

**CONTRACT FOR PRINTING AND MAILING SERVICES FOR THE  
ROGERS WATER UTILITIES**

This Contract For Printing and Mailing Services for the Rogers Water Utilities (“this Contract”) is entered into by the Rogers Water Utilities of the City of Rogers, Arkansas, the municipal water and sewer utility of the City of Rogers, Arkansas (“RWU”), operating under the supervision and management of the Rogers Waterworks and Sewer Commission of the City of Rogers, Arkansas (“the Commission”) and \_\_\_\_\_,[name of entity] a \_\_\_\_\_[description of entity type] operating under the registered fictitious name of \_\_\_\_\_ whose corporate address is \_\_\_\_\_ (“Contractor”).

**Recitals**

**WHEREAS**, RWU published that certain Invitation for Bid, RFQ # RWU-2021-09-01, Printing and Mailing Services (“IFB”); and

**WHEREAS** Contractor responded to an Invitation for Bid (IFB) and demonstrated that it satisfied the requirements for the Invitation for Bid, and

**WHEREAS** Contractor was awarded this Contract pursuant to the IFB Process; and

**WHEREAS** RWU and Contractor now desire to enter into this Contract;

**NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties Agree as follows:**

1. **Printing and Mailing Services to be Provided.** During any term of this Contract and any renewals or extensions thereof, Contractor shall perform the following Printing and Mailing Services for RWU.

a) **Print and Mail Monthly Bills:** Print and mail bills and related notices each month, including, without limitation:

1. Regular bills with return envelopes
2. Regular bills without return envelopes (for customers on automated draft with RWU)
3. “Late” bills/overdue notices with return envelopes (if applicable)
4. Shut off notices;

5. Other billing documents requested as requested by RWU.

Bills and notices must be printed in the format specified by RWU.

b. **Print and Mail Special Notices:** Print out and mail special notices and other documents as needed.

c. **Perform Daily Mail Pickup.** Pick up mail items at RWU Administration Office, 601 S. 2<sup>nd</sup> Street, Rogers, AR and deliver to postal service for mailing.

d. **Perform other printing and mailing services** as requested by RWU and Agreed to by Contractor.

2. **Performance Standards.** The following performance standards will apply to all services provided by Contractor under this Contract.

Contractor will promptly respond to RWU's requests for services and, in any event, within one business day of RWU's request during regular business hours Monday through Friday, legal holidays excluded. Contractor will thereafter proceed to provide the requested services as soon as possible with Contractor's best efforts. Contractor will respond to emergency service requests outside regular business hours and on legal holidays as soon as possible and will thereafter proceed to provide the requested services as soon as possible with Contractor's best efforts.

Contractor will print bills, notices, and other documents in the formats and colors and content specified by RWU. Contractor's printing and mailing work shall be of high quality and free from errors. In the event of an error caused by Contractor, Contractor will promptly remedy the error and reprint the item and remail (as needed) the item of printing within one business day of being notified of the error.

If these performance standards are not met, Contractor acknowledges that RWU's damages will be difficult to calculate. Accordingly, for each failure of these performance standards, RWU may assess against Contractor liquidated damages in the amount of \$50.00 per failure, and continuing for \$50.00 per day until the performance issue is resolved, as liquidated damages and not a penalty, said damages to be withheld from RWU's payment to Contractor as specified under Paragraph 3 below.

### 3. **Payment to Contractor for Printing and Mailing Services**

During the initial term of this Contract, RWU shall pay Contractor for billing and printing services as follows:

[insert payment terms resulting from bid and negotiation]

Contractor shall submit to RWU its invoice for services performed the previous month no later than the fifth business day of each month. Payment to Contractor shall be made within 30 days of receipt of Contractor's invoice.

If RWU disputes the amount due under any invoice, RWU will promptly notify Contractor of the dispute and the parties will attempt to resolve the dispute by mutual agreement, if possible.

RWU, before making payments, may require the Contractor to furnish releases or receipts for any or all persons performing work and supplying material or services to the Contractor, or any sub-contractors for work under this Contract, if this is deemed necessary to protect RWU's interests.

4. **Contractor's Obligations.** Contractor shall and will, in accordance with applicable professional standards perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, necessary or proper to provide the goods and perform and complete all the work required by this Contract, in accordance with the provisions of this Contract and said specifications. The apparent silence of the specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that the best professional practices are to prevail. While the purpose of the specifications is to indicate minimum requirements in the way of capability, performance, construction, and other details, its use is not intended to deprive RWU the option of selecting goods or services which may be considered more suitable for the purpose involved. The terms of this Contract, the IFB, and negotiated written standards shall control over any verbal statements.

5. **Care of Work.** Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the work performed and shall indemnify and hold RWU harmless as stated in the Indemnity and Hold Harmless Provision herein.

6. **Compliance with Law.** Contractor shall observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affects the completion of the work. Contractor is responsible for securing whatever permits, licenses, permissions, certificates, etc. required for the activities undertaken by contractor pursuant to this Contract. Contractor will not act under this Contract to cause RWU, the Commission, or the City of Rogers, Arkansas to violate any applicable local, state or federal laws and/or regulations. Any provision of law required to be inserted into this Contract shall be deemed to be inserted herein.

7. **Contractor Shall Safeguard Information of RWU and RWU's Customers.** In the course of performing services under this Contract, Contractor will or may have access to certain information about RWU and/or RWU's customers, which may be confidential under law, including, without limitation, certain personal information of current and former customers of RWU ("confidential information"). Contractor shall safeguard and keep confidential all confidential information. Contractor shall enter into RWU'S Contractor Non-Disclosure Agreement, as may be modified for this Contract, regarding Contractors' obligations with respect to maintaining confidentiality of confidential information.

7.1 **Contractor Obtains No Rights to RWU's Information.** Contractor shall have no rights to use any of RWU's information or work products, including, without limitation, any of RWU's templates, formats, bills, notices, computer files, or mailing lists for any other project or customer. RWU retains all rights and intellectual property rights to RWU's information, documents, and materials.

8. **Insurance.** Contractor states it has, and will maintain at its sole expense, during the term of this Contract insurance in the following types and amounts, and pursuant to the following terms and conditions:

All insurance must be written by an insurer licensed to conduct business in the State of Arkansas or other applicable jurisdiction, unless otherwise permitted by RWU. The Contractor shall, at its own expense, purchase, maintain and keep in force insurance of the following types and limits that will protect against injury and/or damages which may arise out of or result from operations under this Contract, whether the operations be by itself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Standard Worker's Compensation Insurance as required by law;
2. Commercial General Liability occurrence type insurance (RWU, the Commission, the City and their officers, agents, and employees must be named as an additional insureds):
  - a. Bodily injury \$1,000,000 single limit per occurrence or \$500,000 each person /\$1,000,000 per occurrence; and,
  - b. Property Damage \$1,000,000 per occurrence; and,
  - c. Minimum aggregate policy year limit of \$2,000,000.
3. Commercial Automobile Liability Insurance (Including owned, non-owned and hired vehicles coverage's):
  - a. Minimum combined single limit of \$1,000,000 per occurrence, for bodily injury and property damage;

b. If individual limits are provided, minimum limits are \$300,000 per person, \$500,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.

4. Cyber liability insurance, privacy protection insurance, data breach insurance and/or such other insurance, however denominated, for risks associated with the Contractors' performance under this Contract in an amount no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate per policy year.

5. Umbrella/Excess Liability (Each occurrence and aggregate) \$2,000,000

Contractor shall cause Contractor's insurance company or insurance agent to fill in all information required (including names of insurance agency, contractor and insurance companies, and policy numbers, effective dates and expiration dates) and to date and sign and do all other things necessary to complete and make into valid certificates of insurance and pertaining to the above listed items, and before commencing any of the work and within the time otherwise specified, Contractor shall file completed certificates of insurance with RWU.

None of the provisions in said certificate of insurance shall be altered or modified in any respect except as herein expressly authorized. Said CERTIFICATE OF INSURANCE Form shall contain a provision that coverage afforded under the policies will not be altered, modified or canceled unless at least thirty (30) days prior written notice has been given to RWU. Contractor shall also file with RWU a valid CERTIFICATE OF INSURANCE on like form from or for all Subcontractors and showing the Subcontractor (s) as the Insured. Said completed CERTIFICATE OF INSURANCE Form (s) shall in any event be filed with RWU not more than ten (10) days after execution of this Contract.

9. **Term.** The term of this Contract begins when it is signed by both parties hereto ("Effective Date") and, unless terminated sooner, shall continue for a period of one (1) year from the Effective Date. This Contract may be renewed for six additional one (1) year periods, upon mutual agreement by the Parties, provided that the requirements of Ark. Code. Ann. §19-11-238 are met. In the event of nonappropriation or nonavailability of funds to support RWU's performance in any year of the Contract, this Contract shall automatically terminate. In the event of termination for any reason, all services provided by Contractor under this Contract shall cease.

Prior to renewal, RWU and Contractor may attempt to reach agreement on the prices to be charged by Contractor for services during any renewal term. In no instance shall the prices for services under this Contract be increased by more than three percent (3%) over the prices charged in the previous term or renewal term. If RWU and Contractor do not agree on the prices to be charged during any upcoming renewal term, then this Contract shall not be renewed. If this Contract is not renewed, then this Contract, unless terminated sooner, will terminate at the end of the then existing term.

10. **Termination of Contract for Cause.** This Contract may be terminated by RWU in the event Contractor fails to perform its obligations under this Contract. Prior to termination for cause, RWU shall give Contractor written notice describing the Contractor's breaches. Contractor shall then have fifteen (15) days to cure all breaches. If Contractor's breaches are not cured within this time limit, then RWU may proceed to terminate this Contract by giving written notice of termination to Contractor. Termination is not RWU's exclusive remedy and RWU may further seek all other legal and equitable remedies available to it arising from Contractor's breach.

11. **Termination of Contract for Convenience.** This Contract may be terminated by RWU at any time by giving Contractor at least thirty (30) days' notice in writing to Contractor. If the Contract is terminated by RWU as provided herein, the Contractor will be paid for the goods and services it has provided up to the termination date. If this contract is terminated due to fault of the Contractor, the previous paragraph hereof relative to termination shall apply.

12. **Termination of Contract to Comply with Law or Obligations.** This contract may be terminated by RWU at any time in the event RWU determines, in its sole discretion, that this Contract will violate any applicable law or constitute or cause a condition of default or breach on the part of RWU, the Commission, or the City of Rogers, Arkansas under any other contracts or agreements.

13. **Record Retention.** Contractor shall maintain all pertinent financial and accounting records and evidence pertaining to this Contract in accordance with generally accepted principles of accounting and as specified by Arkansas Law. Contractor shall make financial and accounting records available, upon request, to RWU or RWU's designee(s) at any time during this Contract period and any extension thereof, and for five (5) years from expiration date and final payment on this Contract or extension or renewal thereof.

14. **Cancellation.** In the event RWU no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), RWU **shall** have the right to cancel this Contract by giving the Contractor written notice of such cancellation thirty (30) days prior to the date of cancellation. Any delivered but unpaid for goods will be returned in normal condition to the Contractor by RWU.

15. **Cooperation by Contractor in the event of Termination or Cancellation.** At the termination or cancellation, for any reason, of this Contract, Contractor shall cooperate with RWU to effect an orderly transfer of services to RWU or RWU's designee, including, without limitation, providing RWU or RWU's designee with all templates, computer files, digital media, passwords, diagrams, charts, licenses, reports, manuals, or any other data or information pertaining to the services provided by Contractor under this Contract, so that RWU experiences no lapse in services provided pursuant to this Contract.

16. **Non-discrimination:** In order to comply with applicable law relating to unfair employment practices, Contractor agrees that: (a) the Contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, national origin, genetic information, sexual orientation, gender identity, transgender status; or any other protected status recognized by state or federal law; (b) in all solicitations or advertisements for employees, the Contractor will state that all qualified applicants will receive consideration without regard to the categories listed in subsection (a); (c) the Contractor will furnish such relevant information and reports as requested by RWU for the purpose of determining compliance with any applicable law or regulation; (d) failure of the Contractor to comply with applicable law or regulations concerning nondiscrimination and this nondiscrimination clause shall be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor will include the provisions of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or prospective subcontractor.

17. **No Contingent Fee.** Contractor guarantees that it has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business.

18. **Antitrust Assignment.** As part of the consideration for entering into this, Contractor hereby assigns, sells and transfers to RWU and the Commission all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or Arkansas for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by RWU pursuant to this Contract.

19. **Contractor's Obligation of Indemnity.** Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless RWU, the Commission, and the City of Rogers, Arkansas and their officers, officials, employees, and representatives, individually and collectively, for all causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, including but not limited to, bodily injury (including death), personal injury, environmental contamination (including, without limitation, contamination to RWU's property), property damage (including, without limitation, damages to RWU's property), expenses, and reasonable attorneys' fees, of whatever nature, including, without limitation, any damages or losses resulting from claims asserted by third parties; (i) due to any negligent or intentional act or omission on the part of Contractor, its agents, employees, or others working at the direction of Contractor or on its behalf, (ii) due to Contractor's breach of any Contract with any third-party, or (iii) due to Contractor's violation of any pertinent federal, State, or local law, rule, or regulation, and (iv) any other act or omission in connection with services performed pursuant to this Contract. Contractor will promptly reimburse RWU, the Commission or the City of Rogers (as applicable) within thirty (30) days of being provided documentation supporting any costs

incurred by RWU, the Commission, or the City of Rogers for the costs of their respective defense, including attorneys' fees and costs, incurred in defense of any claims asserted by third parties. This indemnity and hold harmless provision shall survive termination of this Contract until the expiration of any applicable statutes of limitation.

This indemnity and hold harmless provision shall not be construed to limit the application of any of Contractor's insurance policies which would provide coverage for causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, listed above. To the extent this indemnity and hold harmless provision implicates any exclusion or other provision of any of Contractor's insurance policies that would exclude coverage for liability assumed by contract, or any like exclusion, then this indemnity and hold harmless provision shall not apply to the causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, for which coverage would otherwise be excluded, it being the intent of the parties that RWU have the maximum benefit of any insurance held by Contractor.

20. **RWU Not Responsible for Contractor Owned Items.** RWU will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of Contractor-owned equipment or software and technical and business or operations literature to be delivered or to be used in the installation of deliverables and services. The Contractor will retain total liability for equipment, software and technical and business or operations literature. RWU will not at any time be responsible for or accept liability for any Contractor-owned items.

21. **No Joint Venture. No Third-Party Beneficiaries.** This Contract is made at arm's length between two independent contracting parties. Nothing in this Contract shall be deemed to create a joint venture, partnership, tenancy in common, joint tenancy, or any similar relationship between the parties or require either party to engage in further business relationships between the parties. The parties further agree that there are no third-party beneficiaries of this Contract and that no person or entity, other than the parties hereto (and in the case of RWU, the Commission and the City of Rogers) shall have standing to enforce the terms of this Contract.

22. **RWU Property.** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for use hereunder shall remain property of RWU, be kept confidential, be used only as expressly authorized and returned at the contractor's expense to the F.O.B. point properly identifying what is being returned.

23. **Licenses, Patents, and Copyrights.** Contractor agrees to indemnify and hold RWU, the Commission, and the City of Rogers, Arkansas harmless from all causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, arising from infringement of licenses, patents or copyrights.



This indemnity and hold harmless provision shall not be construed to limit the application of any of Contractor's insurance policies which would provide coverage for causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, listed above. To the extent this indemnity and hold harmless provision implicates any exclusion or other provision of any of Contractor's insurance policies that would exclude coverage for liability assumed by contract, or any like exclusion, then this indemnity and hold harmless provision shall not apply to the causes of action, claims, demands, liabilities, losses, costs, or expenses for any loss, for which coverage would otherwise be excluded, it being the intent of the parties that RWU have the maximum benefit of any insurance held by Contractor.

24. **Certification of Compliance with Ark. Code. Ann. § 25-1-503.** Pursuant to Ark. Code. Ann. § 25-1-503, Contractor hereto certifies that it is not currently engaged in a boycott of Israel. Contractor further agrees for the duration of the Contract not to engage in a boycott of Israel.

25. **Prohibition on Employment of Illegal Immigrants.** Contractor agrees and certifies that it does not employ or contract with illegal immigrants and will not employ or contract with illegal immigrants during the aggregate term of a contract.

26. **No Assignment of Rights or Delegation of Duties.** Contractor shall not assign its rights under this Contract without the express written permission of RWU. Nor shall Contractor delegate its duties under this Contract without the express written permission of RWU. Contractor may not employ subcontractors to perform services under this Agreement without the expression written permission of RWU.

27. **Choice of Law and Venue.** This Contract shall be governed by the laws of the State of Arkansas without regard to its principles of conflict of laws. Venue for any litigation concerning this Contract shall lie exclusively in the state or federal courts embracing Benton County, Arkansas, unless another venue is specified by law.

28. **No Obligation of Indemnity by RWU; Tort Immunity Not Waived.** The parties hereto agree that RWU has no obligation of indemnity of any type (whether contractual, equitable, or otherwise denominated) to Contractor under this Contract. Nothing in the Contract shall operate as, or be construed as, a waiver, limit, modification, nullification, or alteration, of the tort immunity and other rights and immunities granted to RWU, the Rogers Waterworks and Sewer Commission, and the City of Rogers, Arkansas pursuant to Ark. Code. Ann. §21-9-301 and other applicable law.

29. **Notices.** Any notice or communication required or permitted (other than communications regarding services rendered under this Agreement which may be sent by electronic mail or requested by telephone) to be given shall be in writing and shall be deemed to have been given (i) when received if personally delivered; (ii) when received if sent by certified mail, return receipt requested, postage prepaid; or (iii) when received if sent by express courier (e.g. FedEx), if receipt is

confirmed by the delivery agent, at the following addresses (or such other address as may be designated).

If given to RWU, notice shall be sent to:

Shared Services Manager  
Rogers Water Utilities  
601 South 2nd Street  
Rogers, AR 72756

with copies to:

Superintendent  
Rogers Water Utilities  
601 South 2nd Street  
Rogers, AR 72756.

If given to Contractor, notice shall be sent to:

[insert name and address of Contractor]

30. **Choice of Law and Venue.** This Contract shall be governed by the laws of the State of Arkansas without regard to its principles of conflict of laws. Venue for any action concerning this Contract shall be the state and/or federal courts embracing Benton County, Arkansas.

31. **Waiver.** Failure of either party hereto to exercise any options herein contained upon breach by the other shall not constitute a waiver of that party's right to exercise such options upon future breach.

32. **Complete Agreement.** This Contract constitutes the entire agreement between the parties and it shall not be hereafter amended or modified unless reduced to writing and signed by the parties hereto. It is further agreed that all earlier agreements of the parties are hereby rescinded.

33. **Severability.** If any phrase, clause, sentence or paragraph of this Contract shall be declared invalid by the judgment or decree of a court of competent jurisdiction such invalidity shall not affect any of the remaining sentences, paragraphs or clauses of this Contract.

34. **Each Party Relying on its Own Counsel.** Each party hereby represents and warrants that it has received the advice of its own legal counsel in connection with the negotiation and preparation of this Contract (or that it has had the opportunity to do so) and that it is not relying upon the other party or the other party's counsel in reaching its decision to enter into this Contract.

35. **Each Party Deemed a Drafter of the Contract.** RWU and Contractor hereby

represent that they have cooperated in drafting and preparing this Contract, and/or have had the opportunity to do so. Hence, no party will construe against any other party any ambiguity in this Contract. Each party to this Contract represents to the other that it has not relied upon any statement of any other party in executing this Contract, except as expressly stated in this Contract.

36. **Multiple Counterparts.** This Contract may be executed in two counterparts, each of which shall be an original and which together constitute one and the same instrument.

[signature pages follow]

IN WITNESS WHEREOF, the parties have executed this Contract by their respective authorized representatives.

**ROGERS WATER UTILITIES OF THE CITY OF ROGERS, ARKANSAS**

By: \_\_\_\_\_  
Brent Dobler, Superintendent

\_\_\_\_\_ date

**NAME OF FIRM.** (“Contractor”)

By: \_\_\_\_\_

\_\_\_\_\_ date