

**IMMOKALEE WATER AND SEWER DISTRICT  
REQUEST FOR QUALIFICATIONS (RFQ 2024-01)  
for  
PROFESSIONAL ENGINEERING DESIGN SERVICES  
for  
WWTP REUSE SYSTEM**

Addenda 4

This Addenda provides responses to questions and requests submitted on 4-23-2024 at 3:18 PM:

Question 1: The proposed contract does not include a waiver of consequential damages provision. Would the District be willing to insert a mutual waiver of consequential damages provision into the contract?

**RESPONSE: Yes. We will add the following statement as paragraph 17.16, "In no event shall either party be liable for any indirect, special, consequential or punitive damages in connection with this Agreement."**

Question 2: Article 17.3 is a "no third-party beneficiary" provision. The provision is not compliant with Fla. Code 558.0035 to avoid personal liability for design professionals. Would the District consider revising Article 17.3 to comply with Fla. Code 558.0035 to make clear that there is no personal liability which should arise under the contract?

**RESPONSE: No. 17.3 is compliant with Florida law. 17.4 states that the Agreement will be governed by the laws of the state of Florida. That covers it.**

Question 3: Article 17.10 is a "time is of the essence" provision. In theory, this provision presents a potential insurability concern to the extent it were interpreted to supersede the standard of care provision. Would the District consider adding the following qualifier to the end of Article 17.10: "..., but only to the extent not inconsistent with the applicable standard of care"?

**RESPONSE: No. The District does not agree to a qualifier to the Time is of the Essence provision.**