

AGREEMENT

PINELLAS COUNTY GOVERNMENT IS COMMITTED TO PROGRESSIVE PUBLIC POLICY, SUPERIOR PUBLIC SERVICE, COURTEOUS PUBLIC CONTACT, JUDICIOUS EXERCISE OF AUTHORITY AND SOUND MANAGEMENT OF PUBLIC RESOURCES, TO MEET THE NEEDS AND CONCERNS OF OUR CITIZENS TODAY AND TOMORROW.



CONTINUING PROFESSIONAL SERVICES AGREEMENT

RFQ TITLE: Waste to Energy - Continuing Professional Engineering Services

RFQ CONTRACT NO. 26-0406-RFQ-CCNAC

CONTINUING FIRM: CDM Smith Inc.

AGREEMENT

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AGREEMENT

SECTION 1 - INTENT OF AGREEMENT

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES FOR
SOLID WASTE DEPARTMENT

This Agreement entered into on the **Click or tap to enter a date.** between Pinellas County, a political subdivision of the state of Florida, hereinafter referred to as the County, represented by its board of County commissioners, and **CDM Smith Inc.**, with offices in Tampa, FL, hereinafter referred to as the consultant or contractor.

WITNESSETH, that:

WHEREAS, the County Solid Waste department requires professional engineering consulting services associated with Waste to Energy Continuing Professional Engineering Services on an as needed basis, herein referred as project.

WHEREAS, the County desires the consultant provide professional engineering consulting services requisite to the management needs of the County Solid Waste department, and

WHEREAS, the consultant has expressed the willingness and ability to provide the aforementioned services on an as needed basis.

NOW THEREFORE, the County and the consultant, in consideration of the mutual covenants hereinafter set forth, agree as follows:

AGREEMENT**SECTION 2 - GENERAL CONDITIONS AND PROFESSIONAL REQUIREMENTS****1. DESCRIPTION OF OVERALL REQUIRED SERVICES**

The Pinellas County Solid Waste department is seeking to obtain professional engineering consultation on operational and maintenance activities and issues associated with the Pinellas County Waste to Energy Facility including the preparation and review of operating and maintenance reports, conducting facility inspections, and providing project and construction support services.

2. ASSIGNMENT OF WORK

Work to be performed by the consultant shall be on an assignment-by-assignment basis. Work assignments shall be made by the County's director of Solid Waste or designee. Prior to any work assignments being made, based on mutual discussions between the County and the consultant, the consultant shall prepare a detailed scope of work for the assignment which shall include a not to exceed budget amount for the assignment. All work assignment authorizations by the County shall be in writing. The consultant shall perform no work under this Agreement without written authorization. The consultant hereby agrees to waive any claim for compensation for any work performed without written authorization.

3. CONSULTING RESPONSIBILITIES

- A. It is the intention of the County that the consultant is held accountable for its work, including checking and plans review, and that submittals are complete.
- B. The consultant shall be responsible for the accuracy of the work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the County will not relieve the consultant of the responsibility for subsequent correction of any errors and the clarification of any ambiguities.
- C. The consultant represents that it has secured or will secure all personnel necessary to complete this Agreement; none of whom shall be employees of or have any contractual relationship with the County. Primary liaison with the County will be through the consultant's project manager. All of the services required herein will be performed by the consultant or under the consultant's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.
- D. The consultant shall endorse all reports, calculations, contract plans, and survey data. Services shall be prepared under the direction of an licensed engineer registered in the state of Florida and qualified in the required discipline. Products of services performed or checked shall be signed and sealed by the consultant's Florida registered engineer.
- E. The consultant shall be responsible for the preparation of a project design schedule, which shows a breakdown of all tasks to be performed, and their relationship in achieving the completion of each phase of work. A bar chart schedule showing overall project time frames should also be prepared. These schedules must be submitted for County approval within 10 days of the initial project notice to proceed. These schedules will be used to verify consultant performance in relationship to fees claimed and to allow the County's project manager to monitor the consultant's efforts. The consultant shall be responsible for any updates to these schedules and for documenting in writing to the County any major deviations in the actual versus estimated project time frames.
- F. The consultant shall respond, in writing, to all review comments made by the County, within 10 days of their receipt, and shall incorporate appropriate design adjustments resulting from the review exchange into the project, in the next scheduled submittal.

4. GOVERNING SPECIFICATIONS, REGULATIONS AND PERTINENT DOCUMENTS

- A. The project shall be designed by the consultant in accordance with applicable industry standards. The consultant shall be responsible for utilizing and maintaining current knowledge of any laws, ordinances, codes, rules, regulations, standards, guidelines, special conditions, specifications, or other mandates relevant to the project or the services to be performed.
- B. **Americans with Disabilities Act (ADA) Digital Accessibility Compliance** All public-facing digital content and services produced, modified, hosted, or otherwise provided pursuant to the agreement—including but not limited to audiovisual content, documents, websites, web applications, mobile apps, software, kiosks, and other technology-based Products and Services—must comply with the Americans with Disabilities Act (ADA) and

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Section 504 of the Rehabilitation Act of 1973, and must be in conformance with requirements defined in the following standards: The Information and Communication Technology (ICT) Standards and Guidelines; the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA; or such guidelines as may be subsequently adopted by the Department of Justice (DOJ) for compliance with the ADA. If guidelines are formally adopted by DOJ, those guidelines will be used as the standard for compliance regardless of whether they are more or less stringent than WCAG 2.1 AA. COUNTY will notify CONTRACTOR in writing if it identifies an issue that renders the product inaccessible (the "Accessibility Issue"). Within 30 days of such notice, CONTRACTOR and COUNTY will meet and agree upon an appropriate and commercially reasonable timeline for resolution of the Accessibility Issue(s) ("Initial Meeting"). Should any of the following conditions occur, it will constitute a material breach of the Agreement by CONTRACTOR and will be grounds for termination by COUNTY: 1. CONTRACTOR fails to acknowledge receipt of the notice and fails to meet within 30 days of receipt of the Notice; 2. CONTRACTOR unreasonably and solely withholds agreement regarding a timeline for resolution; or 3. CONTRACTOR fails to materially resolve the Accessibility Issue(s) within the agreed-upon timeline.

5. KEY PERSONNEL

- A. The individual(s) who are to be assigned to work under this Agreement are necessary for the successful performance of this Agreement. The consultant agrees that whenever, for any reason, one more of the aforementioned individuals are unavailable for performance under this Agreement, the consultant shall replace such individual(s) with an individual(s) of substantially equal abilities and qualifications.

The consultant shall submit to the County a resume giving the full name, title, qualifications, and experience, for all successors and/or new persons prior to assignment of such personnel to perform work under this Agreement. Should the County decide the successor personnel does not meet the qualifications of the replaced personnel, or in the case of new personnel, the County determines they are not qualified to perform the work assigned, the County will advise the consultant accordingly. The consultant shall then submit name(s) and qualifications of an individual(s) to the County until a determination is made by the County that the replacement meets equivalent or required qualifications.

- B. The contractor and their subcontractor(s) must register with and use the E-verify system in accordance with Florida statute 448.095. The County will verify the work authorization of the contractor and subcontractor. A contractor and subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system.

If a contractor enters a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with unauthorized aliens. The contractor must maintain a copy of the affidavit for the duration of the contract.

If the County, contractor, or subcontract has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida statute 448.09(1) they shall immediately terminate the contract with the person or entity.

If the County has a good faith belief that a subcontractor knowingly violated this provision, but the contractor otherwise complied with this provision, the County will notify the contractor and order that the contractor immediately terminate the contract with the subcontractor.

A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged to section 448.095(2)(d), Florida statute. Contractor acknowledges upon termination of this Agreement by the County for violation of this section by contractor, contractor may not be awarded a public contract for at least 1 year. Contractor acknowledges that contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section.

Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clause set for in this section.

SECTION 3 - SERVICES TO BE FURNISHED BY THE CONSULTANT**1. SERVICES**

- A. The consultant shall furnish all services, equipment and manpower necessary for the work assignment in accordance with the intent of the Agreement.

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- B. If required, design activities shall be supported by design calculations properly identified as to subject and topic. Design references and any assumptions shall be noted. Calculations, if required, shall be in conformance with standard engineering practices. Design notes and computations shall be bound in suitable booklet form, and booklet shall be properly indexed as to content. All documents shall receive quality control checks and reviews.
- C. If required, the consultant shall provide a file of the proposed design in autocad latest version supported by Pinellas County, complete with all objects depicted according to software requirements.
- D. The consultant shall provide the following, if requested:
 - 1. Support to County staff in development of a scope of services.
 - 2. Reviews of plan submittals, engineering calculations, schedules and other technical documents.
 - 3. Quality control and constructability reviews of plans
 - 4. Project implementation services for design such as: infrastructure studies and investigations, project scope preparation, project design, conduct/assist in public information meetings, utility coordination, land surveying services, geotechnical services, access connection and environmental permitting services, cost estimating, railroad coordination, construction engineering and inspection.
 - 5. Project management support and preparation of independent cost estimates.
 - 6. Status meetings at a minimum of one each month.
 - 7. Any other miscellaneous engineering services requirement by the County as directed by County's designated director or designee who is a County employee.
- E. Design phase (services to be defined with each specific work assignment)
- F. Bidding phase (services to be defined with each specific work assignment)
- G. Other engineering services. (services to be defined with each specific work assignment)
 - 1. Survey work – assist the County in conducting surveys of construction projects proposed for landfill operation and permitting. All surveys shall be certified by a professional land surveyor (pls).
 - 2. Copy and reproduction support – assist the County in production support of major documents such as permit applications, feasibility studies, design modifications and closure plans.
 - 3. Miscellaneous figures, as-built drawings, maps – prepare figures, design drawings, maps, specifications, as-builts, etc., for the County when requested. All design support shall be performed on auto-cadd, latest version.

2. GENERAL SERVICES/SUPPORT TO COUNTY AS NEEDED

The consultant shall also provide miscellaneous services not otherwise described but required by the County during the course of this Agreement. Examples could include presentations to local government, citizen groups and regulatory agencies, or any other tasks associated with the County's operations.

3. WORK RELATED TO PROJECT CHANGE ORDERS

The Consultant will perform all work required in connection with County project change orders in a timely manner in accordance with the time frames set out in this section. This work may include services in connection with both the development of potential change orders to County construction projects, as well as consideration of submissions by a County contractor, including review of contractor price quote packages for County requested change orders. Change order related services may include, but are not limited to, response to new design requirements or changes in regulatory requirements or field conditions, review of documentation to identify ambiguities, requesting missing or needed information, evaluation of overall impacts to the project, and making recommendations regarding the reasonableness and appropriateness of schedules and costs.

For design work, or other services as assigned, needed in preparation of a potential County change order, Consultant must prepare all documents and materials in sufficient detail and in such a manner that they can be efficiently reviewed by County's contractor for the preparation of a detailed price quote, and so that the contractor's price quote can be expeditiously evaluated for conformance with all stated requirements.

When the County is in receipt of a price quote from a Contractor for a County requested change order, the Consultant must fully review all submitted materials and provide a response in writing recommending acceptance or rejection

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within 7 calendar days. If the Consultant recommends rejection of the contractor's submittal, the Consultant must provide a detailed written response identifying the specific deficiencies and needed corrections.

All deliverables for work related to change orders must be submitted to the County within 7 calendar days, except that work required in response to a price quote received from a County contractor for a County requested change order must be completed within 5 business days. The County may request an earlier deadline for specific submittals depending on the circumstances, in which case Consultant must use its best efforts to submit deliverables in the time frames requested.

At the County's request, Consultant may be required to apportion proposed change order designs into phased or segmented groups to ensure each proposal can be administratively processed in accordance with County requirements.

In the event Consultant fails to fully comply with the requirements of this section, the Consultant will be liable to the County for damages or expenses resulting from a change order becoming deemed approved by operation of statute.

SECTION 4 - PERFORMANCE SCHEDULES

The consultant shall plan and execute the performance of all services provided for under this Agreement in such a manner as to insure their proper and timely completion in accordance with the following:

- A. The work assignments to be performed by the consultant shall commence upon receipt, from the County, of a written notice to proceed from the County's director of Solid Waste or designee who is a County employee.
- B. The consultant's performance schedule for any authorized work assignments shall be established upon the County's acceptance and approval of a detailed schedule to be submitted, by the consultant, prior to each assignment.
- C. Each individual work assignment issued to the consultant must have at least a 10% financial commitment to a certified Pinellas County small business enterprise subconsultant for individual work assignments valued at \$50,000.00 or greater. If the prime firm is an SBE, the requirement is already satisfied.

SECTION 5 - INFORMATION AND SERVICES TO BE FURNISHED BY THE COUNTY

The County shall provide the following for the consultant's use and guidance:

- A. Copies of existing maps, existing aerial photographs, as-built construction plans and data pertinent to work assignments, which the County may have in its possession.
- B. Sample copies of the County standard contract documents and specifications, if required.

SECTION 6 - PAYMENT SCHEDULE/INVOICING REQUIREMENTS

1. The County shall make payments to the consultant for work performed in accordance with the local government prompt payment act, F.S. Section 218.70 et. Seq.
2. Should an invoiced amount for fees earned appear to exceed the work effort believed to be completed, or not to exceed amount approved, the County may, prior to processing of the invoice for payment, require the consultant to submit satisfactory evidence to support the invoice. All invoices requesting payment for reimbursable, or expense items (as defined in the Compensation to the Consultant Section below) must have copies of actual billings, invoices, or receipts attached which support the amount invoiced.
3. The consultant shall provide a progress report with each invoice in a format to be provided by the County. The progress report shall include a written narrative describing the work performed that period, and the work planned to be completed the following period. All progress reports shall be mailed to the attention of the designated project manager.
4. Supplier shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of section 218.70 et. Seq, Florida statutes, "the local government prompt payment act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance division accounts payable

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Pinellas County board of County commissioners

P. O. Box 2438

Clearwater, FL 33757

Each invoice shall include, at a minimum, the supplier's name, contact information and the standard purchase order number. The County may dispute any payments invoiced by supplier in accordance with the County's dispute resolution process for invoiced payments, established in accordance with section 218.76, Florida statutes, and any such disputes shall be resolved in accordance with the County's dispute resolution process

SECTION 7 - COMPENSATION TO THE CONSULTANT

1. The County shall compensate the consultant for authorized work assignments using the following methods of compensation. The method of compensation shall be determined by the County based on the work assignment to be performed.
 - A. For work assignments where the scope can be reasonably defined, and have a specific time frame, compensation shall be a lump sum fee negotiated and agreed upon prior to the assignment's authorization. This fee shall be the total and complete amount payable to the consultant for performance of the work assignment and shall include the cost of all labor, overhead, profit, and expenses of any nature.
 - B. For indeterminate work assignments, compensation shall be on an hourly rate basis, compensation shall be for the actual work performed in accordance with the schedule of rate value attached to this Agreement and incorporated herein as exhibit a.
2. The upset limit for all compensation to be paid under the maximum five year term of this Agreement is an amount not to exceed **\$7,000,000.00**. Total payments to the consultant may not exceed this amount without board of County commissioners or County administrator's approval to raise this upset limit. This Agreement contains one (1) additional twenty-four (24) month term extension option, based upon performance, beyond the primary Agreement period.
3. In the event that this Agreement is terminated under the provisions of this contract the total and complete compensation due the consultant shall be as established by the County based on the County's determination of the percentage of work effort completed to date of termination.

SECTION 8 - WORK ASSIGNMENT

1. The County and the consultant shall mutually agree on scope of services based on individual work assignment as needed throughout the Agreement term, thus work assignment authorization by an approved purchase order.
2. The consultant shall perform no services contemplated to merit compensation beyond that provided for in detailed work assignment unless such services and compensation, therefore, shall be provided for by appropriate written authorization via an amendment.

SECTION 9 - ASSIGNMENT/SUBCONTRACTING/CORPORATE ACQUISITIONS AND/OR MERGERS

1. The consultant shall perform this contract. No assignment or subcontracting shall be allowed without prior written consent of the County. If a proposer intends to subcontract a portion of this work, the proposer must disclose that intent to the County. In the event of a corporate acquisition and/or merger, the consultant shall provide written notice to the County within 30 business days of consultant's notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this contract, which shall not be unreasonably exercised by the County, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws.
2. The County reserves the right to review the qualifications of any and all subconsultants, and to reject any subconsultant in a proper and timely manner, deemed not qualified. The consultant may propose an alternate and/or additional subconsultant, other than the subconsultant(s) provided in the Agreement, however, the consultant: 1) shall provide a written explanation to the purchasing department and the responsible County department director or authorized designee for the alternate and/or additional subconsultant prior to the engagement; and 2) must receive written approval from the responsible County department director or authorized designee prior to the engagement.

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Alternate and/or additional subconsultants shall have labor/equipment rates and labor categories consistent with those presented in the Agreement and shall not cause an increase to the original contract award amount. If the labor/equipment rates and labor categories offered by the alternate and/or additional subconsultant are not contained in the Agreement, the consultant must verify in writing to the purchasing department and the responsible County department director or authorized designee that the rates for the services and equipment provided are fair and reasonable and shall not cause an increase to the original contract award amount.

SECTION 10 - SATISFACTORY PERFORMANCE

All services to be provided by the consultant under the provisions of this Agreement, including services to be provided by subconsultants, shall be performed to the reasonable satisfaction of the County's designated departmental director or designed.

SECTION 11 - RESOLUTION OF DISAGREEMENTS

1. The County shall reasonably decide all questions and disputes, of any nature whatsoever, that may arise in the execution and fulfillment of the services provided for under this Agreement.
2. The decision of the County upon all claims, questions, disputes and conflicts shall be final and conclusive, and shall be binding upon all parties to this Agreement, subject to judicial review.

SECTION 12 - CONSULTANTS ACCOUNTING RECORDS

1. Records of expenses pertaining to all services performed shall be kept in accordance with generally accepted accounting principles and procedures.
2. The consultant's records shall be open to inspection and subject to examination, audit, and/or reproduction during normal working hours by the County's agent or authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the consultant or any of his payees pursuant to the execution of the Agreement. These records shall include, but not be limited to, accounting records, written policies and procedures, subconsultant files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this Agreement. They shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. The County shall not audit payroll and expense records on work assignments paid by lump sum fee.
3. The County reserves the privilege of auditing a vendor's records as such records relate to purchases between the County and said vendor. Such audit privilege is provided for within the text of the Pinellas County code 2-176(j). Records should be maintained for 5 years from the date of final payment.
4. The County's agent or authorized representative shall have access to the consultant's facilities and all necessary records in order to conduct audits in compliance with this section. The County's agent or authorized representative shall give the consultant reasonable advance notice of intended inspections, examinations, and/or audits.

SECTION 13 - OWNERSHIP OF PROJECT DOCUMENTS

Upon completion or termination of this Agreement,

1. Drawings, specifications, designs, models, photographs, reports, surveys, calculations, and other data provided in connection with this Agreement are and shall remain the property of the County whether the project for which they are made is executed or not. Such finished or unfinished documents, data, calculations, studies, surveys, specifications, drawings, maps, models, photographs and reports prepared by the consultant shall be delivered by the consultant to the County at the conclusion of the project or the termination of the consultant's services.
2. The consultant at its own expense may retain copies for its files and internal use.

SECTION 14 - INSURANCE COVERAGE

The Consultant must maintain insurance in at least the amounts required in the Request for Qualification throughout the term of this contract. The Consultant must provide a Certificate of Insurance in accordance with Insurance Requirements of the Request for Qualification, evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Contract. See Section C Insurance Requirements – Attached.

AGREEMENT**SECTION 15 - EQUAL EMPLOYMENT OPPORTUNITY CLAUSE FOR CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out the contract, the consultant shall not discriminate against employees or applicants for employment because of race, color, religion, sex or national origin.

SECTION 16 - INDEPENDENT CONTRACTOR STATUS AND COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant acknowledges that it is functioning as an independent Consultant in performing under the terms of this contract, and it is not acting as an employee of Pinellas County. The consultant acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et seq., and regulations relating thereto. Failure to comply with the above provisions of the contract shall be considered a material breach and shall be grounds for immediate termination of the contract.

SECTION 17 - PROHIBITION AGAINST CONTINGENT FEE

The consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the consultant to solicit or secure this contract and that he has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the consultant, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this contract.

SECTION 18 - TRUTH IN NEGOTIATIONS

The consultant certifies to truth-in-negotiation and that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Further, the original contract amount and any additions thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within 1 year following the end of the contract.

SECTION 19 - SUCCESSORS AND ASSIGNS

The consultant shall not assign, sublet, or transfer his interest in this Agreement without the written consent of the County.

SECTION 20 - INDEMNIFICATION

If the consultant is an individual or entity licensed by the state of Florida who holds a current certificate of registration or is qualified under chapter 481, Florida statutes, to practice architecture or landscape architecture, under chapter 472, Florida statutes, to practice land surveying and mapping, or under chapter 471, Florida statutes, to practice engineering, and who enters into a written Agreement with the County relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement, the consultant will indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the consultant and other persons employed or utilized by the consultant in the performance of the Agreement.

SECTION 21 - INTEREST ON JUDGMENTS

In the event of any disputes between the parties to this Agreement, including without limitations thereto, their assignees and/or assigns, arising out of or relating in any way to this Agreement, which results in litigation and a subsequent judgment, award or decree against either party, it is agreed that any entitlement to post judgment interest, to either party and/or their attorneys, shall be fixed by the proper court at the rate of 5%, per annum, simple interest. Under no circumstances shall either party be entitled to pre-judgment interest. The parties expressly acknowledge and, to the extent allowed by law, hereby opt out of any provision of federal or state statute not in Agreement with this paragraph

SECTION 22 - TERMINATION OF AGREEMENT

1. Pinellas County reserves the right to terminate this contract without cause by giving 30 days prior notice to the consultant in writing of the intention to terminate or with cause if at any time the consultant fails to fulfill or abide by any of the terms or conditions specified.

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2. Failure of the consultant to comply with any of the provisions of this Agreement shall be considered a material breach of Agreement and shall be cause for immediate termination of the Agreement at the discretion of Pinellas County.
3. In the event sufficient budgeted funds are not available for a new fiscal period, the County shall notify the bidder of such occurrence and Agreement shall terminate on the last day of current fiscal period without penalty or expense to the County.
4. In addition to all other legal remedies available to Pinellas County, Pinellas County reserves the right to terminate and obtain from another source, any items which have not been delivered within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order as determined by Pinellas County.

SECTION 23 - AGREEMENT TERM

1. This Agreement will become effective on the date of execution first written above and shall remain in effect for five (5) years, unless terminated at an earlier date under other provisions of this Agreement, or unless extended for a longer term by amendment. The negotiated rates shall remain fixed for the first five (5) year term however, the County reserves the right to re-negotiate rates based on current market conditions. The hourly rates provided are fully loaded and include all labor, overhead, expenses and profit of any nature including travel within the Tampa bay metropolitan statistical area. Travel outside of the Tampa bay metropolitan statistical area will be reimbursed in accordance with section 112.061 F.S. And/or the County travel policy, as approved by the County.
2. This Agreement may exercise a term extension subject to written notice of Agreement from the County administrator and consultant, for one (1) additional twenty-four (24) term extension, beyond the primary Agreement period. This term extension shall be exercised only if all terms and conditions remain the same. Rates will be subject to negotiation based on current market conditions.

SECTION 24 - CONFLICT OF INTEREST

1. By accepting award of this contract, the consultant, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of services required hereunder, including as described in the consultant's own professional ethical requirements. An interest in a business or activity which shall be deemed a conflict includes but is not limited to direct financial interest in any of the material and equipment manufacturers suppliers, distributors, or consultants who will be eligible to supply material and equipment for the project for which the consultant is furnishing its services required hereunder.
2. If, in the sole discretion of the County administrator or designee, a conflict of interest is deemed to exist or arise during the term of the contract, the County administrator or designee may cancel this contract, effective upon the date so stated in the written notice of cancellation, without penalty to the County.

SECTION 25 - EXTENT OF AGREEMENT

This Agreement represents, together with the RFQ, addenda, the proposer's response, any exhibits, the entire written Agreement between the County and the consultant and may be amended only by written instrument signed by both the County and the consultant.

SECTION 26 - PUBLIC ENTITY CRIMES

Consultant is directed to the Florida Public Entity Crime act, Fla. Stat. 287.133, and Fla. Stat. 287.135 regarding scrutinized companies, and consultant agrees that its bid and, if awarded, its performance of the Agreement will comply with all applicable laws including those referenced herein. Consultant represents and certifies that consultant is and will at all times remain eligible to bid for and perform the services subject to the requirements of these, and other applicable, laws. Consultant agrees that any contract awarded to consultant will be subject to termination by the County if consultant fails to comply or to maintain such compliance.

The consultant is directed to the Florida Public Entity Crime Act, §287.133, Florida Statutes, and the County's requirement that the successful proposer comply with it in all respects prior to and during the term of this contract.

SECTION 27 - PUBLIC RECORDS

Consultant acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Consultant agrees that prior to

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providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Consultant agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.

CONTRACTOR'S DUTY

If the contractor has questions regarding the application of Chapter 119, Florida Statutes, to the contractor's duty to provide public records relating to this agreement, the contractor shall contact:

Pinellas County Board of County Commissioners

Purchasing and Risk Management Division

400 S. Ft. Harrison Ave, 6th Floor,

Clearwater, FL 33756

Public Records Liaison

Phone : 727-464-5139

Email : wharvey@pinellas.gov

AGREEMENT**SECTION 28 - GOVERNING LAW AND AGREEMENT EXECUTION**

This Agreement shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, the parties herein have executed this Agreement as of the day and year first written above.

PINELLAS COUNTY, FLORIDA, a

Political subdivision of the State of

Florida, by and through its

Board Of County Commissioners

Chairman

Date: _____

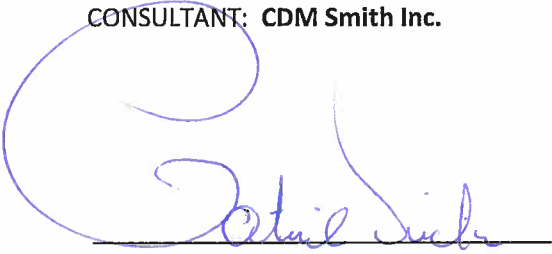
ATTEST: Ken Burke, Clerk of the Circuit

Court

Deputy Clerk

Date: _____

CONSULTANT: CDM Smith Inc.



Authorized Signature

Printed Authorized Signature

Sr Vice President

Title Authorized Signature

APPROVED AS TO FORM

By: Miles Belknap
Office of the County Attorney



EXHIBIT A – HOURLY RATE SHEETS

Subject: 26-0406-RFQ-CCNAC – Waste to Energy – Continuing Professional Engineering Services

Classification	WTE Proposed Rates
Accounting/Admin	\$150.00
Construction Field Service	\$240.00
Designer	\$160.00
GIS Technician	\$170.00
In-House Consultant	\$280.00
Inspector	\$145.00
Intern	\$140.00
Officer/Vice President	\$330.00
Operations Specialist	\$260.00
Principal/Associate	\$310.00
Professional	\$260.00
Project Control Specialist	\$200.00
Project Engineer	\$240.00
Project Manager	\$270.00
Senior Construction Manager	\$280.00
Senior Designer	\$210.00
Senior Engineer	\$280.00
Senior Inspector	\$190.00
Senior Project Manager/Senior Professional	\$295.00
Senior QA-QC/Tech Advisor/Tech Specialist	\$325.00
Specifications Writer	\$260.00
Staff Engineer	\$200.00



Fee Schedule

Earthshine Environmental, Inc.

Pinellas County Waste to Energy- Continuing Professional Engineering Services

Contract No. 26-0406-RFQ-CCNAC

<u>Title</u>	<u>Billing Rate</u>
Officer/Principal	\$290/hour
Senior Professional Scientist/Engineer	\$265/hour
Operations Specialist	\$260/hour
Project Engineer/Scientist	\$230/hour
Staff Engineer/Scientist	\$185/hour
Administrative Support	\$105/hour
Senior CAD/drafting Services	\$175/hour
Technician	\$130/hour

EXHIBIT B – SCOPE OF WORK**SECTION E – SCOPE OF WORK****A. OBJECTIVE:**

The Pinellas County Solid Waste department is issuing this Request for Qualifications (RFQ) to obtain professional engineering consultation on operational and maintenance activities and issues associated with the Pinellas County Waste to Energy Facility including the preparation and review of operating and maintenance reports, conducting facility inspections, and providing project and construction support services.

B. BACKGROUND:

The Pinellas County Solid Waste department (SWD) owns a Waste to Energy Facility (WTE) with a designed waste throughput capacity of 3,000 tons per day and electrical generation capacity of 75 Megawatts. The WTE is operated by a qualified third-party vendor (FCC Environmental). SWD maintains a Solid Waste Master Plan with a vision of Zero Waste to Landfill by 2050 and continued reliable operation of the WTE is a key strategy to help achieve that vision. The services provided under this RFQ includes but is not limited to WTE operation monitoring and reporting, environmental emissions monitoring and reporting support, electrical generation support services, project support services related to waste and residue processing and recycling, surveying and mapping support services, and design and construction support services related to WTE operating, processing and electrical generation improvements.

C. SCOPE OF WORK:

The Consultant shall furnish all services, equipment and manpower necessary for the work assignment in accordance with the intent of the Agreement.

If required, design activities shall be supported by design calculations properly identified as to subject and topic. Design references and any assumptions shall be noted. Calculations, if required, shall be in conformance with standard engineering practices. Design notes and computations shall be properly indexed as to content. All documents shall receive quality control checks and reviews.

If required, the Consultant shall provide a file of the proposed design in AutoCAD latest version supported by Pinellas County, complete with all objects depicted according to software requirements.

The Consultant shall provide the following, as requested:

- WTE operations monitoring and upkeep of an ongoing maintenance punchlist,
- WTE report review services,
- WTE inventory support and audit services,
- WTE environmental support services,
- WTE water/wastewater support services,
- Support to County staff in development of various scope of services,
- Reviews of plan submittals, engineering calculations, schedules and other technical documents,
- Quality control and constructability reviews of plans,
- Project implementation services for design such as infrastructure studies and investigations, project scope preparation, project design, conduct/assist in Public Information Meetings, Utility Coordination, Land Surveying Services, Geotechnical Services, Access Connection and Environmental Permitting Services, Cost Estimating, Construction Engineering and Inspection,
- Project Management support and preparation of independent cost estimates,
- Status meetings at a minimum of one each month,
- Any other miscellaneous engineering services requirement by the County as directed by County's designated Director or Designee who is a County Employee,
- Design Phase (Services to be defined with each specific work assignment),
- Bidding Phase (Services to be defined with each specific work assignment),
- Other Engineering Services. (Services to be defined with each specific work assignment),
- Survey Work – Assist the County in conducting surveys of construction projects proposed for landfill operation and permitting. All surveys shall be certified by a Professional Land Surveyor (PLS),
- Copy and Reproduction Support – Assist the County in production support of major documents such as permit applications, feasibility studies, design modifications and closure plans,

EXHIBIT B – SCOPE OF WORK

- Miscellaneous Figures, As-built Drawings, Maps – Prepare figures, design drawings, maps, specifications, as-builts, etc., for the County when requested. All design support shall be performed on AutoCAD, latest version.
- The consultant shall also provide miscellaneous services not otherwise described but required by the County during the course of this Agreement. Examples could include presentations to local government, citizen groups and regulatory agencies, or any other tasks associated with the County's operations.

EXHIBIT C – INSURANCE REQUIREMENTS**1. INSURANCE:**

The Vendor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to recommendation for award.

The Vendor shall obtain and maintain and require any subcontractor to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Vendor shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

- A. Submittals should include, the Vendor's current Certificate(s) of Insurance. If Vendor does not currently meet insurance requirements, Vendor shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

Upon selection of Vendor for award, the selected Vendor shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Political Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County, a Political Subdivision of the State of Florida shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be provided if Workers Compensation coverage is a requirement.**

- B. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the Bid and/or contract period.
- C. If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the Work, you will be notified by COI360, the authorized vendor of Pinellas County. Upon notification, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished to Pinellas County Risk Management at InsuranceCerts@pinellas.gov and to COI360 c/o MDi Data at PinellasSupport@MDiclaims.io by the Vendor or their agent prior to the expiration date.
- 1) Vendor shall also notify County within seventy-two (72) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Vendor from its insurer. Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellas.gov. Nothing contained herein shall absolve Vendor of this requirement to provide notice. Regardless of notification, it remains the Vendor's obligation to, at all times, maintain the requisite insurance.
 - 2) Should the Vendor, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement,
- D. If subcontracting is allowed under this Bid, the Primary Vendor shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

All subcontracts between the Vendor and its Subcontractors shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall

1. Require each Subcontractor to be bound to the Vendor to the same extent the Vendor is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the Subcontractor;
2. Provide for the assignment of the subcontracts from the Vendor to the County at the election of Owner upon termination of the Contract;
3. Provide that County will be an additional indemnified party of the subcontract;

EXHIBIT C – INSURANCE REQUIREMENTS

4. Provide that the County will be an additional insured on all insurance policies required to be provided by the Subcontractor except workers compensation and professional liability;
5. Provide a waiver of subrogation in favor of the County and other insurance terms and/or conditions
6. Assign all warranties directly to the County; and
7. Identify the County as an intended third-party beneficiary of the subcontract. The Vendor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Section C and identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

E. Each insurance policy and/or certificate shall include the following terms and/or conditions:

- 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
- 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Vendor.
- 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
- 4) All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

- 1) **Workers' Compensation Insurance** Worker's Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker's Compensation Insurance is required, employer's liability, also known as Worker's Compensation Part B, is also required in the amounts set forth herein.

Limits

Employers' Liability Limits	Florida Statutory
Per Employee	\$ 500,000
Per Employee Disease	\$ 500,000
Policy Limit Disease	\$ 500,000

If Vendor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker's Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

- 2) **Commercial General Liability Insurance** including, but not limited to, Independent Vendor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

EXHIBIT C – INSURANCE REQUIREMENTS

- 3) **Professional Liability (Errors and Omissions) Insurance** with at least minimum limits as follows. If “claims made” coverage is provided, “tail coverage” extending three (3) years beyond completion and acceptance of the project with proof of “tail coverage” to be submitted with the invoice for final payment. In lieu of “tail coverage”, Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing “claims made” insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim	\$ 5,000,000
General Aggregate	\$ 5,000,000

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

- 4) **Property Insurance** Vendor will be responsible for all damage to its own property, equipment and/or materials.