

# **REQUEST FOR QUALIFICATIONS & PROPOSAL**

## **UTILITY RATE AND FEE STUDY PROPOSAL NUMBER: RFQP 24-06 HNWS**

Prepared By:

Holley Navarre Water System, Inc  
8574 Turkey Bluff Road  
Navarre FL 32566



## LEGAL ADVERTISEMENT

Holley Navarre Water System, Inc is requesting sealed proposals for a comprehensive analysis of its water and sewer fees and rates.

Sealed Proposals will be received by HNWS, located at 8574 Turkey Bluff Road, Navarre, FL 32566, until 2:00 pm, local time, on the 11<sup>th</sup> day of June 2024. Proposals will be reviewed and ranked by HNWS staff, and a recommendation will be provided to the HNWS Board of Directors, who will make the ultimate selection during the monthly Board meeting, scheduled at 6:00 pm, local time, on the 18<sup>th</sup> day of June 2024. The recommended firm(s) should be prepared to attend the Board meeting to answer questions and clarify scope and qualifications. Selected firms will be notified and given adequate time to prepare if a presentation is requested.

Specifications and information may be obtained free of charge from HNWS via email at [bids@hnws-fl.com](mailto:bids@hnws-fl.com), on the website at [www.hnws-fl.com/services/procurement.php](http://www.hnws-fl.com/services/procurement.php), or on Bidnet Direct at [www.bidnetdirect.com/florida/holleynavarrewatersysteminc](http://www.bidnetdirect.com/florida/holleynavarrewatersysteminc). Any proposals received after the specified time will not be considered. HNWS reserves the right to reject any or all proposals and re-advertise.

Proposed Advertising Date: May 19, 2024

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# INSTRUCTIONS TO PROPOSER

## 1. PROPOSAL SCHEDULE

Sealed Proposals will be received by Holley Navarre Water System until 2:00 pm, central time, on Tuesday, June 11, 2024. HNWS staff will review all proposals and forward them to the HNWS Board of Directors (BoD). The BoD plans to award the contract at their meeting scheduled for 6:00 p.m., June 18, 2024, in the HNWS Board Room.

## 2. PROPOSAL SUBMISSION

- A. Electronic Proposals will only be accepted when submitted through the Bidnet's Proposal portal at <https://www.bidnetdirect.com/florida/holleynavarrewatersysteminc>
- B. Emailed submissions will not be accepted.
- C. Alternatively, one (1) original and one (1) copy may be delivered to HNWS at 8574 Turkey Bluff Rd., Navarre, FL 32566. Each sealed envelope containing a proposal must be plainly marked on the outside as **Proposal # RFQP 24-06 HNWS Utility Rate and Fee Study**.
- D. Regardless of the method of delivery, each proposer shall be responsible for his/her proposal(s) being delivered on time, as HNWS assumes no responsibility for same.
- E. Proposals offered or received after the submission deadline will be rejected and returned unopened to the proposer.
- F. Proposers must use the Proposal Form included in this RFQP package.

## 3. PROPOSAL AUTHORIZATION

A proposer may not modify its proposal after proposal opening. Errors in the extension of unit prices stated in a proposal or in multiplication, division, addition, or subtraction in a proposal may be corrected by HNWS prior to award. In such cases, unit prices shall not be changed.

## 4. AWARD OF PROPOSAL

- A. HNWS reserves the right to establish priorities and to award the Agreement to a single proposer based upon proposed price and qualifications.
- B. HNWS also reserves the right to negotiate with one or more Proposer to alter the proposed scope and price.

## 5. TAXES

Holley Navarre Water System, Inc is exempt from federal, state, and local taxes. Tax exempt number 85-8012590296C-3 applies.

## 6. PAYMENT TERMS

Minimum terms will be Net 30 (30 days after receipt of material/service). Progress payments shall be allowed based upon verifiable percentage of scope complete on a monthly basis.

## 7. EXECUTION OF AGREEMENT

Any action of HNWS in awarding the performance of a service is subject to and conditioned upon the execution of a written Agreement and/or a Purchase Order between HNWS and the vendor. It is anticipated that any such Agreement will include the General Provisions for Purchase Order/Agreement appended in this RFQP. If Proposers take exception to any General Provisions, Proposers must identify the exceptions, as well as any proposed modifications, with particularity in their Proposal Submission. Failure to identify any exceptions will result in a waiver of the same during the Agreement execution phase.

## 8. PROPOSAL QUESTIONS

- A. Any questions concerning the scope or proposal submission procedures must be emailed to the Procurement Department Sole Point of Contact (POC) at [BIDS@hnws-fl.com](mailto:BIDS@hnws-fl.com) by Tuesday June 4, 2024, noon, central time for consideration.
- B. Include proposal: RFPQ 24-06 HNWS Utility Rate and Fee Study in the subject line of email.
- C. Answers will be provided in the form of an addendum.
- D. Only questions answered by addenda will be binding.
- E. Oral and other interpretations or classifications will be without legal effect.
- F. All addenda issued must be acknowledged in your proposal response.

## 9. PROPOSAL INFORMALITIES

- A. HNWS reserves the right to waive informalities in any proposal; reject any or all proposals, in whole or in part; re-advertise a project, in whole or in part; and to accept a proposal that in its judgement is the lowest and best proposal from a responsible proposer.
- B. HNWS reserves the right to award this Agreement based upon what HNWS believes to be in the best interests of its members, in the reasonable exercise of its discretion and not solely based upon price.

## 10. INDEMNIFICATION

Proposer will indemnify HNWS consistent with provisions of Section 17 of the General Provisions.

## 11. NON-DISCRIMINATION POLICIES

HNWS does not discriminate based on race, color, national origin, sex, creed/religion, age, marital status, disability/handicapped status, veteran status or any other legally protected status in employment or provision of service.

# SCOPE OF WORK

## 1. BACKGROUND

Holley Navarre Water System, Inc, hereinafter as HNWS, is requesting proposals for a comprehensive analysis of its water and sewer fees and rates. HNWS is a private not-for-profit corporation with a 7-member elected board located in Navarre, Florida.

The purpose of the study is to provide sufficient information to support a recommendation to the HNWS Board of Directors for future adjustments to residential and commercial water/sewer rates and fees. The study will also determine an appropriate and adequate rate structure for water and sewer service provided by HNWS, considering such issues as consumption characteristics of various customer classes, deviation from cost-of-service principles and fairness and equity implications and customer understanding.

HNWS expects that any rate or fee adjustments developed by the study will be adequate for a minimum of five years. HNWS owns and operates water and sewer utilities serving approximately 47,000 residents through approximately 17,900 water and wastewater connections. HNWS also operates and maintains five wells with treatment facilities, four elevated storage tanks, and two wastewater treatment plants. The HNWS franchise area consists of approximately 280 miles of potable water mains, 178 miles of sanitary sewer lines, and 86 lift stations. HNWS receives water from Fairpoint Regional Utility System on a wholesale basis.

While HNWS conducts annual in-house reviews and service rate adjustments, an outside, comprehensive review of rates, rate structures, capital replacement and expansion is necessary to establish appropriate rate levels. It is also necessary for HNWS to determine the appropriate level of future revenues needed to cover the costs associated with this expansion and maintenance needs.

The broad objective of the study is to adequately fund the utility operations and capital costs while minimizing rates to the greatest degree possible. The study will be based on a comprehensive review of HNWS' water fund and sewer fund expenses and budget, proposed water improvements, customer classifications, meter and fire services by size, future planned growth of HNWS and surrounding area, and any other information deemed necessary. The cost of service/cost allocation study will be developed in conformance with the guidelines of the American Water Works Association's **Manual on Water Rates, Fees, & Charges (M1 Manual)**, and will make recommendations as necessary to achieve equity between water classifications.

### Rate Structure Background

The quantity of water that HNWS is allowed to withdraw from its wells or from its regional provider is regulated by the NFWWMD through its water use permit. This permit requires water conservation measures, and that the water pricing follows an increasing block rate structure to encourage conservation. The study recommendations must result in a rate structure that follows the permit conditions.

HNWS has approximately 7,400 water-only customers and 10,500 water and sewer customers. The proposed rate structure shall consider the cost of service for both water and sewer operations and analyze the rate implications of a large number of water-only customers relative to water/sewer customers.

## 2. INSURANCE REQUIREMENTS

- A. Commercial General Liability: with limits of \$1,000,000 per occurrence/\$ 2,000,000 aggregate.
- B. Workers' Compensation and Employer's Liability: per Florida statutory requirements.

## 3. AGREEMENT TERM

It is anticipated that the work can be completed in a period of six months.

## 4. INVOICING

- A. All invoices will be sent electronically via email to: AP@hnws-fl.com. In the event email is not available, please send invoices to: Holley Navarre Water System, Inc., Attn: Accounts Payable, 8574 Turkey Bluff Rd., Navarre, FL 32566.
- B. Vendor will invoice monthly based upon percentage of the scope completed.

## 5. PROPOSAL FORMAT AND CONTENT

Proposals shall clearly reflect an understanding of a scope with the stated requirements. Submission of a proposal indicates acceptance of the conditions contained in the RFQP unless clearly indicated otherwise.

- A. Basic Information – State the contact person name, firm name, address, telephone number, and email address. State the office location(s) where the services and work will be performed and identify the office location(s) and percentage of activities of other offices/subconsultant offices involved in performing the services and work. List any subconsultant(s)' name(s)
- B. Firm Experience - Provide the following information, with a particular emphasis on experience that relates to capital plans, cost of services studies, rate studies, impact fee analysis, and related functions":
  - a. Provide a narrative description of the company and why it is best qualified to provide the desired services.
  - b. Describe the general experience and specialties of the company.
  - c. Identify specific experience with capital plan preparation, rate studies, and fee analysis.
  - d. Identify other public utility, municipal and co-op clients.
- C. Proposed Team/Organizational Chart – Identify names and positions of key personnel and provide a resume, including education and experience, for key team members. Include summary of work on similar projects, approximate dates, and individual's responsibility in the assignment.
- D. Availability - Firm shall address the capability to commit staff to complete the requested services in a timely manner. Firm shall also show ability to meet minimum insurance requirements identified within the standard HNWS contract.
- E. References - List 5 project references from studies completed in the last 3 years, including contact names and telephone numbers for projects of comparable size and scope performed by the key personnel listed above. To the extent any references for individual employees of either the Consultant or subconsultant are different from those noted in the previous section, they should also be provided. Provide a current client list including jurisdiction name, contact name, and telephone number, and length of engagement.

- F. Project Approach and Schedule - Provide a narrative description summarizing the expected tasks and activities, with a description of the analysis, reports, and participation, which the Consultant expects to provide pertaining to that activity. This would include a summary of the steps to be completed to accomplish the scope of work, approaches to the project, and your firm understanding of the project requirements.

Submit a work plan upon which the estimate for the total contract price should be based. This should demonstrate an understanding of the issues and subjects which will be addressed and provide HNWS Staff and the Consultant a written document to refer to throughout the project.

The project schedule shall include the estimated time required to complete each step in the scope of work, including estimated start and completion dates (non-binding). The number of hours allocated to each individual for each task should be indicated with a project schedule- type display showing each activity in the proposed work plan. The plan must include an appropriate number of kick-off and regular meetings, information gathering and disseminating sessions (at least one on-site), and updates with key HNWS personnel to understand and discuss the HNWS's issues and concerns, become acquainted with key Staff, and identify persons who will provide data.

Ensure a sufficient number of meetings with HNWS staff to provide staff with preliminary findings and strategies based upon the available data. Consultant shall meet with HNWS staff to identify potential changes to projects and/or phasing of projects, to present findings, to demonstrate the effect(s) of various scenarios on the comprehensive plan and rate structures, and to obtain a consensus on the scenario(s) to present to the HNWS Board. Online collaboration is encouraged to save costs. Presentations, rate hearings, kick-off meetings and initial discovery discussion require on-site visits.

- G. Cost Proposal – The proposal shall include a cost proposal for the proposed work effort. The proposal should be broken down by task and show man hours for each staff classification by task. The tasks should match the workplan and project schedule. The consultant should include all direct expenses as separate line item.

## 6. SPECIFICATIONS

HNWS has established a water rate designed to raise sufficient revenue to pay the cost of operating the water system. That includes the cost of treatment for human consumption; the maintenance, repair, and operation of all water service equipment and facilities owned and operated by HNWS; related accounting, administration, and overhead costs; payments of all necessary debt service and maintenance of bond covenants for bond issues or other indebtedness related to HNWS's water facilities; and maintenance of necessary reserves for repair and replacement of water facilities. Customers are billed monthly for actual consumption, rounded to the nearest gallon. HNWS does not allow irrigation meters, nor does it allow pool fills. All water that goes through the meter for an account with sewer is charged for sewer usage. There is a provision for a one-time bill adjustment.



Similarly, HNWS has established a sewer service rate designed to raise sufficient revenue to pay the cost of operating HNWS's sewer system. That includes the cost of sewage treatment and disposal services; the maintenance, repair, and operation of all sewer service equipment and facilities owned and operated by HNWS; related accounting, administration, and overhead costs; payments of all necessary debt service and maintenance of bond covenants for bond issues or other indebtedness related to HNWS's sewer facilities; and maintenance of necessary reserves for repair and replacement of sewer facilities. Customers are billed monthly based on actual water consumption, rounded to the nearest gallon.

The scope of work for this effort is as follows:

#### RATES

- Review existing revenues, compare them to expenses, and determine if there are any deficiencies in the current rate structure. Determine the required rates to meet expenses and capital and funding costs for future needs of the system.
- Review the funding requirements for capital equipment replacement and recommend a prudent reserve policy for operations, capital replacement and emergencies. HNWS has recently implemented a reserve policy which will be provided to the consultant.
- Review current water and sewer utilization and determine if the current rate schedules are equitable based on the costs to deliver service.
- Conduct a comprehensive cost of service study to determine the cost of serving each customer class including determining cost allocators and allocating functionalized costs by customer class. The consultant will use industry accepted methodologies for allocating costs to various classes of customers.
- For proposed rate schedules, firms shall provide a sampling of a minimum of five (5) customers per classification showing the difference of charges between existing and proposed rates by fiscal year for the proposed period(s) of adjustment.
- Compare and contrast HNWS' existing water/sewer rates and fees, as well as the new rates and fees developed by the study, with the rates/fees of neighboring communities and those comparable in population, number of customers based on classification, or any other similar characteristics. This aspect of the study should include comments or opinions as to whether the proposed rate structure will impact economic development and the ability to attract commercial customers. The neighboring utilities shall be similar in size and preferably located in the Florida Panhandle.
- Provide a recommended rate structure that will recover projected revenue requirements for a five-year period. Components of the base rates and volume charges should be clearly identified.
- Provide general discussion on current policies and trends related to payment options, deposit amounts, connections, disconnects, etc., in comparison to other water service utilities. The rate study should include an easy-to-use electronic model in Microsoft Excel to be used by the HNWS staff for future evaluations.
- Present the report and discuss recommendations with the HNWS Board of Directors at a regularly scheduled meeting.

## IMPACT FEES

HNWS charges impact fees to new development and to existing development with increased capacity needs. The water impact fee that is currently charged includes the impact to the system and in the case of some residential connections includes the cost of the tap and setting the meter. The sewer impact fee that is currently charged also includes the impact to the system and in the case of some residential connections includes the cost of the low-pressure sewer tap. HNWS wishes to separate the cost of the impact fee and any connections fees for installing services and/or meters.

HNWS currently splits the impact fee proceeds into two sources, restricted and unrestricted capital funds. The restricted fund is for capital projects that impact the backbone capacity of the water and sewer systems. All other capital improvements are done in the unrestricted fund. The impact fee proceeds are currently split 70/30 with 70% being contributed to the restricted fund and 30% to the unrestricted. The rate study should make a recommendation regarding the proposed use of impact fee funds.

Using available assets and member data, the consultant shall perform an impact fee calculation for both water service and sewer service. The calculation shall meet the requirements of the “rational nexus” test method.

## OTHER FEES

There are several fees that the study should consider. Those fees include the following:

- Fees for a fire hydrant meter - include setup fee, admin fee, and deposit.
- Deposit for new accounts.
- Fee for a residential water service tap, service line, and meter.
- Fee for low pressure sewer tap.
- After hours service call fee.
- Nonpayment fee.
- Late fees.
- Return check fee.

## SCHEDULE

Timeline: Proposal must indicate estimated timeline for completion. HNWS desires to utilize the findings of this rate study during the 2025 budget development process, which begins in early Fall 2024 but does not conclude until the January 2025 Annual Board meeting. HNWS desires to make a presentation to the Board at the December 2024 Board meeting regarding the recommendations of rate and fee changes and the results of the rate study. The December 2024 Board Meeting will be held on December 17, 2024.

## AVAILABLE INFORMATION

The HNWS staff will provide the consultant with all relevant information it has pertaining to HNWS and its operations including operating and capital budgets, the existing cost allocation plan and current fee resolutions and related documents. Available sources of information include but are not limited to:

- Budget and actual expenditure information
- Annual Audit
- NFWFMD Permit
- Rate & Fee Sheet
- Five-year CIP
- Discussion with HNWS staff

## EVALUATION CRITERIA

Proposals will be reviewed and ranked by HNWS staff, and a recommendation will be provided to the HNWS Board of Directors, who will make the ultimate selection. The recommended firm(s) should be prepared to attend the Board meeting to answer questions and clarify scope and qualifications. Selected firms will be notified and given adequate time to prepare if a presentation is requested.

## **7. QUESTIONS**

Contact Donna Lupola for questions related to the schedule at [BIDS@hnws-fl.com](mailto:BIDS@hnws-fl.com). The proposed time schedule as related to this procurement is as follows:

| <b>EVENT</b>                                       | <b>DATE/TIME (central time)</b> |
|--|---------------------------------|
| Release of RFQP                                    | May 16, 2024                    |
| Deadline for Questions/Request for Clarifications  | *June 4, 2024, by 12:00 pm      |
| Estimated issuance of Addendum: Questions Answered | * June 6, 2024, by 4:00 pm      |
| Proposal RFQP Due Date/Time (Deadline)             | * June 11, 2024, at 2:00 pm     |
| Presentations to HNWS BoD                          | ** June 18, 2024                |
| Recommendation to HNWS Bo D                        | ** June 18, 2024                |
| Anticipated Agreement Approval/Award               | ** June 18, 2024                |
| Final Report Deliverable                           | December 15, 2024               |

\*An addendum to this RFQP will be issued if any of these dates/times change

\*\*These dates are after the proposal is due and subject to change. However, an addendum to this RFQP will not be issued if any of these dates change. Specific dates/times will be determined at each phase.



HOLLEY NAVARRE WATER SYSTEM, INC  
 PROPOSAL NUMBER: RFQP 24-06 HNWS

**UTILITY RATE AND FEE STUDY**  
**PROPOSAL FORM INCLUDING ALL DIRECT EXPENSES**

**AGREEMENT PERIOD:**

The initial period is from July 1, 2024, through December 31, 2024

| Description            | Total Proposed Cost |
|------------------------|---------------------|
| Utility Rate/Fee Study | \$                  |

**PROPOSER'S INFORMATION:**

Vendor Name: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Contact Person's Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

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

Date: \_\_\_\_\_

**ACKNOWLEDGE RECEIPT OF ALL ADDENDA ISSUED (IF APPLICABLE):**

NUMBER \_\_\_\_ DATED \_\_\_\_\_ NUMBER \_\_\_\_ DATED \_\_\_\_\_

NUMBER \_\_\_\_ DATED \_\_\_\_\_ NUMBER \_\_\_\_ DATED \_\_\_\_\_

**HOLLEY NAVARRE WATER SYSTEM  
GENERAL PROVISIONS  
PURCHASE ORDER/AGREEMENT**

1. Materials, equipment, or other items to be procured hereunder (individually or collectively "Supplies") must be of domestic origin unless otherwise agreed in writing by HNWS.
2. TITLE, DELIVERY, INSPECTION AND ACCEPTANCE - Delivery, inspection, and acceptance of Supplies will occur at the HNWS sites designated for delivery unless otherwise provided in writing by HNWS. Title will transfer to HNWS free and clear of all liens and encumbrances upon written acceptance by HNWS. Until delivery and acceptance and after any rejections, Contractor will bear exclusive risk of loss for all Supplies, regardless of the cause of loss, unless the loss results from the sole negligence of HNWS. Notwithstanding the requirements for any HNWS inspection and test contained in specifications applicable to this Agreement, except where specialized inspections or tests are specified for performance solely by HNWS, Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the Agreement conform to the drawings, specifications, and Agreement requirements listed herein, including if applicable, the technical requirements for the manufacturer's part numbers specified herein.
3. ENTIRE AGREEMENT - The terms, specifications and drawings included in this Agreement when duly executed, constitute the entire agreement between the Parties unless otherwise stated on the face of a purchase order or similar document accompanying the Agreement. No modification or waiver of the terms of this Agreement will be binding unless in writing signed by a duly authorized representative of HNWS and by a duly authorized representative of the Contractor.
4. DELIVERY TICKETS - All shipments under this Agreement must be accompanied by delivery tickets, or sales slips, which must contain the following minimum information.
  - a. Name of supplier.
  - b. Blanket Purchase Order number.
  - c. Date of Call.
  - d. Call number.
  - e. Itemized list of supplies or services furnished.
  - f. Quantity, unit price and extension of each item, less applicable discounts (unit price and extensions need not be shown when incompatible with the use of automated systems, provided that the invoice is itemized to show this information); and
  - g. Date of delivery or shipment.

Upon delivery, the receiving office will retain one copy of the related delivery ticket and will sign the other two copies and return them to the supplier or his agent. One of these copies may subsequently be required to support the invoice.

5. PAYMENTS - Invoices shall be submitted electronically and submitted to AP@hnws-fl.com, unless otherwise specified and shall contain the following information: Agreement or Order number, item number, Agreement description of supplies or services, sizes, quantities, unit prices and extended totals. Bill of Lading number and weight of shipment will be shown for shipments of Bills of Lading. Unless otherwise specified, payment will be made on partial deliveries accepted by HNWS when the amount due on such deliveries so warrants.

6. DISCOUNTS - In connection with any discount offered, time will be computed from date of delivery suppliers to carrier when acceptance is at the point of origin or from date of delivery at destination when delivery and acceptance are at these points or from the date the correct invoice or voucher is received in the office specified by HNWS, if the latter is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the HNWS check.
7. COVENANT AGAINST CONTINGENT FEES - The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty HNWS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
8. CONTINGENCIES - Neither Party will be liable for delays or defaults to the extent caused by acts of God, government authority or public enemy, war, fires, floods, epidemics, strikes, labor troubles, freight embargoes, or other contingencies reasonably beyond its control. The Party so affected, upon prompt written notice to the other Party, will be excused from performance hereunder, but only to the extent of such prevention or restriction. Deliveries or services that are omitted or delayed because of a contingency shall, upon written request of HNWS, be resumed upon cessation of such contingency. The contingencies set forth herein will not provide a basis for modifications in the Agreement price.
9. CONDITION FOR ASSIGNMENT- This (Agreement or purchase order) shall not be assigned in full or in part without the consent of HNWS. Unless otherwise agreed by HNWS in writing, such consent shall not relieve the Contractor of its obligations and liabilities.
10. GOVERNMENT REGULATIONS - Contractor warrants that all applicable laws and regulations of governmental authority, covering its services or the production, sale and delivery of the Supplies specified herein, have been complied with, and Contractor shall indemnify, defend (if requested by HNWS) and save HNWS harmless from and against any liability or loss resulting from Contractor's failure to do so.
11. TAXES - HNWS is exempt from Federal Taxes on transportation charges and any Federal Excise Tax. If Contractor prepays for transportation, Contractor will not pay tax as HNWS will not reimburse Contractor for the taxes paid. HNWS is exempt from State Sales Tax.
12. CHANGES - HNWS may at any time, by written order, and without notice to the sureties, make changes, within the general scope of this Agreement, in (i) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for HNWS in accordance therewith; (ii) method of shipment or packing and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for the performance of this Agreement, whether changed or not changed by any such order, an equitable adjustment shall be made by written modification of this Agreement. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change. Failure of the parties to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Agreement entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with this Agreement as changed.

13. **TERMINATION FOR DEFAULT** - HNWS, by written notice, may terminate this Agreement, in whole or in part, for failure of the Contractor to perform any of the provisions hereof, in such event, the Contractor shall be liable for damages; including the excess cost of reprocurring similar supplies or services; provided that if (i) it is determined for any reason that the Contractor was not in default or (ii) the Contractor's failure to perform is without his and his subcontractors control, fault or negligence, the termination shall be deemed to be a termination for convenience under paragraph 14 and HNWS' sole liability to Contractor will be to make payment as set forth in paragraph 14. As used in this provision the term "subcontractor" and "subcontractors" means subcontractors and suppliers at any tier.
14. **TERMINATION FOR CONVENIENCE** - HNWS, by written notice, may terminate this Agreement, in whole or in part, for HNWS' convenience with or without cause. If this Agreement is for supplies and is so terminated, the Contractor shall be compensated for goods delivered and accepted up to the date of termination. To the extent that this Agreement is for services and is so terminated, HNWS shall be liable only for payment for services rendered prior to the effective date of termination.
15. **EXTENT OF OBLIGATION** - HNWS is obligated under a call-type Purchase Order only to the extent of authorized calls placed against this agreement.
16. **WARRANTIES** - In addition to all warranties, established by statute or common law or set forth elsewhere in this Agreement, for a period of twelve (12) months following written acceptance of the Supplies or services (as applicable) by HNWS. Contractor expressly warrants that all Supplies and services covered herein shall: (i) conform to all specifications, drawings, samples, and descriptions furnished or adopted by HNWS; (ii) be of the highest quality and fit, and sufficient for the purpose for which purchased, if specified in the Agreement; and (iii) be free from all latent and patent defects in design, workmanship and materials.
17. **GENERAL INDEMNITY** – To the fullest extent allowed by applicable law, Contractor shall indemnify, defend (if requested by HNWS) and hold harmless HNWS, its directors, employees and agents (“Indemnified Parties”) from or against any and all loss, damage, costs (including, but not limited to, attorneys' fees, expert fees and expenses, and court costs, and any notification related costs arising out of a data breach, loss, or unauthorized access to data), or liability resulting from any and all demands, claims, suits, costs, fines, penalties, proceedings, or actions of any kind or character ("Claim") presented or brought against the Indemnified Parties caused by, arising out of, or related to any act or omission of Contractor or anyone directly or indirectly employed by any of them (including any subcontractors and any persons directly or indirectly employed by a subcontractor), or anyone for whose acts any one of them may be liable that is in any way associated with or connected with any obligation of Contractor, right of HNWS, or the work performed by Contractor in whatever manner the same may be caused and regardless of whether the same may be caused by or arise out of the joint, concurrent, or contributory negligence of the Indemnified Parties or any other persons or entities not a party to the Agreement; provided, however, if any Claim is determined to have been caused by the sole negligence or willful misconduct of the Indemnified Parties, then Contractor will not be liable under this *General Indemnity* section. Contractor's indemnity obligation will include, without limitation, court costs, attorneys' fees, costs of investigation, costs of defense, expert fees and expenses, settlements, and judgments associated with any Claims. Contractor will further be liable for the costs of repair or replacement of any property of the Indemnified Parties) that is damaged by any act or omission (whether negligent or otherwise) of Contractor or its subcontractors under this Agreement.



18. **INTELLECTUAL PROPERTY INDEMNITY** - Contractor will indemnify, defend (if requested by HNWS) and hold harmless the Indemnified Parties from any Claim presented or brought against any Indemnified Parties that is based (in whole or part) on a claim that any services, Supplies, deliverables, or processes, or any part of any of them, constitutes a misappropriation of, an unauthorized use, or an infringement arising out of or relating to any trade secret, copyright, trademark, patent, or any other proprietary right of any third-party either in the United States or in a foreign nation. Contractor agrees to pay all costs and expenses of investigation and defense relating to such Claim (including, but not limited to, an advancement of attorneys' fees, expert fees and expenses, and court costs) ("Claim Expenses") and pay any settlement or judgment arising out of any such Claim. Notwithstanding any other provision of the Agreement, Contractor will advance all Claim Expenses incurred by or on behalf of HNWS in connection with any Claim within thirty (30) days after the receipt by Contractor of statements from HNWS requesting such advances from time to time, whether prior to or after final disposition of such Claim.
19. **NON-DISCLOSURE** - The existence of this Agreement and all non-public information pertaining to the matters addressed in this Agreement, including documentation or other information provided by HNWS to Contractor, constitutes HNWS' confidential information ("Confidential Information"). Contractor will not disclose Confidential Information to third parties without HNWS' prior written consent. Contractor acknowledges and agrees that unauthorized disclosure of HNWS' Confidential Information will result in harm that is not compensable solely by monetary damages and therefore agrees that HNWS will be entitled to injunctive relief (in addition to any other relief available at law or equity) to enforce the provisions hereof without the need to post a bond.
20. **MOST FAVORABLE COMMERCIAL WARRANTY** - The Contractor agrees that the Supplies and services furnished under this Agreement shall be covered by the most favorable commercial warranties that the Contractor gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights to HNWS by any other clause of this Agreement.
21. **DEVIATION FROM SPECIFICATIONS** - HNWS has the sole authority to determine if any deviation from the specifications cited is acceptable.
22. **GOVERNING LAW AND VENUE** – This Agreement and all disputes arising out of this Agreement shall be governed by, and construed in accordance with, the laws of the state of Florida without giving effect to any choice of law rules thereof that may direct the application of the laws of another jurisdiction. The exclusive jurisdiction and venue for any and all claims, counterclaims, other matters in question and disputes arising out of or in any way relating to this Agreement shall be the state courts located in Santa Rosa, County, Florida and Contractor hereby irrevocably consents and submits to such exclusive jurisdiction and venue and waives any objection to the same. Contractor acknowledges and agrees that, by the very nature of this Agreement, Guarantor is performing work in the state of Florida and is therefore subject to personal jurisdiction in accordance with the laws of such state.