

FINAL RESTORATION SERVICES AGREEMENT

THIS AGREEMENT is by and between Kentucky American Water Company (“Owner”) and
 Tri State Paving and Sealcoating, Inc. (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

RESTORATION SERVICES AND RELATED SERVICES FOR OWNER AS SPECIFIED IN THE CONTRACT DOCUMENTS AND TASK ORDERS.

WORK TO BE ASSIGNED UNDER THIS AGREEMENT WILL (KENTUCKY AMERICAN WATER WILL SPECIFY REGION(S) AT THE TIME OF AWARD) REGION OF THE KENTUCKY AMERICAN WATER COMPANY SERVICE TERRITORY.

ARTICLE 2 – ENGINEER

2.01 The Engineer for the Project are Kentucky American Water Company employees who are to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 3 – CONTRACT TIMES

3.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Dates for Substantial Completion and Final Payment*

A. The Work will be substantially completed within the parameters designated in the Task Order executed after the date when the Contract Times commence to run as provided in paragraph 2.03 of the Standard General Conditions and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions.

3.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving

in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner [REDACTED] for each day that expires after the time specified in Paragraph 3.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner [REDACTED] for each day that expires after the time specified in Paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 4 – CONTRACT PRICE

4.01 *For all Work, at the unit prices stated in Contractor's Bid, attached hereto as Exhibit B, as specified in Section 8.01*

- A. The rates and prices in the Price Schedule in Exhibit B hereto will be applicable to all Orders issued pursuant to this Agreement. Rates shall be subject to review and revision annually throughout the term of the Agreement. During each such annual review and revision, Owner may terminate this Agreement prospectively if the parties cannot agree on the Scheduled Rates and Prices to be applicable to the forthcoming quarter

ARTICLE 5 – PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment of each month during performance of the Work as provided in Paragraphs 5.02.A.1.a and 5.02.A.1.b below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

- a. 95 percent of Work completed (with the balance being retainage).

- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Owner's determination of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

5.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price, and any retained funds, as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 6 – INTEREST

6.01 N/A

ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS

7.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
- E. Contractor has considered the information known to Contractor, information and observations obtained from visits to the Site, information commonly known to contractors doing business in the locality of the Site, the Contract Documents, and the reports and drawings identified in the Contract Documents and referred to in Paragraph 7.01.D above with respect to the effect of such information and observations on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 7.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor is prepared to comply with the applicable requirements of Owner's safety program, if any.

- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- K. Contractor is expected to conform its business dealings with the Company in accordance with the underlying principles of the Company's Code of Ethics, a copy of which is available on the Company's website at <http://amwater.com>.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 *Contents*

- A. The Contract Documents consist of the following:
 1. This Agreement (pages 1 to 8, inclusive).
 2. Notice of Award. (Note: This document is not attached to this Agreement)
 3. Standard General Conditions September 2008 (pages GC-1 to GC-61, inclusive). (This document is not attached to this agreement)
 4. Supplementary Conditions March 2008 (pages SC1 to SC14, inclusive). (This document is not attached to this agreement)
 5. Exhibits to this Agreement (enumerated as follows):
 - a. Exhibit A – Limits of Liability Insurance.
 - b. Exhibit B – Price Schedule
 - c. Exhibit C – Covid 19 Addendum
 - d. Exhibit D – Example Task Order
 - e. Exhibit E-1 – Contractor Employee Personal Protective Equipment (PPE) Requirements, E-2 – ISNetwork Certification Requirements, E-3 Drone Requirements
Exhibit F – Primary Supplier Commitment to Diversity
 6. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (page NP-1)).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 9 – MISCELLANEOUS

9.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 Assignment of Contract

- A. No assignment by Contractor of any rights under or interests in the Contract will be binding on Owner without the written consent of Owner; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge Contractor from any duty or responsibility under the Contract Documents.

9.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 9.05:
 1. "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution.
 2. "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.

3. "Collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels.
4. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

9.06 Other Provisions

A. Government Regulations

1. Contractor and any subcontractor shall abide by the requirements of 41 CFR 60-1.40, 41 CFR 60-250.5(a), 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a), and such requirements are hereby incorporated by reference. These regulations prohibit discrimination against individuals on the basis of certain characteristics, qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment for such individuals, qualified protected veterans and qualified individuals with disabilities.

B. Background Check

1. Contractor shall conduct a background check on each of its employees prior to the employee performing any function or activity under this Agreement involving any direct customer contact, or on-site at any of the Owner's water treatment plants. As used in the Agreement, "direct customer contact" shall include but not be limited to, any activity by the Contractor's employee at or near a customer's premises. The background check conducted by Contractor shall consist of a check of at least the following: Previous employers and dates of employment; Education; Driving record; Criminal history (state and federal); References; Credit history. Prior to commencing any work under this Agreement, Contractor shall provide proof to the Owner that the requirements of this Paragraph have been met. Contractor shall make available to the Owner, upon request, the documentation and results of the background check with respect to any employee of Contractor performing any function under this Agreement involving any direct customer contact.

C. Safety

1. Contractor acknowledges Owner will conduct periodic Safety Audits, periodically review Contractor ISNetworld Certification status and conduct routine work zone safety inspections.

D. Allocation of Work

1. This Agreement is non-exclusive and Owner shall reserve the right to use other service providers at Owner's discretion.

E. Reporting/Invoicing

Primary Supplier agrees to actively engage diverse subcontractors and suppliers in the performance of this Contract, and will develop a strategy to achieve 20% of subcontracts with

certified diverse businesses. Primary Supplier will be required to report all Diversity and Second Tier Diversity spend as required by the Owner using the Quantum Supplier Diversity Solutions Portal .

1. Contractor will be required to register and submit invoices through the American Water invoice portal Taulia. For more information and registration information please visit <https://customers.taulia.com/americanwater/>
2. Contractor will be required to report spend data on a quarterly basis broken out between the high volume and the patchwork paving.

F. Term of Agreement

1. This Agreement will be effective upon the Effective Date identified herein and unless earlier terminated as provided in this Agreement or General Conditions shall expire on July 30th, 2024.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on 8/1/2022 (which is the Effective Date of the Agreement).

OWNER:

DocuSigned by:

Shelley Porter

F19B56F8184D4DD...

By: Shelley Porter

Title: Director of Engineering

CONTRACTOR

DocuSigned by:

David Corns

4E551F8FBE57444...

By: David Corns

Title: President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Witness

Attest:

Title:

Title:

Address for giving notices:

Address for giving notices:

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

[License No.:

Exhibit A

Limits of Liability Insurance

The limits of liability for insurance required by paragraph GC-5.04 is as follows:

Insurance Requirements.

1. **Commercial General Liability:**
 - \$1,000,000 per occurrence Combined Single Limits
 - \$1,000,000 General Aggregate
 - \$1,000,000 Products and Completed Operations Aggregate
 - \$1,000,000 Completed Operations-Product Liability
2. **Workers Compensation:**
 - Coverage A: Applicable federal or state requirements: statutory minimum
 - Coverage B: Employer's Liability:
 - Each Accident: \$1,000,000
 - Each Employee-disease: \$1,000,000
 - Policy Limit-disease: \$1,000,000
3. **Automotive Liability**
 - Bodily injury and property damage \$1,000,000 each occurrence combined single limits
4. **Umbrella Liability**
 - 4,000,000 each occurrence and annual aggregate in excess of Employer's Liability, General Liability and Automotive Liability.

KYAWC - LEX Concrete:4" Sidewalk/Driveway	4" Sidewalk/Driveway over existing subgrade	Service
KYAWC - LEX Concrete:6" Sidewalk/Driveway	6" Sidewalk/Driveway over existing subgrade	Service
KYAWC - LEX Concrete:6" concrete base	6" concrete base	Service
KYAWC - LEX Concrete:8" concrete base	8" concrete base	Service
KYAWC - LEX Concrete:10" concrete base	10" concrete base	Service
KYAWC - LEX Concrete:12" concrete base	12" concrete base	Service
KYAWC - LEX Concrete:ADA Pad & Install	ADA Pad & Installation	Service
KYAWC - LEX Concrete:Curb and Gutter Replacement	Curb and Gutter Replacement	Service
KYAWC - LEX Concrete:Curb Replacement (roll)	Curb Replacement (Roll Type)	Service
KYAWC - LEX Concrete:Curb Replacement (Standard)	Curb Replacement (Standard)	Service
KYAWC - LEX Concrete:Extraordinary Reinforcing of any kind	Extraordinary Reinforcing of any kind	Service
KYAWC - LEX Concrete:Plastic with 2" Concrete Cap	Plastic with 2" Concrete Cap	Service
KYAWC - LEX Asphalt:2" Asphalt in opening requiring slag base	2" Asphalt in opening requiring slag base	Service
KYAWC - LEX Asphalt:2" Asphalt over existing base or subgrade	2" Asphalt over existing base or subgrade	Service
KYAWC - LEX Asphalt:4" Asphalt	4" Asphalt over existing base or subgrade	Service
KYAWC - LEX Asphalt:4" Asphalt in opening requiring slag base	4" Asphalt in opening requiring slag base	Service
KYAWC - LEX Asphalt:6" Asphalt	6" Asphalt over existing base or subgrade	Service
KYAWC - LEX Asphalt:6" Asphalt in opening requiring slag base	6" Asphalt in opening requiring slag base	Service
KYAWC - LEX Asphalt:Tack Coat	Tack Coat	Service
KYAWC - LEX Asphalt:Asphalt Curb Replacement	Curb Replacement	Service
KYAWC - LEX Asphalt:Install Asphalt Cold Patch	Install Cold Patch	Service
KYAWC - LEX Brick:Replace Brick over 4" Concrete Base	Replace Brick over 4" Concrete Base	Service
KYAWC - LEX Other:Milling	Milling	Service
KYAWC - LEX Other:Saw Cutting	Saw Cutting	Service
KYAWC - LEX Other:Traffic Control	Flagging charge (per flagger per hour)	Service
KYAWC - LEX Other:KYAWC Emergency Response	Emergency Response	Service
KYAWC - LEX Landscaping:Landscaping	Top Soil, Rake, Mulch, Straw & Seed-Per Sq Ft	Service
KYAWC - LEX Landscaping:Planting	Mulch per Sq Ft	Service



AMERICAN WATER

Exhibit C

AGREEMENT #43087 BY AND BETWEEN KENTUCKY AMERICAN WATER COMPANY AND TRI STATE PAVING AND SEALCOATING, INC

In light of the global health pandemic related to the outbreak of COVID-19 (and any related strains of the novel coronavirus as may be detected), American Water Works Service Company, Inc. and its Affiliates ("American Water," "AW") is taking emergency safety precautions to protect its employees, customers and vendors. Effective March 16th, 2020 and until further notice, AW is asking all vendors who perform services for AW to participate in a pre-screening with the American Water representative(s) serving as Owner's point of contact **prior** to performing the work outlined in this Agreement. For information on AW health and safety standards for vendors, please refer to the American Water Contractor & Consultant Travel Guide (the "Guide") previously provided to Contractor and attached here as reference. American Water reserves the right to amend the Guide without prior notice to Contractor. For any additional questions, please contact the AW representative listed as the point of contact in the Agreement.

In addition, in the event one of your employees, subcontractors or agents (collectively, the "Vendor Agent") either tests or is presumed positive for COVID-19 ("COVID-19 Diagnosis") and the Vendor Agent worked in an American Water facility, on an American Water project or has had contact with any other Vendor Agent that has worked in an American Water facility or on an America Water project during the 14 day period immediately prior to the COVID-19 Diagnosis, then immediately notify American Water of this diagnosis by sending an email to coronavirus@amwater.com and calling the American Water Security Hotline at 1-866-801-1123 and providing all pertinent information so that American Water may assess the risk to its employees and facilities.

Information should include:

- (1) on site job duties
- (2) the COVID-19 confirmation date,
- (3) which American Water facility or jobsite they were at, including
- (4) specific dates, and
- (5) whom they met with onsite.

For American Water's Response to COVID-19, visit <https://amwater.com/>. Information for Suppliers will be posted in the Additional Coronavirus Information section.

Please sign below to indicate acknowledgement of this request and receipt of the Guide.

Exhibit D

EXAMPLE TASK ORDER
MASTER RESTORATION SERVICES AGREEMENT BETWEEN
NEW JERSEY AMERICAN WATER COMPANY, INC. and
[CONTRACTOR] For [PROJECT]
Task Order No. []

Article 1 – Work shall be **[BRIEF DESCRIPTION OF WORK]** as detailed in **[IDENTIFY SUPPORTING DOCUMENTATION (i.e., Engineer's Plans, Sketches, Reports, etc.)] [DATED]** (Attached). All work performed shall be in accordance with the terms of the **MASTER RESTORATION SERVICES AGREEMENT** between Owner and Contractor effective **[ENTER THE EFFECTIVE DATE OF THE MASTER RESTORATION SERVICES AGREEMENT]**.

Article 3 – The Work performed within this Task Order shall commence on or about **[ENTER BEGIN DATE]**, and will be substantially completed on or before **[ENTER SUBSTANTIAL COMPLETION DATE]**, and completed and ready for final payment in accordance with Paragraph 14.07 of the Standard General Conditions of the **MASTER RESTORATION SERVICES AGREEMENT** on or before **[DATE]**.

Article 4 – Payment shall be an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the attached spreadsheet. As provided in Paragraph 11.03 of the Standard General Conditions of the **MASTER RESTORATION SERVICES AGREEMENT**, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Owner as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the Standard General Conditions of the **MASTER RESTORATION SERVICES AGREEMENT**.

TOTAL OF ALL ESTIMATED PRICES \$ _____

Article 5 – Payment procedures shall be made in accordance with the **MASTER RESTORATION SERVICES AGREEMENT** and as follows:

INVOICING INSTRUCTIONS: All invoices shall be submitted in duplicate and addressed to:

American Water Works – Shared Services Center
Post Office Box 5602
Cherry Hill, NJ 08054

[NAME, ADDRESS, AND CONTACT OF AMERICAN WATER AFFILIATED COMPANY]

Article 7 – Prior to the issuance of this Task Order, and execution of the WORK, Contractor makes all representation in accordance with Article 7 of the **MASTER RESTORATION SERVICES AGREEMENT**.

All other articles of the **[DATED] MASTER RESTORATION SERVICES AGREEMENT** remain the same.

Owner and Contractor have caused this Task Order to be executed by representatives duly authorized to act, all as of the effective date of [ENTER DATE OF TASK ORDER].

Prepared by _____
(Owner's Representative)

Date: _____

Contractor:

Name:
Address:

Owner:

New Jersey American Water Co., Inc.
1 Water Street
Camden, NJ 08102

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit E-1

Contractor Employee Personal Protective Equipment (PPE) Requirements

The Work Zone is defined as any area between and within traffic control warning signs and/or cones. Failure to provide proper traffic control/signage (or in areas where traffic control/signage is not employed) does not absolve Contractor employees from the requirement to wear appropriate PPE

1. All Contractor employees shall wear an approved reflective vest (minimum Class II) and current ANSI approved safety shoes at all times while working in the field. This applies to all conditions of work, whether in a Work Zone or not and does not depend on the tasks being performed. This is the minimum PPE requirement for working in the field. This level of PPE is required when performing all Pipeline Construction related activities.
2. Contractor employees working within a Work Zone will be required to wear a hard hat unless inside a vehicle or other equipment with roll-over and/or overhead protection. Whether in a Work Zone or not, hardhats must also be worn whenever there is an overhead danger present (e.g. when working with valve keys that extend above the shoulder) and/or whenever there is a risk of injury to the head from being struck by equipment, materials or other objects. Hardhats are not required when performing mark-outs, leak detection, and hydrant & valve inspection unless there is an overhead or struck-by hazard present.
3. Contractor employees working within a Work Zone will be required to wear OSHA/ANSI approved eye protection (safety glasses with permanently attached side shields or safety goggles) unless inside of heavy equipment or in a vehicle with the window/windshield up. Regardless of location, contractor employees are required to wear eye protection when using or working near a tamper, jackhammer, spade, bore gun, bullet, pipe saw, blow-out tools, all wet cutting and tapping equipment, all cutting/drilling/chipping tools, flaring copper, using any other hydraulic or pneumatic tools and whenever using any other equipment, or exposed to any other conditions, that could potentially cause eye injury.
4. When using power equipment to grind, chip, cut pipe, perform blow-outs, and conduct any other activities which have the potential to cause injury to the eye and face, Contractor employees are required to wear both eye (safety glasses or goggles) and face protection (face shield).
5. To protect the hands from injury, safety gloves will be worn when performing tasks involving material handling (e.g. moving or picking up materials and equipment that have sharp edges or could cause splinters), and grinding, cutting, drilling, chipping, tapping, and hoisting work or other work that has the possibility of causing injury to the hand. Anti-vibration gloves are required when using vibrating equipment that does not have built-in anti-vibration controls. Where jackhammers or other equipment are adequately equipped with anti-vibration handles, anti-vibration gloves are not required but are recommended.

6. Hearing protection (ear plugs or muffs) is required when using or working nearby operations involving the use of a jackhammer, spade, tamper, bore gun, pipe saw, blow-out tools or any other tools/equipment which create high noise levels.

In addition to the specific requirements listed above, please note the following general requirements: Be sure the PPE you are using fits properly and is manufactured for its intended use. In order to work as intended, PPE must fit and be worn according to the manufacturer's instructions. Maintaining PPE in good working order is as important as using it. If you are unsure about the requirements for any activity or have a specific issue regarding PPE, check with your Company safety professional for assistance.

Exhibit E-2

ISNetwork Certification Requirements

New Jersey American Water requires that all contractors performing work will be registered with ISNetwork and have the appropriate (Green Flag) rating status. Failure to achieve the required certification will result in your company being disqualified from RFP consideration.

ISNetwork can be contacted at the following:

[americanwaterisn\[team\]@ish.com](mailto:americanwaterisn[team]@ish.com)

Cut-Off and Ring Saw Safety Operations Practice

Exhibit E-3

Practice Number: PRA-OPS01/02**ELT Sponsor:** Walter Lynch, EVP & COO of Regulated Business**Applicability:** American Water Works Company, Inc., and its controlled subsidiaries (together "American Water" or the "Company")**Document Approver:** Operational Risk Management Service Delivery Council**Effective Date:** May 01, 2019**Document Author:** Corporate Health and Safety**I. PURPOSE**

This practice provides Company requirements for use of Cut-Off saws (aka CutQuick Cut-Off Machines, Quick Cut saws) and Ring saws (aka Power Cutter). This practice provides employees and Company contractor's rules and requirements for the safe use of these saws and the minimum personal protective equipment required when they are used. Adherence to this practice will reduce exposure to potential hazards that can occur with the use of these saws.

II. SUMMARY

The following are the major sections covered within the Key Activities section of this practice:

- Cut-off and Ring saw use and applications
- Application to contractors and sub-contractors
- Procedures to follow when the use of a cut-off or ring saw by employees is allowed by supervision and this American Water Practice
- Hazards
- Saw Maintenance and Operation
- Storage and Use of Quick-cut saws
- Personal Protective Equipment
- Types of cutting wheels
- Cutting wheel inspection
- Training
- Alternatives to Gas Powered Cut-off and Ring saws
- Definitions

This practice contains attachments for the following:

- Appendix A – Cut-off and Ring Saw Safety Checklist

Appendix D

- Appendix B – American Water Pipe Saw Matrix/Guidelines
- Appendix C – Summary of Policies Related to Cut Off and Ring saw Safety Operations Practice

III. KEY ACTIVITIES

The following sections detail enterprise activities involving the use of Cut-off and Ring saws

Section 1: Cut-off and Ring saw Use and Applications

The use of cut-off and ring saws is prohibited unless permanently secured in an approved cart. Cut off saws or ring saws may be used for pavement cutting when used in accordance with the requirements of this practice. This requirement is effective on May 01, 2019.

- Cut-off and Ring saws may be used for pavement cutting if equipped with an approved abrasive or diamond tipped blade, which requires a constant flow of water. The saw (applicable to Cut Off saws), must be properly and permanently mounted in a cart approved by the manufacturer and designed specifically for the saw model in use. All manufacturers' recommendations, warnings, and safeguards must be followed.
- A job safety analysis must be prepared and reviewed with employees as part of their training prior to using cart mounted cut off saws or ring saws for pavement cutting. Additionally, when there are specific hazards or safety concerns at the job site, these will also be reviewed prior to the commencement of work.
- Newly purchased cut off saws must be permanently secured to an approved cart. Safety Management and the Operations group purchasing the saw must review and approve the saw model.

Section 2: Application to Contractors and Sub-contractors

Contractors and subcontractors performing work for American Water will conform to the following requirements. To the extent necessary, agreements and related statements of work will be amended to enforce the requirements.

- The use of cut-off and ring saws is prohibited unless permanently secured in an approved cart.
- Cut-off and ring saws may be used for pavement cutting if equipped with an approved abrasive or diamond tipped blade, which requires a constant flow of water. The saw must be properly and permanently mounted in a cart approved by the manufacturer and designed specifically for the saw model in use. All manufacturers' recommendations, warnings, and safeguards must be followed.
- The use of diamond tipped cut off wheels can only be used when operated with a constant flow of water, dry cutting is prohibited.

Appendix D

- Cut off saws may be used, without being attached to a cart, to cut concrete masonry block (concrete masonry units [CMU]) if equipped with the appropriate blade. All manufacturer's recommendations, warnings, and safeguards must be followed.
- It remains the contractor/subcontractor's responsibility to train their respective employees on the proper use and application of all equipment, to follow manufacturer recommendations and to comply with all applicable Federal, State, and local health and safety regulations.
- Local Management reserves the right to prohibit the use of any or all cut-off and ring saw operations by contractors/subcontractors.

Contractors must be informed of the requirements applicable to them and contractors will be required to conform to the restrictions no later than May 01, 2019. These dates will also apply to sub-contractors performing work for American Water.

Section 3: When the use of cut-off or ring saw by employees is allowed, the following procedures shall apply.

Example of Prohibited Saw



Cart Used for Pavement Cutting (examples)



****Diamond Blades are allowed with the use of water****

Appendix D

Section 3.1: Responsibilities

AW employees shall ensure the safe condition and maintenance of all tools and equipment.

- All tools shall be maintained in a condition that does not endanger the worker
- Tools shall not be used while they are defective or hazardous
- A copy of the tool manufacturer's operating manual shall be read, understood, reviewed, and kept readily available in the work area.

Tools shall be inspected by the operator before being used. Never operate or allow others to operate tools or equipment that is damaged, improperly adjusted or not completely and securely assembled.

The supervisor shall ensure that operators of cutting tools are properly trained and authorized to assure safe operation of the cutting tool, including any limitations of use.

A Job Safety Analysis (JSA) or other methods that include similar information must be utilized as part of the training and shall include:

- Each step of the job or task
- What hazards are involved
- How to perform the job safely and control potential hazards
- Capabilities and limitations of the tools and/or equipment

Section 3.2: Operating Procedures

Employees shall comply with the following safety precautions and operating procedures to prevent injury.

Operating Procedures:

- A cut-off and ring saw checklist must be completed by the operator of the saw prior to each use. (Appendix A)
- Follow the manufacturers recommended starting instructions.
- Start the saw only on a hard smooth surface. Start the saw with the blade facing away from co-workers or bystanders.
- DO NOT operate with other workers or pedestrians near the saw. Reference manufacturer's guidelines for clearance distances.
- DO NOT disengage or remove any wheel guards.
- Always protect the cutting wheel from striking the ground or other nearby objects to help prevent damage that can cause the wheel to shatter during operation.
- Use only cutting attachments authorized by the manufacturer of your saw.

Appendix D

Section 3.3: Hazards

The use of cut-off and ring saws may involve both safety and health hazards.

Safety hazards are caused by the high-speed rotation and exposure of the cutting wheel or blade during operation. Rotational kickback caused by improper use or pinching can cause serious injury. The potential for injury exists from the following but not limited to:

- Use of inappropriate cutting wheels and blades for the operation
- Improper starting of saw
- Kickback and pull-away
- Shifting of the material during cutting
- Improper cutting stance and grip

Potential health hazards are caused by noise exposure and exhaust from the internal combustion engine (if so equipped); the common power source. The cutting operation may also create clouds of dust or showers of hot sparks.

Section 3.4: Controlling hazards and Precautions

Major safety hazards can be controlled by:

- Only using the saws when mounted in a cart.
- Training operators to use saws properly and to utilize appropriate personal protective equipment.
- Inspecting and maintaining saws in good working condition, per the manufacturer's guidelines.
- Using the saw with all guards in place and in good working order.
- Keeping work secured to prevent it from shifting during cutting.
- Keeping non-essential personnel away from the worksite.

Precautions:

- Verify RPM rating on the blade is within acceptable ranges of the cut saw.
- Know the application, limitation, and potential hazards of the saw used.
- Only use cutting wheels authorized by the saw manufacturer.
- Select the proper cutting equipment for the job.
- Keep all guards in place and in working order.
- Maintain working areas free of clutter.
- Keep alert to potential hazards in the working environment such as damp locations or the presence of highly combustible materials.
- Dress properly to prevent loose clothing from being caught in moving parts.
- Wear the proper PPE listed in this Practice.
- Establish barriers to distance the public or any non-essential personnel from the job site.
- Do not surprise or distract anyone using a power tool.

Appendix D

Section 3.5: Health Concerns

A gas-powered saw produces exhaust that contains hazardous materials, (e.g. carbon monoxide, which cannot be detected without special monitoring equipment). To reduce the risk of serious or fatal injury from inhalation of this exhaust, never run the saw indoors or in poorly ventilated areas.

Exposure to airborne Asbestos fibers may cause serious illness. Cut off and ring saws are NOT to be used on asbestos-containing material. See Health and Safety Procedure "Asbestos Containing Materials" for required work practice information.

Exposure to Crystalline silica compounds may cause serious illness. Crystalline silica is a common compound found in many elements including sand, quartz, flint, and slate. The silica compound is not hazardous unless it is exposed in the air. This often occurs when concrete is crushed, ground, or cut with a saw.

Section 3.6: Saw Maintenance and Operation

A gas-powered saw must be serviced and maintained in accordance with the manufacturer's instructions. Guards and air-intakes should be inspected and cleaned regularly. Cutting wheels shall be inspected for damage before, and after use of the saw. Replace the cutting wheel immediately if it is cracked or warped. Never use a wheel that wobbles or has ever wobbled. Never transport the saw with the wheel attached. Doing so can damage the equipment and may not be detected during subsequent use resulting in serious injury. Store cutting wheels on a flat surface in a dry place, preferably at a constant temperature where there is not a risk of freezing. Do not store the cut-off saw with a wheel mounted on the machine. Follow all manufacturers' guidelines for use, storage and replacement of parts.

Section 3.7: Storage and use of Fuel

- Store flammable materials away from the work site.
- Wear appropriate PPE while refueling.
- Fuel your saw in a well-ventilated area, outdoors only.
- Always shut off the engine and allow it to cool before refueling.
- Never smoke while refueling.
- Verify and only use the proper fuel/fuel mixture for the specific saw.
- Never refuel close to an open flame.
- Dust may collect on the powerhead, especially around the carburetor, and may absorb gasoline resulting in the danger of fire. Clean dust from the powerhead regularly.
- Relieve fuel tank pressure by loosening fuel cap slowly.
- Select bare ground for refueling and move at least 10 feet from fueling area before starting the engine.
- Wipe off any spilled fuel before starting your saw and check for leakage.
- Fuel saw before starting a new cut.
- If fuel is spilled onto clothes, immediately remove clothing, rinse the affected area and change into clean clothing.
- Fuel saws and store fuel away from areas where spills may contaminate the water treatment process.
- Ensure the fuel storage container is approved and properly labeled.

Section 3.8: Protective Equipment

- Clothing must be sturdy and form-fitting, but allow complete freedom of movement. No loose clothing, jewelry, unconfined long hair or anything that could become caught on any obstacles or moving parts. Avoid wearing hooded sweatshirts or other clothing that has strings or other materials that can become entangled in any moving part of the saw or cutting wheel.

- Minimum PPE to be worn:
 - Safety glasses or goggles meeting ANSI/ISEA Z-87.1 standards
 - Face shield meeting ANSI/ISEA Z-87.1-2015 standards
 - Steel or composite toed boots meeting ASTM F2413 standards
 - Hard hat
 - Hearing protection
 - Gloves

- Additional PPE that should be considered:
 - Leather chaps to protect the legs from sparks;
 - NIOSH approved dust respirator to limit inhalation of hazardous dust. Consult with Operational Risk Management on the proper respirator selection and use in accordance with the OSHA Respiratory Protection Standard (29 CFR 1910.134) and company practice.
 - Reflective vest or approved garment if performing work on or near a roadway.

Refer to the Pipe Saw Matrix (Appendix B) in this Practice for additional detail and requirements.

Note: Ensure that proper ventilation is available when working in spaces with limited air circulation. Gasoline-fueled saws produce carbon monoxide and other exhaust contaminants.

Appendix D

Section 3.9: Types of Cutting Wheels (Cut off saws)

Before the use of a gas powered cut-off or ring saws, you must inspect the cutting wheel by making sure that the correct wheel is on the machine, and see if it needs to be changed (i.e. dull, warped, loose teeth, cracks, chips). Cutting wheels, diamond-tipped, and carbide-tipped cutting wheels are the three basic types available. All cutting wheels must only be used to cut the materials specified by the manufacturer for that particular wheel. The cutting wheels must be compatible with the saws horsepower, RPM range, and rotational speed. The Table below provides general information about the types of cutting wheels and what materials they should be used to cut. Always check the cutting wheel manufacturer's specifications to determine the proper use.

Cutting Wheel Type	Summary	Materials
Abrasive	Used for steel, masonry, and general purpose. Made with aluminum oxide and silicon carbide materials to improve durability.	Reference manufacturer's recommendations.
Diamond Tipped	All-around use, most economical for cutting concrete and masonry. Water-cooling is recommended to increase disk life and reduce dust. Use of diamond tipped blades can only be used in cart-mounted saws while cutting concrete, asphalt or masonry.	Reference manufacturer's recommendations.
Metal	Used for steel, or multi-use purposes. Metal blades may be used as long as they are applied within the limits of the practice.	Reference manufacturer's recommendations.

Warning – Use only cutting wheels recommended by the Cut Off saw manufacturer/distributor and allowed by American Water for pavement and concrete masonry cutting applications. Refer to a manufacturer/distributor selection guide.

Section 3.10: Cutting Wheel and Blade Inspection

Always inspect the cutting wheel or blade prior to use. Conduct a 360-degree inspection looking for cracks, damage or excessive wear. Check with your supervisor for the cutting wheel or blade "end of service life". End of service life is defined as the date of purchase and the number of hours in use. This is contained in the manufacturer's literature. Change as specified or more frequently if any damage is suspected or observed to avoid breakage and possible injury.

Additional considerations are as follows:

- DO NOT use a cutting wheel or blade that has been dropped
- DO NOT cut any material for which the abrasive wheel or blade is not authorized.
- DO NOT grind on the side of the abrasive wheel.
- The cutting wheel or blade must be rated for the maximum spindle speed of the saw.
- Never store and re-use a cutting wheel that has been used with water. Use these abrasive wheels only on the same day.
- Remove the wheel from the saw before transporting and store in a flat position not standing on the cutting edge.
- Test each wheel immediately after installation for approximately one minute at maximum speed without cutting, making sure to keep bystanders away.

Section 3.11: Training

- Employees operating Cut Off saws or Ring saws need to be trained and classified as authorized users.
- New employees will be trained and classified as authorized users prior to the use of cutting equipment.
- Employees will not use any new cutting tools until they have received the required training
- After initial training, employees will receive refresher training annually
- Only trained employees who have been designated as authorized users are permitted to use cutting tools
- All manufacturers' recommendations for use of any cutting tool must be followed at all times.

Section 3.12: Alternatives to Gas Powered Cut-off and Ring Saws

There are several alternatives to gas-powered cut-off and ring saws. Refer to Appendix C: the "American Water Pipe Saw Matrix/Guidelines".

IV. MARKET-BASED BUSINESS VARIANCES

- This practice is relevant for MBB.

V. WAIVERS

Any deviation, waiver or exception from this practice requires the prior written approval of the Document Author or ELT sponsor of this practice. If the deviation, waiver or exception conflicts with any policy, approval from the ELT Sponsor of that policy is required. The Document Author, or her or his designee, is responsible for tracking all requests for waivers, decisions with respect to those requests, and maintaining documentation related to each waiver request. Each individual receiving a waiver is responsible for retaining documentation of the waiver that was granted.

VI. DEFINITIONS

- Cutting Wheels (may be referred to as a blade or disc) - The cutting component of the cut off saw consisting of abrasive grains held together by organic or inorganic bonds. Diamond and reinforced cutting wheels are included and can be identified by the label on both the cutting wheel and the package. Only abrasive and diamond tipped blades will be used with cut-off saws attached to a cart assembly.



Appendix D

Use only manufacturer recommended and approved cutting wheels. Use of the wrong cutting wheel for which it was not designed may cause the wheel to shatter causing serious or fatal injury.

- Blade – The cutting band on a ring saw. These blades are composed of diamond tipped abrasive teeth.
- Cut-Off saw – A class of gas-powered handheld saws that can be used for cutting a variety of materials based on the abrasive wheel used. These are also referred to as "quick-saws, chop-saws and may have the brand name of Cutquik ® saw. This saw is prohibited if unattached to a cart assembly.
- Gas Powered Cut-Off and Ring saws – Handheld portable circular saws, used for cutting concrete, reinforced concrete, asphalt and masonry products.
- Kickback – The sudden reaction that causes the power cutter and cutting wheel to be thrown from an object when the upper quadrant of the abrasive wheel, known as the kickback zone, touches an object.
- Kickback zone – The upper quadrant of the abrasive wheel on Cut off Saws and Ring saws (from 1 o'clock to 3 o'clock relative position).
- Ring saw - A class of gas-powered handheld saws that can be used for cutting a variety of materials. These saws do not have a solid blade, but rather utilize a circular cutting band that rotates by direct contact with rollers. The cutting bands are diamond tipped abrasive material.

VII. NON-COMPLIANCE

Any employee who violates or circumvents the practice may be subject to disciplinary action up to and including termination.

VIII. PRACTICE REVIEW

This Practice will be reviewed and revised as necessary. Not to exceed 3-year intervals

Next Review By:

Approval Date:

Last Reviewed:



Appendix D

Appendix A – Safety Checklist – For Use When Pavement Cutting

LEAD PERSON: _____

SAW OPERATOR: _____ Time: _____

(Please Print)

DATE: _____ LOCATION: _____

Follow the manufacturer's safe operating instructions, use two hands, and don the required personal protective equipment including Hard hat, safety glasses, face shield, hearing protection, work gloves, safety vest, steel or composite toe boots.

Confirm each of the following. If any item cannot be confirmed, **DO NOT PROCEED** and consult with your supervisor prior to use.

Item	Y	N
1. Cut off or ring saws will not be used for any American Water project unless used in an approved cart.		
2. Cut off or ring saws will only be used for pavement cutting when used in accordance with the practice.		
3. Cut off or ring saws will not be used unless mounted in a cart, exclusively for pavement, asphalt or concrete cutting.		
4. The operator of the saw is trained and authorized to operate this equipment.		
5. The blade is approved by the manufacturer for the model used and the material to be cut.		
6. The blade has been inspected with no defects found.		
7. The saw guard is in place, secure and in good working order.		
8. The cutting wheel is installed so that the arrow on the wheel points in the direction of the rotation of the spindle.		
9. Only the 3-6 o'clock position of the wheel will be used for cutting.		
10. Required PPE (listed above) is worn.		

If any questions are marked "N" do not proceed, consult a supervisor.

Return this form to your supervisor at the end of the shift

Required PPE

Cutting Options		Face Shield	Safety Glasses	Ear Plugs	Gloves	Safety Vest
A	Manual Hinged 4-Wheel Cutter	N	Y	N	Y	Y
B	Hydraulic "Snap" Cutter	N	Y	N	Y	Y
C	Wachs Guillotine Saw	N	Y	Y	Y	Y
D	Hand Saw	N	Y	N	Y	Y
E	Reciprocating Saw	Y	Y	N	Y	Y
F	Stihl 420 or equivalent Cut Saw w/ fixed guard mounted in an approved cart	Y	Y	Y	Y	Y
G	"Chain" Saw specifically approved for pipe cutting - hydraulic, pneumatic or gas powered	Y	Y	Y	Y	Y
H	Ring Saw	Y	Y	Y	Y	Y
I	Exact 360 Saw	Y	Y	Y	Y	Y

FOOTNOTE 1: Asbestos Containing Materials must be cut using wet methods

FOOTNOTE 2: Diamond blades are allowed when used with a constant flow of water.

FOOTNOTE 3: A Cut Off Saw Safety checklist must be completed by the operator of the saw prior to each use.

FOOTNOTE 4: All pipe inside an excavation is required to be supported before making any cuts to prevent collapse.

FOOTNOTE 5: Cut off Saws and Ring Saws must be properly mounted in a cart for pavement cutting.

**Use of Cut Off or Ring Saws to Cut Pipe, Metal, Rebar or the like is prohibited.
All employees are to follow all OSHA and Manufacturers' Guidelines when using these tools.**

Guillotine Saw, Diamond wire	75 lbs.	4 into 16 in	cold steel, cast iron & DICL
Hydraulic Pipe Cutters	85 - 269 lbs.	2 into 20 in	Cast Iron, Tile, & Concrete
Hinge Cutters	21 - 68 lbs.	2 into 12 in	Cast iron
Rotary Cutter	41 - 295 lbs.	18 into 36 in	SS, DICL & Cast Iron
Snap Cutters, Ratcheting	17 - 24 lbs.	2 into 15 in	Cast Iron
Snap Cutters, single stroke	26 - 33 lbs.	2 into 15 in	Cast Iron
Universal Pipe Cutter, pneumatic	138 Lbs. Total NOTE: single heaviest component: 28 Lbs.	6 into 48 in	Cast Iron, ductile, clay & concrete



Appendix C – Summary of Policies Related to Cut Off and Ring saw Operations Safety Practice

Practice	Related Policy
	Health and Safety Policy

**Attachment E-4
Supplemental Conditions**

DRONE REQUIREMENTS

1. Pilots must be current Title 14 CFR Part 107 certified.
2. Contractor must have a UAV Safety Management System (SMS) that: "follows the recommendations provided by the current edition of the International Civil Aviation Organization (ICAO) Safety Management Manual Document 9859, ICAO Annex 19 and the Federal Aviation Administration SMS Implementation Guide for determining acceptable levels of risk within the organization by collecting and incorporating safety assurance data to develop safety performance targets and safety performance indicators both quantitatively and qualitatively."
3. Contractor who will be utilizing drones during the course of their contract with American Water require the following minimum insurance coverage:
 - a. Coverage Required: Aviation Insurance Policy- Unmanned Aircraft Systems
 - b. Bodily Injury and Property Damage Liability: \$10,000,000 each occurrence and in the aggregate
 - i. Primary/ Non-Contributory
 - ii. Additional Insured
 - iii. Aviation Personal and Advertising Injury Liability \$10,000,000 occurrence/ aggregate
 - iv. Expense for Medical Services \$5,000
 - v. Fire Legal Liability \$100,000 each occurrence
 - vi. Waiver of Subrogation for Physical Damage

Exhibit F

Primary Supplier Commitment To Diversity

1. SUPPLIER COMMITMENT

1.1 The Supplier (hereinafter "Primary Supplier") agrees to provide opportunities for suppliers identified and Certified as a Minority, Woman, Service Disabled Veteran, Veterans, SBA, 8A, - owned and controlled Business Enterprises (hereinafter "MWDVBE"), in accordance, at a minimum, with the terms and conditions of this Exhibit.

1.2. In addition, if the scope of this Agreement includes the provision of products or performance of services for or in conjunction with an American Water Works, Inc. federal government agreement, the then-current Federal Acquisition Regulations ("FAR") requirements regarding MWDVBE subcontracting and reporting shall also apply.

1.3. In the event that a change in ownership results in a change of Supplier or subcontractor's status as a Certified MWDVBE, Supplier shall notify American Water Works, Inc. in writing within thirty (30) days of such change

2. DEFINITIONS

2.1. "Certified" means currently certified as MWDVBE by an authorized certifying body, such as the National Minority Supplier Development Council (NMSDC) or its affiliate regional councils, the Women's Business Enterprise National Council (WBENC) or its affiliate regional councils, the California Public Utility Commission (CPUC) Clearinghouse, or other similar local, state, or federal certifying body.

2.2. "Control" means overall fiscal/legal responsibility and exercising the power to make policy decisions.

2.3. "Owned" means at least fifty-one percent (51%) of the business or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock is owned by a minority, woman or service-disabled veteran.

2.4. "Minority-owned Business Enterprise (MBE)" means business concern in which at least fifty-one percent (51%) of the ownership and control is held by individuals who are members of a minority group and of which at least fifty-one percent (51%) of the net profits accrue to members of a minority group. Such persons include, but are not limited to, Black Americans, Hispanic Americans, Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the former U.S. Trust Territory of the Pacific Islands (Republic of Palau, the Commonwealth of the Northern Mariana Islands, Republic of the Marshall Islands, Federated States of Micronesia) Laos, Cambodia (Kampuchea), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian

Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal); Native Americans (American Indians, Eskimos, Aleuts, and Native Hawaiians); and members of other groups designated by the U. S. Small Business Administration as minorities.

2.5 "Women-owned Business Enterprise (WBE)" means a business concern which is at least fifty-one percent (51%) owned and controlled by a woman or women; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by a woman or by women. Such women's business enterprise shall further be classified as either minority or non-minority women-owned business, depending upon the greater portion of ownership.

2.6. "Vietnam Era Veteran-owned Business Enterprise (VBE)" means a business concern that is at least fifty-one percent (51%) owned and controlled, or in the case of a publicly owned business, at least fifty-one percent (51%) of the stock is owned, by an owner or owners who are veterans of the U.S. military, ground, navel, or air service, any part of whose service was during the period August 5, 1964 through May 7, 1975, who (1) served on active duty for a period of more than one hundred and eighty (180) days and were discharged or released with other than a dishonorable discharge, or (2) were discharged or released from active duty because of a service-connected disability. "Vietnam-Era Veteran" also includes any veteran of the U.S. military, ground, navel, or air service who served in the Republic of Vietnam between February 28, 1961 and May 7, 1975.

2.7. "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected as defined in 38 U.S.C. 101(16).

2.8. "Service-disabled Veteran-owned Business Enterprise (SDVBE)" means a business concern that is (a) at least fifty-one percent (51%) owned by one or more service-disabled veterans or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more service-disabled veterans or, (b) in the case of a veteran with a permanent and severe disability, the spouse or permanent caregiver of such veteran.

3. SUPPLIER DIVERSITY UTILIZATION PLAN

3.1. The Primary Supplier shall submit a Supplier Diversity Utilization Plan ("Plan") for approval by American Water Works, Inc. prior to the execution of this Agreement. The Plan must include a statement that the Primary Supplier will (i) achieve the MWDVBE Percent Commitment as defined in Section 5, below, entitled "Primary Supplier MWDVBE Percent Commitment," and (ii) report results utilizing the reporting method described below in Section 4, entitled "Reporting.";

3.2. The list of MWDVBE suppliers to be used by the Primary Supplier in its (Contract-Specific) Plan form shall constitute the following

3.2.1. A representation by the Primary Supplier to American Water Works, Inc. in regard to the MWDVBE supplier(s) that (a) it intends to use the firm for the work specified in the Plan; (b) on the basis of information known to it and after reasonable inquiry, it believes such MWDVBE supplier(s) to be technically and financially qualified to perform the work specified, and that the firm is available to perform the work; and (c) the MWDVBE supplier(s) identified is currently Certified as an MWDVBE by an authorized certifying body.

3.2.2. A commitment that the Primary Supplier will enter into a contract with each such MWDVBE supplier (or approved substitutes) in accordance with its Plan

3.2.3. A commitment by the Primary Supplier that it will not substitute a MWDVBE supplier listed in its Plan without prior written notification to American Water Works, Inc.. Unless the Primary Supplier has a reasonable belief that use of a designated MWDVBE supplier will potentially cause personal injury or damage to property, or that such MWDVBE Supplier has engaged in illegal or unethical behavior, no substitution(s) of MWDVBE supplier(s) designated on the Plan form may be made without notifying American Water Works, Inc. in writing, citing the specific reason(s) for substitution.

4. REPORTING

4.1. The Primary Supplier shall report quarterly MWDVBE expenditures by using the "Prime Supplier MWDVBE Quarterly Report". The Prime Supplier MWDVBE Quarterly Report shall include a) MWDVBE expenditures specific to American Water Works, Inc. contracts (herein, "Direct Expenditures"); and b) prorated share of the Primary Supplier's non-contract specific MWDVBE expenditures (herein, "Indirect Expenditures"). American Water Works, Inc. prorated share of such Indirect Expenditures for the applicable calendar quarter shall be equal to the percentage derived from the following formula: Sales to American Water Works, Inc. / Sales to all customers

4.2. Such reports shall be submitted by no later than thirty (30) days following the end of each calendar quarter.

4.3. This report is intended to provide a mechanism to monitor the Prime Supplier's compliance and progress in achieving its MWDVBE commitments as set forth in this Exhibit.

4.4. The Primary Supplier will provide:

4.4.1. A list of the name(s) and address(s) of the Certified MWDVBE suppliers the Primary Supplier has identified to be used in support of this Agreement.

4.4.2. A description of the products/services or scope of work performed by MWDVBE suppliers; and

4.4.3. The percentage or volume of contract work performed by each such firm.

5. PRIMARY SUPPLIER MWDVBE PERCENT COMMITMENT

The Primary Supplier shall engage the services of certified MWDVBE Supplier(s) for an amount equivalent to at least **TBD percent (x%)** of dollars spent under this Agreement in Year 1, **TBD percent (x%)** in Year 2, **TBD percent (x%)** in Year 3, and **TBD percent (x%)** increment per year for Years 4 and beyond under this Agreement ("MWDVBE Percent Commitment").

6. PRIMARY SUPPLIER COMPLIANCE: STANDARDS AND REMEDIES

6.1. Compliance Standards

American Water Works, Inc. has the right to determine compliance by the Primary Supplier with the Plan and the MWDVBE Percent Commitments (hereinafter collectively the "MWDVBE Commitments") established in this Exhibit. XYZ may determine that the Primary Supplier is achieving its MWDVBE Commitments by examining reports received from the Primary Supplier, performing on-site inspections, conducting progress meetings regarding work required by the Agreement, contacting involved MWDVBE suppliers, or through other American Water Works, Inc. actions taken in the ordinary course of administering the Agreement.

6.2. Updates

An annual update of the Primary Supplier's Plan will be required to ensure compliance with this Agreement's provision for continuous year-over-year improvement.

6.3. Commitments Not Achieved

In the event that the Primary Supplier's MWDVBE Commitments hereunder are not achieved and the Primary Supplier cannot demonstrate to the reasonable satisfaction of American Water Works, Inc. that commercially reasonable efforts were made to accomplish such MWDVBE Commitments, such failure shall constitute default by the Primary Supplier, and American Water Works, Inc. reserves the right and shall have the option to invoke the termination provisions of this Agreement. Such documentary evidence of commercially reasonable efforts shall include but are not limited to a) advertisement in general circulation media, trade publications and small business media soliciting the performance of services of Certified MWDVBE suppliers related to the field of business regarding the products and/or services which are the subject matter of this Agreement; b) written notification to Certified MWDVBE suppliers requesting proposals specific to the products provided for and/or services performed under this Agreement, and c) written acknowledgment that the Certified MWDVBE suppliers' interest in providing such products and/or performing such services is under consideration. The foregoing rights are in addition to, and not in limitation of, any other remedy American Water Works, Inc. may have at law or in equity. American Water Works, Inc. may also require that, upon request, the Primary Supplier submit additional documentation and information concerning the Primary Supplier's performance in achieving its MWDVBE Commitments and compliance with its Plan. If the Primary Supplier fails to timely deliver any required

reports, American Water Works Company, Inc. will deem the Primary Supplier to have failed its MWDVBE Commitments and to be in default.

6.4. Cure Period for Commitments Not Achieved

Should the Primary Supplier continue to fail in achieving the MWDVBE Commitments of this Agreement, including as amended, after having been given notice of such failure to meet its MWDVBE Commitments, and failing to cure such MWDVBE Commitments within thirty (30) days of receiving such notice by achieving its requirements, the Primary Supplier shall be in default and no further cure shall be permitted.