

DESOTO COUNTY REGIONAL UTILITY AUTHORITY
Board of Directors
Regular Meeting
April 19, 2017
9:00 A.M.

A. CALL TO ORDER

The Directors present at the meeting were:

Director B. J. Page, President
Director Donnie Chambliss
Director Spencer Shields
Director Ray Denison

The March 15, 2017, meeting of the DeSoto County Regional Utility Authority Board of Directors was called to order by Director B. J. Page, DCRUA President. He announced there was a quorum.

B. APPROVAL OF MINUTES

Director Ray Denison made a motion to approve the minutes of March 15, 2017. Director Donnie Chambliss seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

C. APPROVAL OF INVOICES

Director Spencer Shields made a motion to approve all invoices as submitted, subject to the Executive Director's review and approval. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes
Exhibit A			

D. OLD BUSINESS

Shortfork WWTF, Phase II Bids –

After discussion regarding the potential contract with Max Foote for the Shortfork Expansion Project and noting that Max Foote was the low bidder for the project and the only bidder within 10% of the allocated funds and that DCRUA sought a Mississippi Attorney General’s Opinion to determine what items it could negotiate for a contract with Max Foote pursuant to Mississippi Code 31-7-13(d)(iv), and noting that MDEQ had previously authorized negotiations, a motion was made by Commissioner Shields, pursuant to Mississippi Code 31-7-13(d)(iv), to contingently authorize the approval of Max Foote as the contractor for the Shortfork Expansion Project and contingently authorize the entering into a negotiated contract with Max Foote in the amount of \$16,422,000.00, as such negotiated items are set forth in Exhibit B, which Exhibit B is made part of and incorporated in these minutes, and the commercial rationale for the modifications being found acceptable as the negotiated items accomplish the same overall scope of work as indicated on the bid form without jeopardizing ultimate intended use and/or function of the individual items with cost savings and limitations considered, and such negotiated contract modifications are done pursuant to and in accordance with the Mississippi Attorney General’s Opinion issued to Tommie Cardin, on behalf of DCRUA, dated April 4, 2017, and final approval of DCRUA for award of the contract and signature of any DCRUA representative for the contract is contingent upon the final approval and authorization of the Mississippi Department of Environmental Quality (“MDEQ”) as it relates to its releasing the SRF funds for the funding of the Shortfork Expansion Project and authorize the acceptance of the extension of Max Foote’s bid to allow for review by MDEQ. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes

Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

Exhibit B

Director Spencer Shields made a motion to approve Task Order #63 with EAI/WEI for the Shortfork Expansion Project contingent upon MDEQ approval of the Max Foote contract for the Shortfork Expansion Project. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

E. NEW BUSINESS

Quarterly Budget Report (Report – No Action) & Flow Summary – Judy Marshall presented the report. No action was taken.
 Exhibit C

SRF Funding – Director Donnie Chambliss made a motion to authorize the SRF Loan Ranking Form Projects FY 2018 as set forth in Exhibit D be submitted to MDEQ and the Executive Director to execute the documents associated with the ranking form. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

Exhibit D

SFWWTF Burglar Alarm/Fire System – Director Ray Denison made a motion to approve the proposal of Final Touch Security as it was the lowest proposal in the amount of \$872.50 and authorize the signature for the proposal.. Director Spencer

Shields seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

Exhibit E

F. EXECUTIVE SESSION

In accordance with Section 25-41-7, Mississippi Code of 1972, Director Ray Denison requested, by motion, a closed determination of the issue of whether or not to declare an executive session. Director Spencer Shields seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

The meeting was then closed. After discussion, Director Donnie Chambliss moved to go into executive session to discuss the sale of property and potential litigation. Director Spencer Shields seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

Nick Manley gave the board an update regarding the potential sale of DCRUA owned property.

The board potential liability associated with a lagoon as it relates to MDEQ request.

Director Donnie Chambliss made a motion to end the Executive Session. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

G. PERMITS

Director Spencer Shields made a motion to approve the permit for Forest Hill 11B. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

H. ENGINEERING REPORT

EAI/WEI, LLC Report –

Tracy Huffman provided an update on the PCA Amendment.

F. OPERATIONS REPORT

The operations and maintenance report from Severn Trent for the Short Fork, Ross Road, Braybourne and Johnson Creek WWTP facilities was provided to the Board.

*****Exhibit G*****

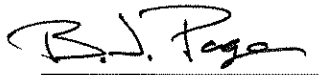
After confirming with Bill Austin, DCRUA Executive Director, as it relates to an emergency situation at Shorfork Treatment Plant regarding the effective running of the Plant and to ensure the health and safety of residents in Desoto County, Director Spencer Shields, pursuant to Mississippi Code 31-7-13(k), made a motion to approve the purchase of the automatic transfer switch as an emergency purchase in an amount not to exceed \$50,000. Director Ray Denison seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes

G. ADJOURN/RECESS

Director Ray Denison made a motion to adjourn the meeting. Director Donnie Chambliss seconded the motion. The motion passed by a vote as follows:

Full		Flow	
Director Page	Yes	Director Page	Yes
Director Chambliss	Yes	Director Chambliss	Yes
Director Shields	Yes	Director Shields	Yes
Director Denison	Yes	Director Denison	Yes



Board President


Board Clerk

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

April 4, 2017

Mr. Tommie S. Cardin, Esq.
Attorney for the DeSoto County
Regional Utility Authority
Post Office Box 6010
Ridgeland, MS 39158-6010

Re: Desoto County Regional Utility Authority (DCRUA) Bid Negotiations

Dear Mr. Cardin:

Your request for an official Attorney General's opinion has been referred to me for research and response. The question that you pose reads as follows:

Accordingly, may DCRUA, pursuant to Mississippi Code 31-7-13(d)(iv), enter into a negotiated contract with the low bidder in an amount lower than the allocated funds for the project, when the negotiated contract includes alterations to the advertised plans and specifications, which are not limited to the plans and specifications already advertised, including an alternative to a specification not allowed in the original bid, and such alterations to the plans and specifications do not alter the scope of the project as determined by the DCRUA engineers?

Factual Background

The pertinent facts giving rise to this question, as presented in your letter and as I understand them are as follows:

1. The DCRUA advertised a project for expansion of a wastewater treatment facility using the traditional design, bid, build method of procurement with no request for pricing alternatives or options.
2. Before the date for bids to be turned in, one of the prospective bidders asked a question about changing one of the specifications and submitting an alternative

bid.

3. The DCRUA responded in writing (by addendum) that the bidder could not submit a bid based upon the proposed change to the specifications.
4. All parties submitted bids on the original set of bid documents as amended by the addendum (which contained other changes to the contract documents along with the answer mentioned above).
5. All bids were in excess of the funds available for the project, but the low bid was within 10% of the amount of funds available.
6. The DCRUA desires to negotiate with the low bidder to see if it can arrive at a price for the project that is within the amount of funds available.

Restating your question, you want to know if, as part of the negotiation process, DCRUA can consider proposed changes to the specifications including that specification which was specifically rejected in writing prior to the opening of bids in an effort to lower the negotiated price.

OFFICIAL **Response** OPINION

No, once having answered the prospective bidder's question in the negative, the DCRUA cannot award a contract which allows that specifically rejected change to its specifications in order to obtain a lower price. However, the DCRUA is free to negotiate other adjustments to the contract in order to arrive at a price that is within the amount of funds available. The DCRUA may alter its plans and specifications on a project when exercising its authority under Mississippi Code Annotated Section 31-7-13(d)(iv).

Legal Research and Analysis

While our opinion to Representative Danny Guice (WL 6121823) gives a broad non-technical interpretation with respect to the use and limitations of the term "negotiate", it is our opinion that inclusion of items not in the original bid advertisement cannot be the basis for an award of a contract. In this instance, when the DCRUA specifically rejected the proposed changes to the specifications, it removed them consideration as a part of the decision to award that contract.

The Mississippi Department of Finance and Administration ("DFA") has developed a set of best practices for use in their implementation of Section 31-7-13(d)(iv). While not mandated by the DFA, we commend them to you as guidance (especially items three through six) noting again that the procurement method that was used did not consider any alternatives:

Mr. Tommie S. Cardin, Esq.
April 4, 2017
Page 3

1. Our standard protocol is to define a base bid of 90% of available construction funds and include up to 10% additive alternates as a default, to ensure awardability without negotiation. Alternatively, we have also allowed defining a base bid of 100% of available construction funds and included at least 10% deductive alternates.
2. In those instances where no combination of base bid and alternates is awardable, and the lowest responsive/responsible bidder is no more than 10% higher than the budgeted construction amount at the time of receipt of bids, we consider negotiation. We do not permit adding funds / increasing budget after time of receipt of bids in order to apply the negotiation clause, although we have been asked about doing so numerous times by certain universities.
3. We limit negotiation to only the amount require to make a Contract awardable.
4. We typically ask our Prime Professional to identify potential items for modification to reduce cost including product selection, design simplification, increasing contract time, and the like which do not substantially change the essential scope of work. We have also sought voluntary suggestions for modifications from the low bidder.
5. The low bid vender is asked to provide cost reduction proposed for each item.
6. In all such cases, our Prime Professional is tasked with reviewing the cost/benefit for each proposed item.

We also note that should the low bidder agree to the negotiated changes and revised contract price, the contract may be awarded to that bidder at that price once the changes and commercial rationale behind them are spread upon the DCRUA's minutes.

If our office may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


R.M. Tipton

Assistant Attorney General



MAX FOOTE
CONSTRUCTION CO., LLC

GENERAL CONTRACTORS

April 18, 2017

EAI/WEL, LLC
143-A LeFleurs Square
Jackson, MS 39211

Attn: Tracy Huffman, P.E.

Re: Desoto County Short Fork WWTP Credit Proposal

Dear Mr. Huffman,

We propose the following credit items be considered for the Desoto County Short Fork WWTP project:

- 1. Eliminate Auger Cast Piling & Add Drains and Monitoring Manholes**
Utilize a network of perforated drains under the slabs of the Aeration Basin and Clarifiers connected to manholes (one for the Aeration Basin and one for both clarifiers) that allow plant personnel to observe ground water levels at the time tankage is to be emptied. In the event ground water levels are too high, the water can be pumped down to an acceptable level for the respective tank thus alleviating uplift forces from the ground water during periods when tankage is empty. Therefore the auger cast piling can be eliminated from the project.

Proposed Credit: \$850,000.00

- 2. Prestressed Concrete Tank Slab Thickness Reduction & Straight Wall Redesign**
Elimination of auger cast piling allows for a modification to the floor slabs to standard membrane ground supported slabs for both the clarifiers and aeration basin. Also, propose a modification to straight wall design of the aeration basin tank to eliminate liner prestressing of the wall which is used to accelerate linear contraction of wall during concrete curing stages – this requirement can be omitted for the straight wall design.

Proposed Credit: \$440,000.00*

*This figure is predicated on the elimination of the auger cast piling.

- 3. Eliminate 401 Lining of Ductile Iron Pipe and Use Cement Lining After Aeration Basin**

Proposed Credit: \$30,000.00

POST OFFICE BOX 1208 MANDEVILLE, LOUISIANA 70470-1208 (985) 624-8569
FAX (985) 624-8580

4. Relocate Aeration Basin Influent and RAS Piping

See attached sketch.

Proposed Credit: **\$45,000.00**

5. Eliminate Wet Taps and Isolation Valves

See attached sketch; this proposed piping arrangement can be installed utilizing bypass pumping thus eliminating the need for wet taps. This arrangement also eliminates the isolation valves – future tie-ins can be performed using similar bypass method which is more cost effective.

Proposed Credit: **\$120,000.00**

6. Change Pipe Embedment Detail to Type 5 Bedding

Proposed change provides adequate bedding of ductile iron pipe utilizing the Type 5 bedding detail from the American Pipe Manual and cost effective bedding material.

Proposed Credit: **\$30,000.00**

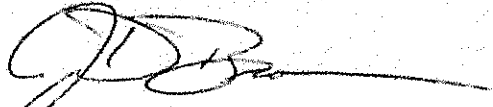
7. Change Pipe Testing Requirement to 2X Working Pressure or Pump Shutoff Head.

The specifications currently require the Contractor to test piping systems to 150 psig.

Proposed Credit: **\$13,000.00**

The sum of the proposed credits is \$1,528,000.00. We appreciate your consideration of these items and are available to answer any questions you may have.

Sincerely,



J.D. Brown, P.E.
Project Manager

Enclosures

Cc: Max Foote
Roy Thompson
Danny Russell
Steven Hinton



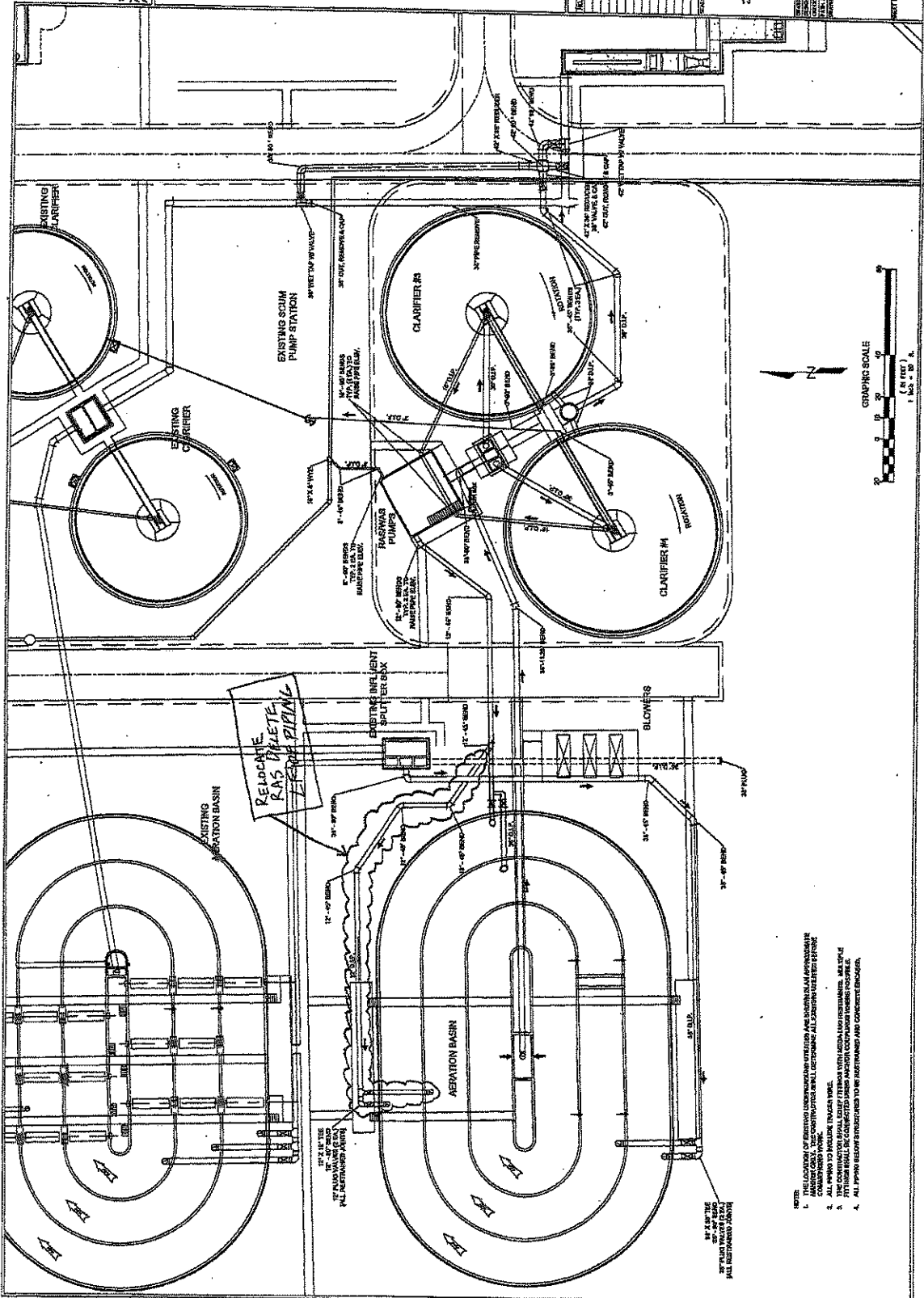
DESOTO COUNTY REGIONAL UTILITY AUTHORITY
 JACKSON, MISSISSIPPI 39201
 PROJECT NO. 100-00000000
 DATE: 08/15/2017

DESOTO COUNTY REGIONAL UTILITY AUTHORITY
 SHORT FORK WTR EXPANSION PHASE 2
 DESOTO COUNTY, MISSISSIPPI



DESOTO COUNTY REGIONAL UTILITY AUTHORITY
 JACKSON, MISSISSIPPI 39201
 PROJECT NO. 100-00000000
 DATE: 08/15/2017

PIPING PLAN
 P1.2



- REVISIONS:
1. THE LOCATION OF EXISTING UNDERGROUND UTILITIES AND ALL NEW UTILITIES ARE INDICATED BY DASHED LINES. THE CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES BEFORE CONSTRUCTION.
 2. ALL NEW UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MISSISSIPPI PIPE CODE.
 3. THE CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES AND ALL NEW UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MISSISSIPPI PIPE CODE.
 4. ALL PIPING SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MISSISSIPPI PIPE CODE.



DESOTO COUNTY REGIONAL UTILITY AUTHORITY
 JACKSON, MISSISSIPPI 39201
 PHONE: 601-938-2800
 FAX: 601-938-2801

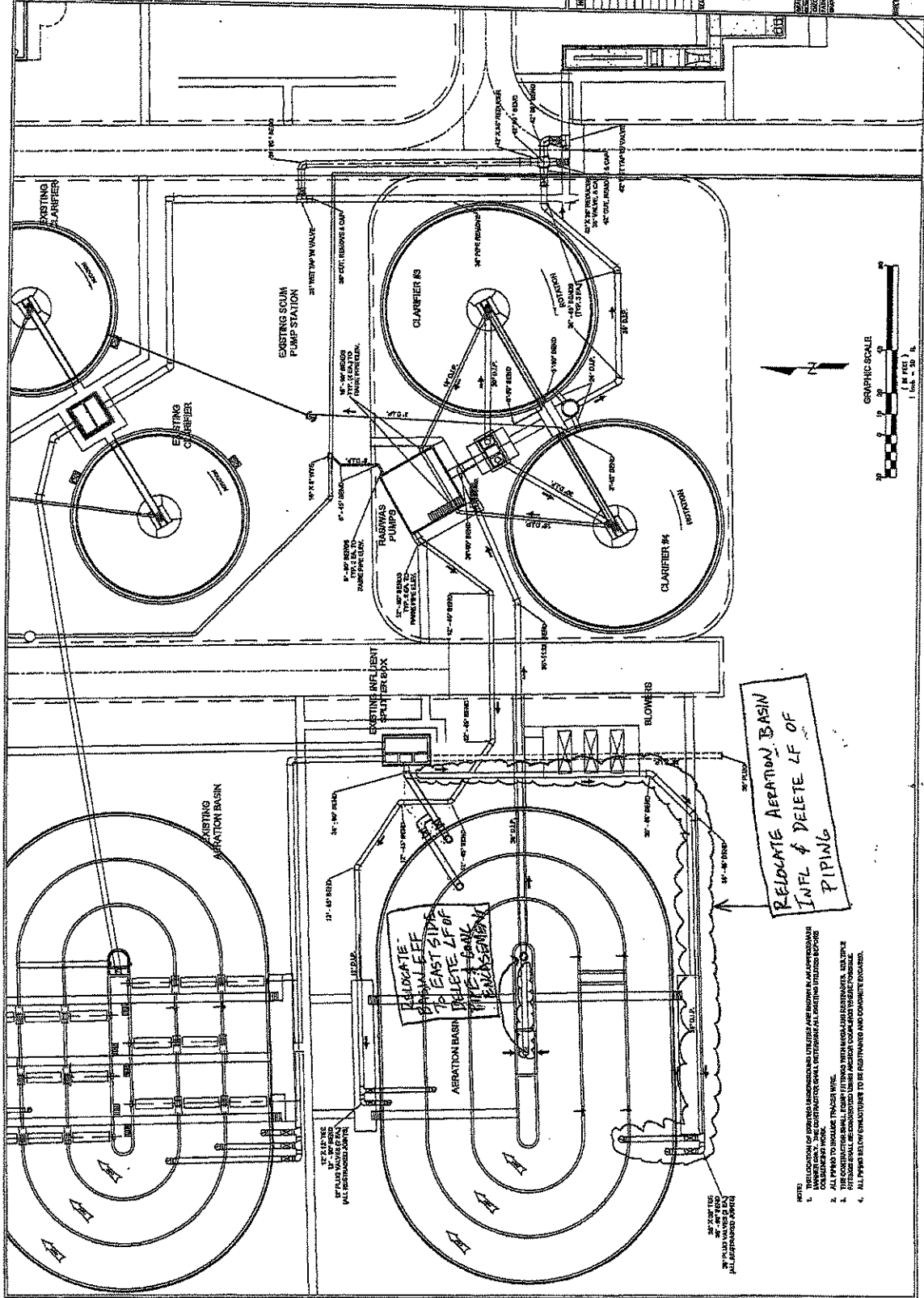
DESOTO COUNTY REGIONAL UTILITY AUTHORITY
 SHORT FORK WTR EXPANSION PHASE 2
 DESOTO COUNTY, MISSISSIPPI



DATE: 10/15/10
 DRAWN BY: J. W. BROWN
 CHECKED BY: J. W. BROWN
 PROJECT NO.: 10-00000001
 SHEET NO.: 10-00000001-01

PIPING PLAN

P1.2



RELOCATE AERATION BASIN
 INFL & DELETE LF OF
 PIPING

- NOTES:
1. THE LOCATION OF EXISTING STRUCTURES IS SHOWN BY DASHED LINES AND DIMENSIONS TO THE CENTERLINE OF THE STRUCTURE.
 2. ALL PIPING TO BE INSTALLED SHALL BE SHOWN BY SOLID LINES AND DIMENSIONS TO THE CENTERLINE OF THE PIPE.
 3. ALL PIPING TO BE DELETED SHALL BE SHOWN BY DASHED LINES AND DIMENSIONS TO THE CENTERLINE OF THE PIPE.
 4. ALL PIPING SHALL BE CONSTRUCTED USING AMERICAN STANDARD PIPE UNLESS OTHERWISE SPECIFIED.

