

CONTRACT 22-102-SWM BETWEEN EARTHWERKS LAND IMPROVEMENT AND DEVELOPMENT CORPORATION,
AND THE COUNTY OF DUPAGE

THIS AGREEMENT is entered into this 30TH day of December, 2022, between the County of DuPage, Illinois a body corporate and politic, located at 421 North County Farm Road, Illinois, 60187-3978 (hereinafter referred to as the COUNTY), and EARTHWERKS LAND IMPROVEMENT AND DEVELOPMENT CORPORATION., licensed to do business in the State of Illinois, located at 2111 Ogden Avenue, Lisle, IL 60532 (hereinafter referred to as the CONTRACTOR).

RECITALS

WHEREAS, the COUNTY requires the goods and/or services specified in Bid 22-102-SWM for DuPage Stormwater Management Department, located at the DuPage County Center, 421 North County Farm Road, Wheaton, Illinois 60187; and

WHEREAS the CONTRACTOR is the vendor selected pursuant to the bid process and is willing to perform under the terms of the Bid and this Contract.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree that:

1.0 CONTRACT DOCUMENTS

- 1.1 This Contract includes all of the following component parts, all of which are fully incorporated herein and made a part of the obligations undertaken by the parties:
 - 1.1.a Project Information
 - 1.1.b Instructions to Bidders
 - 1.1.c General Conditions
 - 1.1.d Special Conditions
 - 1.1.e Insurance/Bonding Requirements and Certificates
 - 1.1.f Bid Form (including Certification/Proposal, Signature Affidavit including Proposal Pricing)
 - 1.1.g Specifications (including any addenda, interpretations and approved exceptions)
 - 1.1.h Exhibits
 - 1.1.i County Purchase Order
- 1.2 All documents are or will be on file in the office of the Procurement Services Division, DuPage Center, 421 North County Farm Road, Room 3-400, Wheaton, Illinois 60187.
- 1.3 In the event of a conflict between any of the above documents, the document control from top to bottom, i.e., "a" control over "b".

2.0 DURATION OF THIS CONTRACT

- 2.1 Unless terminated as provided in the Bid Invitation, the term of this Contract shall be a two (2) year period beginning on 11/08/2022 and continuing through 11/30/2024.
- 2.2 The Contract term is subject to renewal per the Bid Invitation Specifications. In no event, shall the term plus renewals exceed four (4) years.

3.0 TERMINATION

- 3.1 Except as otherwise set forth in this AGREEMENT, County shall have the right to terminate this AGREEMENT for any cause or without cause thirty (30) days after having served written notice upon the Contractor, except in the event of Contractor's insolvency, bankruptcy or receivership, in which case termination shall be effective immediately upon receipt of notice.
- 3.2 Upon such termination, the liabilities of the parties to this AGREEMENT shall cease, but they shall not be relieved of the duty to perform their obligations up to the date of termination, or to pay for deliverables tendered prior to termination. There shall be no termination expenses.
- 3.3 Upon termination of this AGREEMENT, all data, work products, reports and documents produced, because of this AGREEMENT shall become the property of the COUNTY. Further, Vendor shall provide all deliverables within fourteen (14) days of termination in accordance with the other provisions of this AGREEMENT.

4.0 BID PRICES AND PAYMENT

- 4.1 The Contractor shall provide the required goods and or services described in the Bid Specifications for the prices quoted on the Bid Form.
- 4.2 The County shall make payment pursuant to the Illinois Local Government Prompt Payment Act, except that no payment shall be approved where the Contractor has failed to comply with certified payroll requirements of the Illinois Prevailing Wage Act or Davis Bacon Act.

5.0 AMENDMENTS

- 5.1 This Contract may be amended by agreement of both parties.
- 5.2 All amendments will conform to State of Illinois Statutes and County procedures for Change Orders.

6.0 CONTRACT ENFORCEMENT – ATTORNEY’S FEES

- 6.1 If the County is required to take legal action to enforce performance of any of the terms, provisions, covenants and conditions of this Contract, and by reason thereof, the County is required to use the services of an attorney, including the States Attorney, then the County shall be entitled to reasonable attorney's fees and all expenses and costs incurred by the County pertaining thereto and in enforcement of any remedy, including costs and fees relating to any appeal.

7.0 SEVERABILITY CLAUSE

- 7.1 If any section, paragraph, clause, phrase or portion of this Contract is for any reason determined by a court of competent jurisdiction to be invalid and unenforceable, such portion shall be deemed separate, distinct and an independent provision, and the court's determination shall not affect the validity or enforceability of the remaining portions of this Contract.

8.0 GOVERNING LAW

- 8.1 This Contract shall be governed by the laws of the State of Illinois both as to interpretation and enforcement. Venue for all disputes will be exclusively in the circuit court for the Eighteenth Judicial Circuit in DuPage County, Illinois and that Illinois law will control.

9.0 ENTIRE AGREEMENT

- 9.1 This Contract, including the documents listed in 1.0, contains the entire agreement between the parties.
- 9.2 There are no covenants, promises, conditions, or understandings; either oral or written, other than those contained herein.

IN WITNESS, WHEREOF, the parties set their hands and seals as of the date first written above.

THE COUNTY OF DUPAGE, ILLINOIS

CONTRACTOR

By: _____

SIGNATURE

By: _____

SIGNATURE

Mary Catherine Wells

PRINTED NAME

DAVID DAVIS

PRINTED NAME

Acting Chief Procurement Officer

PRINTED TITLE

President

PRINTED TITLE

1/30/23

DATE

1-9-2023

DATE

