_\_\_\_\_ the following items:

- Shop Drawings     Prints     Plans     Samples     Specifications  
 Copy of letter     Change Order     Document 00 4520 Notice of Intent to Award

COPIES	DATE	NO	DESCRIPTION
1		00 4520	Notice of Intent to Award
1		00 4515	Contractor Responsibility Certification Form

THESE ARE TRANSMITTED as checked below:

- For approval     Approved as submitted     Resubmit \_\_\_\_ copy via email for approval  
 For your use     Furnish as Corrected     Submit \_\_\_\_ copies for distribution  
 As Requested     Revise and Submit     Return \_\_\_\_ corrected prints  
 For review and comment     Rejected  
 FOR BIDS DUE \_\_\_\_\_, 20\_\_\_\_  PRINTS RETURNED AFTER LOAN TO US

**REMARKS:**

In accordance with the enclosed, please submit your List of Subcontractors that will be performing work on this project and submit a Subcontractor Responsibility Certification for each listed subcontractor. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on the CRC forms and shall contain the same information and representations required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications for each trade or classification of craft workers it will employ on the project.

COPY TO: John Butler, Chief Operating Officer, BCWSA

SIGNED



Steven M. Hartman, P.E.

**DOCUMENT 00 4520**

**NOTICE OF INTENT TO AWARD**

Dated: July 27, 2023

TO: Carley Henry, President, Blooming Glen Contractors, Inc. (BIDDER)

ADDRESS: P.O. Box 55, Skippack, PA 19474

OWNER'S PROJECT NO. 19-2198.00

OWNER'S CONTRACT NO. CB-75A

CONTRACT FOR: Castle Valley Diversion Booster Pump Station

You are notified that your Bid dated July 13, 2023 for the above Contract has been considered. You are hereby notified that Bucks County Water & Sewer Authority has directed this office to provide you with this Notice of Intent to Award. In accordance with Article 3 of the Instructions to Bidders, within seven (7) days of this notice, you are required to provide the following documentation to this office:

- A list of all Subcontractors that will be used on the project (listing shall include the Subcontractor's addresses and a description of the work they will perform).
- A Subcontractor Responsibility Certification Form, properly executed by each listed Subcontractor.
- A Public Works Employment Verification form for each Subcontractor, properly executed by each respective Subcontractor.

Failure to provide the Subcontractor list, Certification and Public Works Verification Forms for all Subcontractors within seven (7) days will entitle the OWNER to proceed with a responsibility review of the next lowest, responsive bidder.

You are not authorized to make any commitments relative to this project until the OWNER issues a written Contractor Responsibility Determination, verifying that your firm is a qualified, responsible contractor. It is expected that the OWNER's Determination will be accompanied by a Notice of Award, which will specify the procedures for the delivery of the executed OWNER/CONTRACTOR Agreement, Bonds and Certificate of Insurance. In the event that your firm is determined to be non-responsible, the OWNER will advise you of its finding in writing and proceed to conduct a responsibility review of the next lowest, responsive bidder or if necessary, re-bid the project.

BUCKS COUNTY WATER & SEWER AUTHORITY  
(OWNER)



\_\_\_\_\_  
(AUTHORIZED SIGNATURE)

Agent for OWNER  
(TITLE)

**END OF DOCUMENT**

**DOCUMENT 00 4515**

**CONTRACTOR RESPONSIBILITY CERTIFICATION FORM**

CONTRACTOR Name: \_\_\_\_\_ Date: \_\_\_\_\_, 2023

CONTRACTOR Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_ E-mail \_\_\_\_\_

Contact Direct Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Project Name: \_\_\_\_\_ Castle Valley Diversion Booster Pump Station

To be certified, CONTRACTOR is required to check all the following boxes:

		<b>YES</b>	<b>NO</b>
1.	Has the CONTRACTOR been debarred or suspended by any federal, state, or local government agency or authority in the past three (3) years?	<input type="checkbox"/>	<input type="checkbox"/>
2.	Has the CONTRACTOR defaulted on any project in the past three (3) years?	<input type="checkbox"/>	<input type="checkbox"/>
3.	Has the CONTRACTOR had any type of business, contracting or trade license, registration or other certification revoked or suspended by any government agency or authority in the past three (3) years?	<input type="checkbox"/>	<input type="checkbox"/>
4.	Has the CONTRACTOR (Principal/Owners) been convicted of any crime relating to the contracting business in the past ten (10) years?	<input type="checkbox"/>	<input type="checkbox"/>
5.	Has the CONTRACTOR been found in violation of any law relating to its contracting business, including but not limited to wage or hour laws, prevailing wage laws, environmental laws, antitrust laws, immigration laws, licensing laws, tax laws or prompt payment laws, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$1,000 or more, in the past three (3) years?	<input type="checkbox"/>	<input type="checkbox"/>
6.	Does the CONTRACTOR agree to pay all employees that it employs on the project, the current wage rates, and fringe benefits as required under applicable federal, state, or local wage laws?	<input type="checkbox"/>	<input type="checkbox"/>
7.	Will all labor that will be employed by the CONTRACTOR for the project have completed at least the OSHA 10-hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration?	<input type="checkbox"/>	<input type="checkbox"/>
8.	Will the CONTRACTOR employ employees in all classifications and individual trades required to successfully perform the work related to this project?	<input type="checkbox"/>	<input type="checkbox"/>
9.	Will the CONTRACTOR maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project?	<input type="checkbox"/>	<input type="checkbox"/>

		YES	NO
10.	<p>Does the CONTRACTOR participate in a Class A Apprenticeship Training Program for each trade or classification in which it employs employees and agree to continue to participate in such program or programs for the duration of the project? A Class A Apprenticeship Program is an apprenticeship program which is currently registered with the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journey person status for at least three (3) of the past five (5) consecutive years. This may be an apprenticeship program that is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. ("ERISA"), or a non-ERISA program.</p> <p>The CONTRACTOR shall provide proof of this qualification Standard by submitting appropriate documentation as an attachment to the Responsible CONTRACTOR Certification, including a list of all trades or classifications of employees it will employ on the project and documentation verifying it participates in a Class A Apprenticeship Program for each trade or classification listed.</p>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Identify, on an attached sheet, the names of all of the individuals employed by the CONTRACTOR who will be utilized by the CONTRACTOR to perform the work subject to the bid for which this Certification has been requested. Also, identify all of the apprenticeship programs that each individual employee has participated and satisfactorily completed within five (5) years of the date. If the apprenticeship program was completed beyond five years, then so state in the attachment as it relates to that employee or employees. Has this information been provided?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Does the CONTRACTOR have all technical qualifications and resources, including equipment, personnel, and financial resources, to perform the referenced contract, or will CONTRACTOR obtain same through the use of qualified, responsible subcontractors?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Does the CONTRACTOR maintain all documents necessary to ensure that all employees are United States citizens or properly documented legal aliens entitled to work under existing Federal law?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Has the CONTRACTOR been incorporated and conducting business in the trade or craft for which the CONTRACTOR is bidding for at least three (3) years? The term conducting business shall mean having completed projects either the same or substantially similar to the project for which the CONTRACTOR is bidding. If queried on this paragraph, the CONTRACTOR shall produce legal documents, photographs, and references as to the longevity of its business. This review shall be conducted by the Owner's officials or their designee.	<input type="checkbox"/>	<input type="checkbox"/>
15.	If the CONTRACTOR is or was in the past five (5) years, related to any other company or business entity that provided or provides contractual services in construction, maintenance, service, or repair industries, whether as a parent company,	<input type="checkbox"/>	<input type="checkbox"/>

		YES	NO
	subsidiary or otherwise, it shall attach a separate statement to the CONTRACTOR Responsibility Certification that explains in detail the nature of any such relationship. Is this applicable to your firm? If yes, attach additional documentation.		
16.	If any person or entity that is a shareholder, owner, or partner of the submitting Bidder owns an interest in 20% or more in another entity or previously owned such an interest in another entity that provides or has provided contractual services in the construction, maintenance, service, or repair industries, it shall attach a separate statement to the CONTRACTOR Responsibility Certification that explains in detail the nature of any such relationship. Is this applicable to your firm? If yes, attach additional documentation.	<input type="checkbox"/>	<input type="checkbox"/>
17.	Does the CONTRACTOR and its employees have all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations or certificates required to: (a) do business in the designated locale; and (b) perform the contract work it seeks to perform?  These shall include, but not be limited to, licenses, registrations, or certificates for any type of construction or maintenance trade work or specialty work which the firm proposes to self-perform.	<input type="checkbox"/>	<input type="checkbox"/>
18.	Does the CONTRACTOR meet the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance?	<input type="checkbox"/>	<input type="checkbox"/>
19.	Does the CONTRACTOR understand that the CONTRACTOR Responsibility Certification required by this Section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete, and accurate?	<input type="checkbox"/>	<input type="checkbox"/>

Upon receipt of a Notice of Intent to Award Contract, the CONTRACTOR will provide the Owner with subcontractor list and subcontractor information as specified in the Responsible CONTRACTOR Ordinance or, if applicable, the Responsible CONTRACTOR Resolution.

ATTACH ADDITIONAL SHEETS IF NECESSARY.

\_\_\_\_\_  
SIGNATURE OF BIDDER'S  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BUCKS COUNTY WATER AND SEWER AUTHORITY PROVIDING FOR THE ADOPTION OF CERTAIN PROCEDURES RELATED TO THE SOLICITATION AND AWARD OF PUBLIC CONTRACTS; PROVIDING FOR CERTIFICATION REQUIREMENTS FOR PUBLIC CONTRACTORS AND SUBCONTRACTORS FOR PUBLIC CONTRACTS; PROVIDING FOR PUBLIC CONTRACT REVIEW PROCEDURES; PROVIDING FOR ASSURANCE ON THE USE OF PROPERLY TRAINED CONSTRUCTION PERSONNEL; REPEALING INCONSISTENT RESOLUTIONS OR PARTS OF RESOLUTIONS; CONTAINING A SAVINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Bucks County Water and Sewer Authority (“Authority”) is empowered to enact certain requirements needed to protect its proprietary and financial interests relating to major capital investments it makes in public works projects, as well as those relating to the public health, safety, and welfare of its customers;

**WHEREAS**, the Authority has particular concerns regarding the challenges it faces in planning and executing public works projects, especially those relating to its ability to ensure the use of properly qualified contractors and subcontractors and adequate numbers of craft personnel who have industry recognized training in the respective skills and trades needed for future projects;

**WHEREAS**, the Authority recognizes the need to address the above-referenced challenges through appropriate procurement as embodied in this Resolution and wishes to incorporate attached Exhibit “A” regarding Responsible Contractors in its entirety as material terms of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Authority, the following requirements are adopted for public works contracts as specified herein;

**SECTION 1**

**§1. Purpose**

The Authority recognizes there is a need to ensure that all work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable and cost-effective manner.

To effectuate the purpose of selecting responsible contractors for public contracts and to protect the Authority’s proprietary investments in such contracts, prospective contractors and subcontractors, should be required to meet pre-established, clearly defined minimum standards relating to contractor responsibility, particularly requirements concerning technical qualifications,

competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records of past performance in terms of safety, law compliance and business integrity.

It is also critical to recognize that due to the substantial impact that skilled craft labor has on public works projects, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, formal apprenticeship training programs as a condition of bidding and performing work, for the purpose of both promoting successful project delivery and ensuring future workforce development needed for future projects.

Therefore, the Authority shall require compliance with the provisions of this Resolution by business entities seeking to provide services to the Authority as specified herein. The requirements of this Resolution are intended to supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy or contracting documents. However, in the event that any of the provisions of this Resolution conflict with any law, public policy or contracting documents of the Authority, this Resolution shall prevail, unless legally prohibited from doing so.

## **§2. Responsible Contractor Requirements**

- (a) This Resolution shall apply to all public works projects undertaken by the Authority for construction, demolition, alteration, renovation, repair, service and maintenance work valued at or above \$250,000.00 annually and shall apply to all contractors and subcontractors at any tier on such projects.
- (b) All firms engaged in contracts covered by this Resolution shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Firms bidding on public contracts shall also be required to have a satisfactory record of past performance, law compliance and business ethics.

## **§3. Contractor Responsibility Certifications**

- (a) As a condition of performing work on a public works contract subject to this Resolution, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification. Subcontractors used on the contract are likewise required to provide similar Subcontractor Responsibility Certifications as provided by Section 6 of this Resolution.
- (b) The Contractor Responsibility Certification shall be completed on a form provided by the Authority and shall reference the project for which a bid is being submitted by name and contract or project number.

- (c) In the Contractor Responsibility Certification, the construction manager, general contractor or other lead or prime contractor shall confirm and certify the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
- (1) The firm and its employees have all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations or certificates required to: (a) do business in the designated locale; and (b) perform the contract work it seeks to perform. These shall include, but not be limited to, licenses, registrations or certificates for any type of construction or maintenance trade work or specialty work which the firm proposes to self-perform.
  - (2) The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance.
  - (3) The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three (3) years.
  - (4) The firm has not defaulted on any project in the past three (3) years.
  - (5) The firm has not had any type of business, contracting or trade license, registration, or other certification revoked or suspended in the past three (3) years.
  - (6) The firm and its Principals/owners have not been convicted of any crime relating to the contracting business in the past ten (10) years.
  - (7) The firm has not within the past three (3) years been found in violation of any law applicable to its contracting business, including, but not limited to, licenses laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$1,000 or more.
  - (8) The firm will pay all employees that it employs on the project the current wage rates and fringe benefits as required under applicable federal, state or local wage laws.
  - (9) All labor that will be employed by the firm for the project have completed at least the OSHA 10 hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration.



- (10) The firm will employ employees in all classifications and individual trades required to successfully perform the work related to this project.
  - (11) The firm participates in a Class A Apprenticeship Training Program, as defined below, for each separate trade or classification in which it employs employees. This apprenticeship requirement assures that workers in each trade or craft employed are graduates of an apprenticeship training program in each trade or craft in which their services are utilized.
    - A. For purposes of this section, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journey person status for at least three of the past five (5) years. This may be an apprenticeship program that is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. ("ERISA"), or a non-ERISA program.
    - B. To demonstrate compliance with this section, the firm shall provide, with this certification, a list of all trades or classifications of employees it will employ on the project and documentation verifying it participates in a Class A Apprenticeship Program for each trade or classification listed.
  - (12) The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.
  - (13) The firm will maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project.
  - (14) The firm shall notify the Authority within seven (7) days of any material changes to all matters attested to in this certification.
  - (15) The firm understands that the Contractor Responsibility Certification required by this Section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete and accurate.
- (d) Execution of the Contractor Responsibility Certification required by this Resolution shall not establish a presumption of contractor responsibility and the Authority may require any additional information it deems necessary to evaluate a firm's status as a responsible contractor, including technical qualifications, financial capacity or other resources and performance capabilities. The Authority

may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.

- (e) The submitting firm shall stipulate in its Contractor Responsibility Certification that, if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified in Section 6 of this Resolution.
- (f) If the submitting firm has ever operated under another name or is controlled by another company or business entity or in the past five (5) years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.
- (g) If a firm fails to provide a Contractor Responsibility Certification required by this Section, it shall be disqualified from bidding. No action of any nature shall lie against the Authority because of its refusal to accept a bid for failing to provide information required by this section.

#### **§4. Pre-Qualification Requirements**

Each firm subject to the requirements of this Resolution must submit a Contractor Responsibility Certification at least fourteen (14) calendar days before the specified bid submission deadline. Failure to submit a Contractor Responsibility Certification by the aforesaid deadline will automatically disqualify any firm from submitting a bid or proposal for a contract.

Upon the receipt of the pre-qualification Contractor Responsibility Certification, the Authority shall determine whether the firm meets the requirements set forth in this Resolution. Notice of the Authority's determination shall be sent to the proposed firm no less than seven (7) calendar days before the specified bid submission deadline. All firms that are determined by the Authority to meet the qualification requirements of this Resolution shall be entitled to submit a bid or proposal for the project.

#### **§5. Waiver of Requirements**

The provisions of this Resolution may be waived in whole or in part by a majority vote of the Board of Directors under the following circumstances:

- (a) The public funding requirement for a specific project limits or precludes the application of any specific provisions of this Resolution.
- (b) The project is being provided by a "sole source" in whole or in part and thus there are no alternative means by which to complete the project and provide the service.

- (c) In the event of a true emergency, as determined by the Chief Executive Officer he/she shall have the right to waive the requirements in whole or in part of this Resolution; provided however, that the emergency is of such a nature that it cannot be waived in a timely fashion by the Board of Directors at a duly constituted public meeting.

**§6. Notice of Intent to Award Contract**

- (a) After it has received bids for a project, the Authority shall issue a Notice of Intent to Award Contract to the firm offering the lowest responsible bid.

Such Notice shall be issued immediately or as soon as practicable after bids are opened and Notice of Intent to Award Contract. The Notice shall stipulate that the contract award is conditioned upon compliance with this Resolution and any other conditions deemed appropriate by the Authority.

**§7. Subcontractor Lists, Subcontractor Responsibility Certifications**

- (a) A prospective awardee shall submit to the Authority a Subcontractor List containing the names of any subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project.
- (b) At the time a perspective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications for all listed subcontractors to the Authority. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on forms prepared by the Authority and shall contain the same information and representations required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications as required by Section 3(c)(11), for each trade or classification of craft workers it will employ on the project.
- (c) Subcontractor Responsibility Certifications shall be executed by persons having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

**§8. Contractor Responsibility Review and Determination Subsequent to Submission of Contractor Responsibility Certification Required by Section 3**

- (a) After a Notice of Intent to Award Contract has been issued, the Authority shall undertake a review process to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this Resolution and other applicable laws and regulations and has the resources and

capabilities to successfully perform the contract. The time of the review process shall be as determined necessary by the Authority.

- (b) As part of this review process, the Authority shall ensure that the Contractor Responsibility Certification, the Subcontractor List and the Subcontractor Responsibility Certifications, as required by this Resolution, have been submitted and properly executed.
- (c) The Authority may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the Authority may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- (d) If at the conclusion of the review process the Authority determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the prospective awardee and the firms on its Subcontractor List are satisfactory, it may issue a formal written Contractor Responsibility Determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be non-responsible, the Authority shall proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project.

A Contractor Responsibility Determination may be issued after the conclusion of the review process under this Section. A Responsibility Determination may be revoked or revised in any manner at any time if the Authority obtains relevant information warranting any such revocation or revisions.

#### **§9. Subcontractor Responsibility Review Requirements**

- (a) A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor on any work performed for the Authority unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of this Resolution.
- (b) A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from Authority and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.
- (c) In the event that the Authority determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this Section, it may, after informing the prospective awardee, exercise one of the following options:

- (1) permit the awardee to substitute a qualified, responsible, subcontractor in accordance with the requirements of this section;
- (2) require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
- (3) disqualify the prospective awardee.

In the event that a subcontractor is disqualified under this Resolution, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of contractual claim against the Authority the basis of a subcontractor disqualification.

#### **§10. False or Misleading Responsibility Certifications**

If the Authority determines that a Contractor or Subcontractor Responsibility Certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work for the Authority for a period of three (3) years and shall be subject to any other penalties and sanctions, including contract termination, available to the Authority under law. A contract terminated under these circumstances shall further entitle the Authority to withhold payment of any monies due to the firm as damages.

#### **§11. Execution of Final Contract**

- (a) A contract subject to this Resolution shall not be executed until all requirements of this Resolution have been fulfilled and until Contractor and Subcontractor Responsibility Certifications have been issued by the Authority under Section 6(d). Upon completion of all requirements under this Resolution, the Authority may execute a final contract based upon the Notice of Intent.
- (b) Prior to the execution of a final contract under this Section, the Authority shall publicly post the Notice of Intent to Award, Contractor and Subcontractor Responsibility Certifications, Subcontractor Lists and Contractor Responsibility Determination on the Authority website for public inspection for a period of five (5) calendar days after the issuance of the Contractor Responsibility Determination.

### **SECTION 2**

Any and all other Resolutions or parts of Resolutions in violation of or in conflict with the terms, conditions and provisions of this Resolution are hereby repealed to the extent of such irreconcilable conflict.

**SECTION 3**

The terms, conditions and provisions of this Resolution are hereby declared to be severable, and, should any portion, part or provision of this Resolution be found by a court of competent jurisdiction to be invalid, enforceable or unconstitutional, the Board of Directors hereby declares its intent that the Resolution shall have been enacted without regard to the invalid, enforceable or unconstitutional portion, part or provision of this Resolution.

**SECTION 4**

This Resolution shall become effective thirty (30) days after enactment.

ADOPTED at a regular meeting of the Authority on this 27<sup>th</sup> day of April, 2020.

**BUCKS COUNTY WATER AND SEWER AUTHORITY**

By: Dennis Cowley  
Dennis Cowley, Chairman

By: Richard Weaver  
Richard Weaver, Vice Chairman

By: Stacey L. Mulholland  
Stacey L. Mulholland, Secretary

By: \_\_\_\_\_  
Patricia Poprik, Treasurer

By: John Cordisco  
John Cordisco, Assistant Secretary/Treasurer



## EXHIBIT “A”

### BUCKS COUNTY WATER AND SEWER AUTHORITY

WHEREAS, pursuant to 16 Pa. Cons. Stat. § 1802, state competitive bidding law requires that most public works contracts be awarded to the lowest “responsible” bidder; and

WHEREAS, notwithstanding the importance of the “responsible” bidder requirement, there is very limited guidance for defining the term “responsible” in relevant statutes, regulations or case law and, therefore, prudent procurement and contracting policy dictates that this term should be more specifically defined; and in doing so, available guidance regarding the general meaning of the “responsible” contractor term should be followed, which typically relates to the technical qualifications and other capabilities relating to a contractor’s ability to successfully deliver public works projects; and

WHEREAS, many states and local jurisdictions in the U.S. face critical contracting needs in the future, including those for public works and infrastructure projects, that will require significant efforts to plan, manage and oversee major capital investments in both the short and long term; see *President’s Council of Econ. Advisors, Economic Benefits and Impacts of Expanded Infrastructure Investment 3* (2018) (estimating \$4.6 trillion in infrastructure investment is needed between 2016 and 2025); and

WHEREAS, in undertaking its infrastructure and other public works projects, Bucks County Water and Sewer Authority (“Authority”) seeks to utilize reliable and efficient procurement procedures that will help ensure that its projects are delivered with reasonable certainty, in a safe, timely manner, and in accordance with contract specifications and applicable industry codes at the lowest overall cost and best value; and

WHEREAS, securing successful delivery of projects in the construction industry is particularly difficult due to the unique, complex, unpredictable and inherently dangerous nature of the industry, wherein errors in project planning or execution can result in serious health and safety risks to project workers and/or the general public, significant and avoidable cost overruns, flawed or inferior projects, and disruptions in performance schedules that delay the availability and use of critical government facilities; Maureen Conway & Allison Gerber, *Aspen Inst., Workforce Strategies Initiative, Construction Pre-Apprenticeship Programs: Results From a National Survey 6-7* (2009) (discussing complicating factors in successful delivery of construction projects and the risks of using poorly trained workers); and

WHEREAS, to protect its financial and proprietary interests in these projects, and to offset performance risks inherent to public works contracting, the Authority must utilize efficient procurement procedures that adequately protect and promote these interests, including clearly defined, pre-established evaluation criteria to address the unique challenges of capital construction and result in the selection of qualified, reputable contractors and subcontractors that are committed to the Authority’s goals of safe, timely, cost-effective project delivery; and

WHEREAS, to establish efficient procurement procedures, the Authority specifically seeks to require that its public works contracts are performed by qualified "responsible" contractors and subcontractors that meet essential performance criteria, including: (a) satisfactory records of past performance, including compliance with applicable laws and industry regulations; and (b) adequate present performance capabilities, including contractor and subcontractor competency and availability of skilled craft personnel; and

WHEREAS, effective contracting procedures must recognize and address unique challenges relating to procurement in the construction industry, including the following:

(l) construction is a transient industry, which requires a careful review of a firm's past performance, as well as its current capabilities;

(m) construction is an inherently dangerous industry that requires craft personnel to receive proper safety training; Geetha M. Waehrer et al., *Costs of Occupational Injuries in Construction in the United States, 39 Accident Analysis & Prevention 1258* (2007) (construction is a high risk industry and accounts for disproportionate share of work-related injuries); Bureau of Labor Statistics, *Fatalities In The Construction Industry, Monthly Lab. Rel.*, July 2014 (industry accounts for 40% of all fatal work-related falls);

(n) under virtually any market conditions, construction projects require assurances of a reliable supply of well-trained craft personnel because it is a highly skilled, labor intensive industry; and

(o) the construction industry is currently facing acute, worsening skill shortages and such conditions pose major risks to the planning and execution of capital construction projects; *Construction Labor Market Analyzer, Construction Users Roundtable (Curl), The Long-Term Outlook For Construction 6* (2017) (estimating an impending deficit of 1.5 million skilled workers through 2022 in the construction industry); see also, Gabriela Rico, *labor Shortage, steel-cost uncertainties halt work on highly anticipated Oro Valley senior community*, Arizona Daily Star. (June 9, 2018), <https://tucson.com/business/labor-shortage-steel-cost-worries-halt-anticipated-oro-valley-senior-community/article-9c18ee4f7a90-5c89-90e2-aedd902738ec.html> (discussing how labor shortage caused cancellation of \$100 million senior living center; Anastachiah Ondieki, *Skilled labor shortages hit Vogtle as Georgia Power reports progress*, Atlanta Journal-Constitution (Apr, 20, 2018), <https://www.ajc.com/news/local-govt-politics/skilled-labor-shortages-hit-vogtle-georgia-power-reports-progress/jxaVdaBljixOWXj4v6jYFw11> (discussing how shortage of electricians in Georgia is delaying completion of nuclear power plant; Chris Ramirez, *labor shortage causes Exxon to shill construction plans*, Corpus Christi Caller-Times (Aug. 9, 2017), <https://www.cdler.com/story/news/2017/08/09/labor-shortage-causes-exxon-shift-construction-plans/5252170101> (discussing how shortage of welders in the Gulf Coast delayed construction of world's largest ethylene plant); Ben DuBose, *ECF '16: Energy Contractors Need Newcomers to Ease Labor Shortage*, Hydrocarbon Processing (Mar. 1, 2016), <http://www.hydrocarbonprocessing.com/Article/3533820/Conference-news/ECF-16-Energy-contractors-need-newcomers-to-ease-labor-shortage.html> (discussing how labor shortage contributes to a 65% failure rate among mega-projects in Gulf Coast Region); Gavin Aronsen, *Labor Shortage Delays DuPont Plant Completion*, Ames Tribune (Jan. 9, 2015),



<http://amestrib.com/news/labor-shortage-delays-dupont-plant-completion> (discussing how the shortage of qualified workers delayed the completion of a \$200 million DuPont ethanol plant in Iowa); and

WHEREAS, due to acute labor shortages in construction craft personnel, leading construction industry groups, including trade associations representing project owners, such as the Construction Users Roundtable (CURT), have repeatedly issued strong recommendations to parties purchasing construction services for large capital projects that they should adopt a pre-qualification standard that requires contractors and subcontractors to prove their participation in craft labor training programs in order to bid or perform work on projects; and

WHEREAS, the above-referenced recommendations are specifically designed to protect the project owner's financial and proprietary interests in capital projects by ensuring that such firms provide skill training to construction craft personnel and have an adequate supply of trained, skilled construction workers to perform their projects; *Curt, WP-1101, Skilled Labor Shortage Risk Mitigation* (January 2015) (recommending that, to address skill challenges, project owners require contractors to provide skills training as a condition of bidding projects); Matt Helmer & Dave Altstadt, *Aspen Inst., Workforce Strategies Initiative, Apprenticeship: Completion and Cancellation in the Building Trades* 8-9 (2013) (proposing a requirement that all contractors participating in publicly funded projects participate in registered apprenticeship programs); Robert Lerman et al., *Benefits and Challenges of Registered Apprenticeship: Sponsor's Perspective ii* (2009) (finding that 97% of employer-sponsors of registered apprenticeship programs would recommend the program to others and that over 80% of sponsors cited filling the demand for skilled workers as a "very important" benefit of apprenticeship); *Curt, Confronting the Skilled Workforce Shortage* (June 2004) (recommending all owners prequalify contractors on the basis of craft training); David H. Bradley & Stephen A. Herzenberg, *Construction Apprenticeship and Training in Pennsylvania* 3 (2002) (describing "free rider" market failure that incentivizes employers to under-train construction workers in the absence of apprenticeship programs); and

WHEREAS, in seeking to ensure the adequate development of trained, skilled personnel for the construction industry, as well as other industries, the United States Congress passed the Fitzgerald Act, Pub. L. No. 75-308, 50 Stat. 664, which created a system in which workers could be properly trained in construction skills and safety procedures through organized, formally registered apprenticeship training programs that meet established quality, safety and performance standards and that such programs are approved and monitored by the U.S. Department of Labor and state labor agencies, including the Pennsylvania State Apprenticeship Council; and

WHEREAS, numerous construction industry organizations, as well as notable public policy groups, support apprenticeship as an effective means for providing craft labor personnel with essential training and skills, while providing them with valuable employment opportunities. For example, the Associated Builders and Contractors ("ABC") ("ABC has become the world leader in apprenticeship and craft training in the merit shop construction industry"), <http://www.abc.org/Education-Training/Craft-Training-Apprenticeship>; see also, ABC Eastern PA Chapter ("ABC Apprenticeship program has played a critical role in developing our apprentices into Journeyworkers. They've gained the knowledge and hands on skills needed to be

successful in the field and have played an integral part in growing our organization and allowing us the opportunity to expand into different locations and markets."); North America's Building Trade Unions ("apprenticeship programs train workers to become, highly-skilled ... construction workers through a debt-free, technologically-advanced education ... earn-as-you-learn programs with family-sustaining wages and provide health care coverage and retirement benefits"), <https://nabtu.org/apprenticeship-and-training> Center for American Progress ("Apprenticeship is a proven worker training strategy that combines on-the-job training with classroom instruction ... [f]or workers, apprenticeship means a real job that leads to a credential that is valued in the labor market. Apprentices are paid for their time spent on the job, accumulate little to no student debt, and are generally retained once they have successfully completed their programs; Aspen Institute ("Efforts to increase the number of apprenticeships have broad bipartisan support with advocates at the federal, state, and local levels. At the federal level, both the Trump administration and Obama administration prioritized expanding apprenticeship programs as a way to align the needs of workers and employers. In Congress, the Apprenticeship and Jobs Training Act of 2017 - seeks to expand the use of apprenticeships through an employer tax credit has earned bipartisan support" in both the House and Senate), <https://www.pewresearch.org/blog-posts/apprenticeships-as-model-of-skills-based-training/>; and

WHEREAS, research from both government and industry underscore the need to expand the use of apprenticeship training across the economy, especially in construction, as a means for promoting skills training to address current and future workforce development needs; such reports include a joint report issued by various agencies of the federal government - U.S. *Depts. of Labor, Commerce, Educ., and Health And Human Servs., What Works in Job Training: A Synthesis of The Evidence 8* (2014); *Workforce Training and Educ. Coordinating Bd., Workforce Training Results 2015 5, .:/-./9* (2015) (showing that, compared to other worker training programs in Washington state, apprenticeship training was "very successful" and ranked first in: increased annualized earnings for workers, net participant benefits, net public benefits, and present value of net returns to taxpayers); *U.S. Dept. of Commerce, Econ. and Statistics Admin. & Case Western Reserve Univ., The Benefits and Costs of Apprenticeship: A Business Perspective* (showing apprenticeship programs are unanimously supported by participating employers and highly cost-effective due to numerous factors, including higher productivity of trained workers, improved safety, project quality, reliable project staffing, and reduction in employee turnover); *Council of Econ. Advisors, Addressing America's Reskilling Challenge 7-8* (2018) (showing that Federal, state, and local governments in the U.S. spend "far less" on retraining and reskilling than other advanced economies); Federal Executive Order promoting greater use of apprenticeship programs to train the U.S. workforce: Exec. Order No. 13,801, 82 Fed. Reg. 28,229 (June 20, 2017); and

WHEREAS, in recognizing the value created by apprenticeship training and the significant return-on-investment apprenticeship programs produce for employers, the Executive Branch has taken steps through Executive Orders and the creation of a task force devoted to apprenticeships to support and encourage the expansion of apprenticeship training programs nationwide in conjunction with private and public entities; Exec. Order No. 13,845, 83 Fed. Reg. 35,099 (July 24, 2018) (creating a National Council for the American Worker to promote apprenticeship training programs as a means of addressing the skills crisis facing the nation);

*Task Force on Apprenticeship Expansion, Final Report to the President of the United States 15* (2018) (estimating every dollar spent by employers on apprenticeship programs yields a return of \$1.47); and

WHEREAS, the courts have consistently recognized that states and local jurisdictions seeking to protect substantial financial and proprietary interests have the right to enact contracting and procurement legislation and/or to impose contract bid specifications designed to ensure the performance capabilities of prospective contractors and subcontractors and their employees, including apprenticeship training requirements and other craft labor qualifications see *Bldg. & Const. Trades Council of the Metro. Dist. v. Assoc. Builders & Contractors of Mass. and R.I., Inc.*, 507 U.S. 218 (1993); *Assoc. Builders & Contractors v. Mich. Dept. of Labor & Econ. Growth*, 543 F.3d 275 (6th Cir. 2008); *Hotel Emps. & Restaurant Emps. Union, Local 5 v. Sage Hospitality Res., LLC*, 390 F.3d 206 (3d Cir. 2004); *Assoc. Builders & Contractors, Inc. v. New Castle County*, 144 F. Supp. 3d 633 (D. Del. 2015); and *Allied Constr. Indus. v. City of Cincinnati*, No. 16-4248, 2018 WL 283775 (6th Cir. 2018); and

WHEREAS, the Authority finds that apprenticeship training programs which are registered with and approved by federal or state agencies, and maintained in accordance with regulations issued pursuant to the Fitzgerald Act, provide the most reliable means for securing a reliable supply of qualified craft labor for capital projects and further recognizes that essential levels of work quality, safety and cost-efficiency on its public works projects will be better achieved by requiring the use of contractors and subcontractors that participate in bona fide apprenticeship programs with a proven record of graduating apprentices and providing effective skill training in the construction industry; *U.S. Dept. of Labor Emp't and Training Admin., Registered Apprenticeship Fact-Sheet I* (2000) (workers that complete apprenticeships are more motivated, more productive, and have lower worker compensation costs because of training programs' emphasis on safety); Paul M. Goodrum, *Construction Industry Craft Training in the United States and Canada* (2000) (finding that for a single capital construction project, each dollar invested in craft training yields a return of \$1.30 to \$3.00); Debbie Reed et al, *An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States* xiv (2012) (finding that the social benefit of an individual completing an apprenticeship training program exceeds the social costs by \$49,000); and

WHEREAS, the Authority wishes to revise its procurement standards for public works construction to address these findings and considerations, limit project delivery risks and protect its financial and proprietary interests, and better ensure efficient procurement and successful delivery of these projects.

The Bucks County Water and Sewer Authority is committed to addressing the challenges it faces relating to public works projects by enacting necessary and appropriate procurement regulations to protect its proprietary and financial interests and create adequate safeguards to ensure the successful delivery of such projects to the fullest extent possible.