

SECTION 00500

AGREEMENT

THIS AGREEMENT made and entered into this **15th day of February, 2006**, by and between the CITY OF NAPLES, hereinafter called the OWNER and **Danella Companies, Inc.**, hereinafter called CONTRACTOR;

WITNESSETH:

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE I - SCOPE OF WORK

CONTRACTOR shall complete all work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

**CITY OF NAPLES
RECLAIMED WATER TRANSMISSION/DISTRIBUTION SYSTEM – PHASE I**

DESCRIPTION OF WORK: All work for the Project shall be constructed in accordance with the Drawings and Specifications prepared by Tetra Tech HAI (Tt HAI) and the proposed improvements will be awarded and constructed, if award is made, under one Contract. Bids shall be submitted for furnishing, delivering and installing all materials, equipment and services, including labor, for the Work, which generally involves the construction of 20,000 LF of reclaimed water transmission/distribution main ranging from 8-inch to 16-inch.

ARTICLE II - ENGINEER

The Project has been designed by Tetra Tech HAI whose address is 201 E. Pine Street, Suite 1000, Orlando, Florida, 32801, who is hereinafter called ENGINEER, and who will assume all duties and responsibilities and will have the rights and authority assigned to the ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE III - CONTRACT TIME

- 3.1 The Work will be substantially completed within two hundred eighty (280) days after the date when the Contract Time commences to run as provided in Paragraph 2.3 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.13 of the General Conditions within three hundred ten (310) days after the date when the Contract Time commences to run.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that **TIME IS OF THE ESSENCE** of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER the amount of five hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. This amount represents an estimate of Owner's damages for loss of use and administrative costs associated with delay. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER the amount of five hundred dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment. This amount represents an estimate of Owner's damages for loss of use and administrative costs associated with delay.

ARTICLE IV- CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds at the lump sum or unit prices as presented in the Bid Form, which is incorporated herein and made a part hereof by this reference.
- 4.2 The parties expressly agree that the Contract Price is a stipulated sum, except with regard to those items in the Bid which are subject to unit prices.

ARTICLE V- PAYMENT PROCEDURES

- 5.1 CONTRACTOR shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.2 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S monthly Applications for Payment, as recommended by the ENGINEER, which shall be submitted by the CONTRACTOR between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.
- 5.3 Prior to Substantial Completion, progress payments will be made in an amount equal to:
- 5.3.1 Ninety percent (90%) of the value of Work completed and ninety percent (90%) of the value of materials and equipment not incorporated into the Work, but delivered and suitably stored, less in each case the aggregate of payments previously made.
- 5.3.2 Upon Substantial Completion of the Work, OWNER shall pay an amount sufficient to increase total payments to the CONTRACTOR to ninety-five percent (95%) of the Contract Price, less such amounts as ENGINEER shall determine in accordance with Paragraph 14.7 of the General Conditions.
- 5.4 Final Payment. Upon final completion of the Work in accordance with Paragraph 14.13 of the General Conditions, as supplemented, OWNER shall pay CONTRACTOR an amount sufficient to increase total payments to one-hundred percent (100%) of the Contract Price. However, not less than two percent (2%) of the Contract Price shall be retained until Record Drawings, specifications, addenda, modifications and shop drawings, including all manufacturers instructional and parts manuals are delivered to and accepted by the ENGINEER.

ARTICLE VI - CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 6.1 CONTRACTOR has visited the work site and familiarized himself with the nature and extent of the Contract Documents, Work, locality, and all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 6.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by the ENGINEER in the preparation of the Drawings and Specifications, and which have been identified in the Contract Documents.

- 6.3 CONTRACTOR has made or caused to be made examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 above as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by CONTRACTOR for such purposes.
- 6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 6.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to the CONTRACTOR.

ARTICLE VII - CONTRACT DOCUMENTS

The Contract Documents which comprise the entire Agreement between the OWNER and CONTRACTOR are attached to this Agreement, are made a part hereof and consist of the following:

- 7.1 This Agreement (Section 00500) (pages 1 to 6, inclusive).
- 7.2 Exhibits to this Agreement (section 00500) (pages 7 to 11, inclusive).
- 7.3 Performance Bond (Section 00610), Payment Bond (Section 00620), and Certificates of Insurance (Section 00650).
- 7.4 Notice of Award and Notice to Proceed (Sections 00841 and 00842, respectively).
- 7.5 General Conditions (Section 00700) as amended by the Supplementary Conditions.
- 7.6 Supplementary Conditions (Section 00800).
- 7.7 Drawings consisting of a cover sheet and sheets numbers 1 through 28, inclusive with each sheet bearing the following general title:

City of Naples
Reclaimed Water Transmission/Distribution System – Phase I

- 7.8 Project Manual bearing the general title: "CITY OF NAPLES RECLAIMED WATER TRANSMISSION/DISTRIBUTION SYSTEM – PHASE I," and consisting of Volume 1, Divisions 0 through 16 inclusive.
- 7.9 Addenda numbers ___ through ___ inclusive.
- 7.10 Bid Form (Section 00300) (Pages 1 to 10, inclusive).
- 7.11 All applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement.
- 7.12 Advertisement for Bids, Instructions to Bidders, Bid Bond, Noncollusion Affidavit, General Requirements, Field Orders, Work Directives and State of Florida Contract Provisions.

There are no Contract Documents other than those listed above in this Article VII. The Contract Documents may only be altered, amended, or repealed in accordance with Article 3 of the General Conditions as modified in the Supplementary Conditions.

ARTICLE VIII - MISCELLANEOUS

- 8.1 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns or legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.2 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, shall have the meanings indicated in the General Conditions, as modified in the Supplementary Conditions.

ARTICLE IX - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Florida. Both parties agree that the courts of the State of Florida shall have jurisdiction of any claim arising in connection with this Agreement. In the event of litigation arising out of this Agreement, the prevailing party shall be entitled to the award of attorney's fees and costs at both the trial and appellate level.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on _____, 20_____.

OWNER: CITY OF NAPLES

CONTRACTOR:

BY: _____

TITLE: _____

BY: _____

NAME: _____

(type)

ATTEST: _____

TITLE: _____

TITLE: _____

Address for giving notices:

Mr. _____

ATTEST: _____

TITLE: _____

Address for giving notices:

City of Naples
735 8th Street South
Naples, Florida 34102

Approved as to form and correctness:
_____ 20_____.

City of Naples Attorney

Florida State Contractor's
License No. _____

END OF SECTION

NAME OF BIDDER: DANELLA COMPANIES, INC.

SECTION 00300

BID FORM

NAME OF BIDDER: DANELLA COMPANIES, INC.

PROJECT IDENTIFICATION: **City of Naples**
Reclaimed Water Transmission/Distribution System
Phase I

THIS BID IS SUBMITTED TO: City of Naples
Purchasing Division
270 Riverside Circle
Naples, FL 34102

THIS BID SUBMITTED BY: DANELLA COMPANIES, INC. _____
1001 W. CYPRESS CREEK ROAD, SUITE 300 _____
FORT LAUDERDALE, FL 33309 _____

TELEPHONE NO: 954-691-1720 _____

FLORIDA CONTRACTOR LICENSE NO. CGC1504852 _____

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Bid Times indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for ninety (90) days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within fifteen (15) days after the date of Owner's Notice of Award.
3. In submitting this Bid, Bidder makes all representations required by the Instructions to Bidders and further warrants and represents that:

(a) Bidder has examined and carefully studied the Bidding Documents and the following Addenda receipt of which is hereby acknowledged:

No. 1 (ONE)_	Dated 10/19/05__	No. 4 (FOUR)	Dated 11/16/05
No. 2 (TWO)_	Dated 10/25/05__	No. _____	Dated _____
No. 3 (THREE)	Dated 10/31/05__	No. _____	Dated _____

(b) Bidder has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the Work;

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ADDENDUM NO. 4

JLW/slm/specs/s-1/06-11122 AGREEMENT ONLY DANELLA AGREE reclaimed water
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NAME OF BIDDER: DANELLA COMPANIES, INC.

- (c) Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- (d) Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface and subsurface) at or contiguous to the site or otherwise which may affect cost progress, performance of furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the determination of this Bid for performance and furnishing of the Work in accordance with the times, price and other terms and conditions of the Contract Documents.
- (e) Bidder is aware of the general nature of Work to be performed by Owner and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- (f) Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- (g) Bidder has given Engineer written notice of all conflicts, errors, ambiguities or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- (h) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

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ADDENDUM NO. 4

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NAME OF BIDDER: DANELLA COMPANIES, INC.

4. Bidder submits the following prices to perform all the work as required by the Drawings and Specifications for the construction of the **City of Naples, Reclaimed Water Transmission/Distribution System – Phase I:**

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Units</u>	<u>Price</u>	<u>Price</u>
Schedule 1: General					
1.1	Mobilization/Demobilization	1	LS	\$110,000	\$110,000
1.2	General Requirements	1	LS	\$111,058	\$111,058
1.3	Indemnification	1	LS	\$100.00	\$100.00
1.4	Verification of Underground Utilities in Advance of Construction	1	LS	\$55,000	\$55,000
1.5	Maintenance of Traffic (MOT)	1	LS	\$75,000	\$75,000
Subtotal for Schedule 1:				\$351,158	\$351,158
Schedule 2: Reclaimed Water Transmission System					
2.1a	Directional Drill 16-inch HDPE	7,625	LF	\$135.00	\$1,029,375
2.1b	Trench Installation 16-Inch PVC	5,525	LF	\$90.00	\$497,250
	Total 16-Inch Installation	13,150	LF		\$1,526,625
	(Total LF for 2.1a and 2.1b must equal 13,150 LF)				
2.2a	Directional Drill 8-Inch HDPE	5,760	LF	\$64.00	\$368,640
2.2b	Trench Installation 8-Inch PVC	760	LF	\$46.00	\$34,960
	Total 8-Inch Installation	6,520	LF		\$403,600
	(Total LF of 2.2a and 2.2b must equal 6,520 LF)				
2.3	Connection to Existing 12-Inch	1	EA	\$4,900	\$4,900
2.4	Automatic Air/Vacuum Valves	30	EA	\$5,500	\$165,000
2.5	Blow Off Valves	2	EA	\$6,115	\$12,230
2.6	8-inch Gate Valves	9	EA	\$2,000	\$18,000
2.7	12-inch Gate Valves	1	EA	\$3,125	\$3,125
2.8	16-inch Gate Valves	31	EA	\$7,100	\$217,000**
2.9	Reclaimed Water Services				
2.9.1	8" x 2" Service Saddles and 2" Corporation Stop	50	EA	\$495.00	\$24,750
2.9.2	16" x 2" Service Saddles and 2" Corporation Stop	250	EA	\$565.00	\$141,250
2.9.3	4" HDPE Sleeve by Directional Drill	5,250	LF	\$25.00	\$131,250
2.9.4	2" PE Service Line by Open Cut	2,250	LF	\$20.00	\$45,000
2.9.5	2" PE Service Line within 4" HDPE Sleeve	7,500	LF	\$4.00	\$30,000

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ADDENDUM NO. 4

JLW/slm/specs/s-1/06-11122 AGREEMENT ONLY DANELLA AGREE reclaimed water
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NAME OF BIDDER: DANELLA COMPANIES, INC.

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Units</u>	<u>Price</u>	<u>Price</u>
2.9.6	1" Meter Box, Meter, Gate Valve, and Curb Stop (Meters will be purchased by the City, and installed by the Contractor)	300	EA	\$600.00	\$180,000
Subtotal for Schedule 2:				\$2,902,730	\$2,902,730
Schedule 3: Right-of-Way Restoration					
3.1	Restoration	1	LS	\$448,850	\$448,850
3.2	Erosion Control	1	LS	\$58,256	\$58,256
Subtotal for Schedule 3:				\$507,106	\$507,106
Schedule 4: Underground Facilities Not Shown or Indicated					
4.1	8-inch Conflict	5	EA	\$5,000	\$25,000
4.2	16-inch Conflict	15	EA	\$7,000	\$105,000
Subtotal for Schedule 4:				\$130,000	\$130,000
Total Base Bid Price for the Contract (Sum of Schedules 1 through 4):					
THREE MILLION EIGHT-HUNDRED NINETY THOUSAND NINE-HUNDRED NINETY-FOUR AND NO/100 (In Words)					\$3,890,994.00 (in Figures)
Allowance for Removal and Replacement of Unsuitable Soil Material					
A.1	Removal and Replacement of Unsuitable Soil Material	1	LS	\$ 7,500	\$ 7,500
Total Contract Amount (Sum of Base Bid plus Allowance):					
THREE MILLION EIGHT-HUNDRED NINETY-EIGHT THOUSAND FOUR-HUNDRED NINETY-FOUR AND NO/100 (In Words)					\$3,898,494.00 (in Figures)
** Calculation error by Danella Companies, Inc. of bid item 2.8 (16-inch gate valves) which resulted in an increase in the low bid amount by \$3,100.00.					
TOTAL CONTRACT AMOUNT NOT-TO-EXCEED				\$3,901,594.00	

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JLW/slm/specs/s-1/06-11122 AGREEMENT WITH DANELLA AGREE reclaimed water
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Tt HAI #04.0296.000

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CONTRACTOR agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of OWNER who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of two (2) years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. In the event CONTRACTOR violates the provisions of this paragraph, CONTRACTOR shall be required to pay damages to OWNER in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of OWNER from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last two (2) years of gross compensation from OWNER, whichever is greater.