

RESOLUTION NO. 24-132

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH DESIGN PLASTIC SYSTEMS, INC. FOR THE PURCHASE OF TWO SODIUM ALUMINATE TANKS FOR THE CITY'S WASTEWATER TREATMENT FACILITY IN THE AMOUNT OF \$96,278.00.

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement between the City and Design Plastic Systems, Inc. relating to the purchase of two sodium aluminate tanks for the Wastewater Treatment Facility in the amount of Ninety-Six Thousand Two Hundred Seventy-Eight Dollars and No Cents (\$96,278.00) in substantially the form **attached as Exhibit A** and presented to the Council today, with such changes, insertions, or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 23rd day of May, 2024.

CITY OF PANAMA CITY BEACH

By: 
Stuart Tettemer, Mayor

ATTEST:


Lynne Fasone, City Clerk

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

AGREEMENT FOR SODIUM ALUMINATE STORAGE TANK REPLACEMENT

THIS AGREEMENT FOR SODIUM ALUMINATE STORAGE TANK REPLACEMENT ("Agreement") is made and entered into this 23rd day of May, 2024, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation (City) and **Design Plastic Systems** (Vendor).

1. SCOPE OF SERVICES

Vendor will furnish and deliver tanks as more particularly described in the Scope of Work in Bid # **PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT**.

If the Vendor believes that any particular work/service is not within the scope of work/service of the contract, is a material change, or will otherwise require more compensation to the Vendor, the Vendor must immediately notify the City's Representative in writing of this belief. If the City's Representative believes that the particular work/service is within the scope of the contract as written, the Vendor will be ordered to and shall continue with the work/service as changed and at the cost stated for the work/service within the scope. The Vendor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of this Agreement.

2. PAYMENT

As compensation for the product contemplated herein and performance rendered by the Vendor of its duties and obligations hereunder, City shall pay Vendor according to the not to exceed unit bid price submitted on Bid # **PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT** contained in the Vendor's cost proposal. The Vendor will invoice for payment to the City at the following milestones: 80% when the City takes possession of the tanks, and the remaining 20% after satisfactory testing/inspection of the tanks. The invoice(s) shall be delivered to accounts payable at City Hall, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413 no later than three days after the closure date of the calendar month. The City will issue payment via ACH or Virtual Credit Card only.

3. TERM

Unless terminated sooner pursuant to the provision of the Termination clauses and subject to the availability of funds appropriated for this purpose, this Agreement shall take effect on the executed date of award through time of delivery, satisfactory inspection, and acceptance of the tanks.

4. TERMINATION AND SUSPENSION

City Termination for Cause. The Agreement may be terminated by the City for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and deliver the product as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the City regarding the Work, (9) arrest or conviction of felony or fraud, or (10) any other material breach of this Agreement. In such event, the City shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the City's sole judgment and discretion, the City may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the City

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient.

City Termination for Convenience. Notwithstanding any other provision hereof, the City may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days written notice to Vendor. In such event, Vendor shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become City property. Upon receipt of notice, Vendor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Vendor shall also make every reasonable effort to cancel, upon terms satisfactory to the City, all orders or subcontracts related to the terminated Work. Vendor may not claim any compensation not specifically provided for herein, including, but not limited to loss of anticipated profits, idle equipment, labor, and facilities, any additional claims of subcontractors and vendors.

5. INSURANCE

Vendor shall at its expense maintain in force during the Term the insurance on policies and insurers acceptable to the City as required by the City's Insurance Requirements attached hereto as Exhibit "A."

Notwithstanding the provisions of any Notice of Award or Intent to Award issued by the City and prior to the commencement of any work, Vendor shall furnish to the City such certificates of coverage and certified copies of policies pursuant to the City's Insurance Requirements. In order to satisfy this provision, the documentation required by this part must be sent to the following address: Attn: Julie Roeder, Risk Manager, 17007 Panama City Beach Parkway, Panama City Beach, FL 32413.

6. COMPLIANCE WITH LAWS

The Contractor shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Contractor shall always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Contractor shall protect and indemnify City of Panama City Beach and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Contractor, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees. Additionally, Contractor shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the federal government, State of Florida, Bay County, or municipalities when legally required, and maintain same in full force and effect during the term of the contract.

7. INDEMNIFICATION:

Regardless of the coverage provided by any insurance, the successful Bidder shall indemnify, save harmless and defend the City, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the successful Bidder, its sub-Bidders, agents, servants, or employees during the course of performing services or caused by the goods provided pursuant to these Bid documents and/or resultant contract.

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

If any third-party claim is made against the City that, if sustained, would give rise to indemnification liability of the Bidder under this Agreement, the City shall promptly cause notice of the claim to be delivered to the successful Bidder and shall afford the Bidder and its counsel, at the Bidder's sole expense, the opportunity to join in defending or compromising the claim. The covenants contained in this paragraph shall survive the termination of this Agreement.

8. WARRANTY

- A. The Vendor agrees all tanks and accessories supplied under this section shall be warranted for a period of three full three years complete replacement from the date of acceptance by OWNER.
- B. **The equipment shall be warranted to be free from defects in workmanship, design, materials and application in a high UV and corrosive environment.**

9. ATTORNEY'S FEES

Should either party institute any legal action or proceeding to enforce this Agreement, or for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such legal action or proceeding.

10. TIME

Time is of the essence in this Agreement.

11. FORCE MAJEURE

The Contractor's failure or inability to perform the stated scope of services at any time as a result of circumstances beyond its control, such as, but not limited to, war, terrorism, strikes, fires, floods, hurricanes, acts of God, power failures, or damage or destruction of any facility related thereto, shall not be deemed a breach of this Agreement.

12. REMEDIES

In the event of failure of the Vendor to deliver services in accordance with the contract terms and conditions, the City, after due written notice, may procure the services from other sources and hold the Vendor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have. Termination of this Agreement shall be in compliance with the Terms and Conditions of Bid # PCB24-27, including the section DEFAULT/FAILURE TO PERFORM. All rights and remedies conferred upon the parties in this Agreement are governed by the laws within the State of Florida.

13. CHOICE OF LAW & VENUE

This Agreement shall be governed by the laws of the State of Florida. Any legal proceeding regarding this Agreement shall be brought in the 14th Judicial Circuit in Bay County, Florida.

14. ASSIGNMENT

This Agreement is not assignable.

15. SEVERABILITY

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

16. MODIFICATIONS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City and Vendor.

17. WAIVER

Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

18. NOTICES

Any notice required by this Agreement shall be directed to the parties as follows:

A. As to City:

City Representative: Leah Bailey
Title/Position: Utilities Business Manager
Mailing address: 17007 Panama City Beach Pkwy., PCB, FL 32413
Phone: (850) 233-5100, ext. 2420

B. As to Vendor:

Contract Representative: Sean McNally
Title/Position: _____
Email address: smnally@designplasticsystems.com
Mailing address: 2560 Boulevard of the Generals
Norristown, PA 19403
Phone/Cell: (606) 666-0940

19. AGREEMENT

This Agreement, and any exhibits or appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written, and there are no representations, warranties, covenants, or other agreements among them.

The term "Agreement" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

- INVITATION TO BID
- INFORMATION FOR BIDDERS
- SCOPE OF WORK
- BID PROPOSAL FORM
- STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES, ON

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS

PUBLIC ENTITY CRIMES STATEMENT

NON-COLLUSION AFFIDAVIT

E-VERIFY

TERMS AND CONDITIONS

NOTICE OF AWARD

AGREEMENT

EXHIBIT A

[ANY ADDITIONAL EXHIBITS OR APPENDICES)

ADDENDA (S)

No. _____, dated _____, 20__

No. _____, dated _____, 20__

No. _____, dated _____, 20__

No. _____, dated _____, 20__

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PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

IN WITNESS WHEREOF, the Vendor has executed this Agreement as of the day and year first above written.

VENDOR

Witness 1 _____
(Print Name): _____

Witness 2 _____
(Print Name): _____

ATTEST:

THE CITY OF PANAMA CITYBEACH, FLORIDA,
a municipal corporation

City Clerk

By: _____
Drew Whitman, City Manager

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

BID PROPOSAL FORM

TO: City of Panama City Beach, Florida

SUBMITTED: 4/29/2024, 2024.

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT

The Undersigned, as Bidder, hereby declares that they have examined the bid specifications and informed themselves fully regarding all conditions **pertaining to the product requirements.**

The Bidder proposes and agrees, if this proposal is accepted, to contract with the **City of Panama City Beach** for the firm fixed unit price as listed for **PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT** bid specifications in complete accord with the described and reasonably intended requirements, and Terms and Conditions and Scope of Work of the Invitation to Bid to the satisfaction of the City.

ADDENDUM: It is the sole responsibility of the bidder to determine if any addenda have been issued.

BASE BID:

<u>Description</u>	<u>Manufacturer</u>	<u>Model No.</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Bid Amount</u>
Sodium Aluminate Storage Tanks	Snyder Industries	5630000N45	EA	2	\$ <u>48,139.00</u>	\$ <u>96,278.00</u>

Delivery time 6-10 weeks

*Delivery time is for number of calendar days after receipt of purchase order issued by the City.

NOTE:

- BIDS shall exclude Florida sales tax. Sales Tax Exemption Certificate can be provided upon request.
- All prices are to be quoted FOB DESTINATION – FREIGHT AND DELIVERY INCLUDED. Delivery shall be FOB City of Panama City Beach, 206 N. Gulf Blvd., Panama City Beach, FL 32413.
- Alternate products must be approved prior to Bid Opening. The deadline for submission of alternate products is **Tuesday, April 23rd, 2024.**
- All Bids shall be firm and be valid for a period of ninety (90) days.

PCB24-27 ITB SODIUM ALUMINATE STORAGE TANK REPLACEMENT


By submission of this BID, Bidder certifies that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any other competitor.

BIDDER:

Design Plastic Systems Shawn McNally
Name of Business Name of Bidder

2560 Boulevard of the Generals 610-666-0940
Address Phone Number

Shawn@DPS1981.com
Email Address


Signature of Authorized Representative

4/29/2024
Date

[END OF BID PROPOSAL FORM]