

**THE GOVERNING BOARD OF THE  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
LAKE APOPKA INNOVATIVE TOTAL PHOSPHORUS REMOVAL  
TWO-STEP INVITATION FOR BID 33537**

The Governing Board of the St. Johns River Water Management District (the "District"), requests that interested parties respond to the solicitation below by 1:00 p.m., September 13, 2018. Further information is available through Onvia DemandStar at *Demandstar.com* [(800) 711-1712], Vendor Registry at *Vendorregistry.com*, or the District's website at *sjrwm.com*. Solicitation packages may be obtained from Onvia DemandStar, Vendor Registry, or the District by calling or emailing Alan Weaver, Sr. Procurement Specialist, at 386-329-4271 or [aweaver@sjrwm.com](mailto:aweaver@sjrwm.com). Responses will be opened in the Procurement Conference Room, Administration Building, Palatka Headquarters, 4049 Reid Street, Palatka, Florida 32177-2571.

Through this project, Successful Respondent will be responsible to utilize an innovative, non-traditional treatment technology that is sustainable, reliable and cost-effective to remove approximately 6,000 to 12,000+ pounds of Total Phosphorus (TP) from Lake Apopka's water column over a 12- to 24-month period. The Successful Respondent will be paid the bid rate for each pound of TP removed from the water column. The Successful Respondent shall provide the design, materials, labor, testing, and disposal of the by-products necessary for the process and the removed TP. The estimated budget for the project is \$1,160,000.

A NON-MANDATORY PRE-PROPOSAL CONFERENCE IS SCHEDULED FOR  
1:00 P.M., AUGUST 29, 2018, IN CONFERENCE ROOM 136A  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT HEADQUARTERS,  
4049 REID STREET, PALATKA, FLORIDA 32177  
RESPONDENTS MAY ATTEND IN PERSON OR BY TELECONFERENCE:  
CALL-IN NUMBER: (888) 670-3525, PARTICIPANT CODE: 6285130206 THEN #

The District's Evaluation Committee ("Committee") will meet at District headquarters at 4049 Reid Street, Palatka, Florida 32177-2571, to evaluate and determine which respondents are deemed qualified for the purpose of accepting their bid. In pre-qualifying bidders the Committee shall focus upon whether the respondent has the (1) financial capability, (2) access to required equipment, and (3) knowledge and experience to successfully perform. The project approach submitted by the respondents is only relevant in determining whether the potential respondent has a sufficient understanding of the type of services to be provided to successfully perform. If the Committee deems a respondent "not qualified" in any of these areas, the respondent shall be disqualified, and its bid will be returned unopened. Qualifications are based on a "pass/fail" basis only and based upon a majority vote of the Committee in each area of the qualifications. The Committee will open all bids from those respondents deemed qualified. The Committee shall meet as follows:

- 10:00 a.m., September 12, 2018, to
  - Review the pre-qualifications criteria and responsibilities of the Committee members
- 2:00 p.m., on September 13, 2018, to
  - Independently review each respondent's qualifications and determine if a respondent is qualified or not qualified
  - Open the bids of all qualified respondents and return unopened bids of unqualified respondents

Special accommodations for disabilities may be requested through Alan Weaver, Sr. Procurement Specialist, at 386-329-4271 or by calling (800) 955-8771 (TTY), at least five business days before the date needed.

**NOTE: Public Records**

This solicitation is subject to Florida's Public Records Laws and the exemptions there to, including provisions regarding confidential and trade secret records. Respondent is responsible for identifying confidential or trade secret information as such upon submittal to the District.

Unless otherwise exempt, Respondent's Proposal, including recorded oral presentations and presentation materials, is a public record subject to disclosure. If any information submitted with the Proposal is confidential under Florida's Public Records law or a trade secret as defined in §812.081, Fla. Stat., and exempt from disclosure pursuant to §815.04, Fla. Stat., Respondent must clearly identify any such material as "CONFIDENTIAL" or "CONFIDENTIAL TRADE SECRET" in its Proposal AND explain the statutory basis for such exemption. Placing "Confidential" or "Confidential, Trade Secret" in the header or footer of a page is NOT sufficient to identify what material Respondent believes to be confidential or trade secret, nor does it explain the basis for such exemption. The District reserves the right, in its sole judgment and discretion, to reject a Proposal for excessive or unwarranted assertion of confidentiality or trade secret confidentiality and return the Proposal to Respondent.

Notwithstanding any other provision hereof, the District shall not be liable to Respondent for release of confidential or trade secret information not identified as such upon submittal. If the District receives a public records request that requests information claimed to be confidential or trade secret by Respondent, the District shall take such steps as are necessary to comply with chapter 119, Fla. Stat., while protecting the confidential or trade secret information. In the event of a dispute as to whether the requested information is confidential or a trade secret, Respondent shall be liable for all costs incurred by the District resulting from the dispute, including any court costs and attorney's fees. The calculation of those costs shall not include costs that are charged to the public records requestor.

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## INSTRUCTIONS TO RESPONDENTS

### 1. DEFINITIONS

The definitions of capitalized terms used in this solicitation that are not otherwise defined herein can be found in the sample contract document (the “Agreement”) that is at the end of these instructions. The Agreement includes these Instructions to Respondents, any addenda published by the District, the bid provided by Respondent (the “Bid”), and all required certifications and affidavits.

### 2. CONTRACT ADMINISTRATION

All inquiries related to this solicitation may only be directed to the Procurement Specialist:

Alan Weaver, Sr. Procurement Specialist  
 Phone: 386-329-4271  
 Fax: 386-329-4546  
 Email: aweaver@sjrwm.com

Between the release of this solicitation and the posting of the notice of intended decision, Respondents to this solicitation or persons acting on their behalf may not contact any employee or officer of the District concerning any aspect of this solicitation, except the procurement employee listed above. Violation of this provision is grounds for rejecting a response.

### 3. WHERE TO DELIVER BID

The Bid must be submitted in a sealed envelope to:

Alan Weaver, Sr. Procurement Specialist  
 Attn: Office of Financial Services  
 St. Johns River Water Management District  
 4049 Reid St, Palatka, FL 32177-2571

Respondents must clearly label the Bid envelope with **large bold, and/or colored lettering (place label on inner envelope if double sealed)** as follows:

SEALED BID — DO NOT OPEN  
 Respondent’s Name: \_\_\_\_\_  
 Invitation for Bid: 33537  
 Opening Time: 1:00 p.m.  
 Opening Date: September 13, 2018

Please note that the United States Postal Service does not deliver regular mail or express mail to the above address. The District’s experience is that Federal Express and United Parcel Service will.

### 4. OPENING OF BIDS

Respondents or their authorized agents are invited to attend the opening of the Bids at the following time and place:

1:00 p.m., September 13, 2018  
 St. Johns River Water Management District Headquarters  
 4049 Reid Street, Palatka, Florida 32177-2571

The Florida Public Records Act, §119.071(1)(b), Fla. Stat., exempts sealed Proposals from inspection and copying until such time as the District provides notice of an intended decision pursuant to

§120.57(3)(a), Fla. Stat., or until 30 days after opening of Proposals, whichever is earlier. This exemption is not waived by the public opening of the Proposals.

This solicitation is subject to Florida's Public Records Laws and the exemptions there to, including provisions regarding confidential and trade secret records. Respondent is responsible for identifying confidential or trade secret information as such upon submittal to the District.

Unless otherwise exempt, Respondent's Proposal, including recorded oral presentations and presentation materials, is a public record subject to disclosure. If any information submitted with the Proposal is confidential under Florida's Public Records law or a trade secret as defined in §812.081, Fla. Stat., and exempt from disclosure pursuant to §815.04, Fla. Stat., Respondent must clearly identify any such material as "CONFIDENTIAL" or "CONFIDENTIAL TRADE SECRET" in its Proposal AND explain the statutory basis for such exemption. Placing "Confidential" or "Confidential, Trade Secret" in the header or footer of a page is NOT sufficient to identify what material Respondent believes to be confidential or trade secret, nor does it explain the basis for such exemption. The District reserves the right, in its sole judgment and discretion, to reject a Proposal for excessive or unwarranted assertion of confidentiality or trade secret confidentiality and return the Proposal to Respondent.

Notwithstanding any other provision hereof, the District shall not be liable to Respondent for release of confidential or trade secret information not identified as such upon submittal. If the District receives a public records request that requests information claimed to be confidential or trade secret by Respondent, the District shall take such steps as are necessary to comply with chapter 119, Fla. Stat., while protecting the confidential or trade secret information. In the event of a dispute as to whether the requested information is confidential or a trade secret, Respondent shall be liable for all costs incurred by the District resulting from the dispute, including any court costs and attorney's fees. The calculation of those costs shall not include costs that are charged to the public records requestor.

## 5. PREPARATION AND ORGANIZATION OF BID DOCUMENTS

Respondent must submit its response in "hard copy (paper)" format. **Instructions for submitting Responses in "Hard Copy (paper)" format are as follows. The Cost Schedule and Bid Bond forms must be submitted in hard copy (paper) format and in a separate sealed envelope.**

1. Respondents must submit the following fully executed documents on reproduced copies of the attached forms provided in FORMS:
  - a. Bid Form
  - b. Cost Schedule
  - c. Certificate as to Corporation
  - d. Affidavit as to Non-collusion and Certification of Material Conformance with Specifications
  - e. Qualifications (General, Similar Projects, Client References, and Subcontractors)
  - f. Drug-Free Workplace Form (not required unless there is a tie bid)
  - g. Bid bond form
2. Respondents shall provide one original and one extra copy of the **Bid and Pre-Qualification package**.
3. Please identify the original Submittal as "**ORIGINAL**"
4. Respondents must submit the original bid package in the form and manner specified herein. All blank spaces on the bid documents must be typewritten or legibly printed in ink. Respondent must specify the cost for any one complete bid item or the entire work described in the Agreement (the "Work") in figures as indicated by the spaces provided. In the event you decline to submit a bid, the District would appreciate submittal of the "No Response Form" provided at the end of the "FORMS" section to describe the reason for not submitting a bid.

5. In order to assist the District's review process, each Bid and Pre-Qualification package shall be bound or submitted in three-ring folders/binders.
6. Unless directed otherwise, all information required by the solicitation, including the forms and questionnaires listed under "1" above must be completed (typed or hand written) and included in the submission in hard copy paper format.

All of the forms and questionnaires in the Invitation for Bids package are available upon request in Microsoft® Word to aid the Respondent in submitting its Bid.

**If you need assistance or have any questions about the format, please call or email Alan Weaver at 386-329-4271 or aweaver@sjrwmd.com.**

## 6. INQUIRIES AND ADDENDA

District staff are not authorized to orally interpret the meaning of the specifications or other Agreement documents, or correct any apparent ambiguity, inconsistency, or error therein. In order to be binding upon the District, the interpretation or correction must be given by the Procurement Specialist and must be in writing. The Procurement Specialist may orally explain the District's procedures and assist Respondents in referring to any applicable provision in the Invitation for Bids documents, but the Respondent is ultimately responsible for submitting the Bid in the appropriate form and in accordance with written procedures.

Every request for a written interpretation or correction must be received at least nine days prior to opening of Bids in order to be considered. Requests may be submitted by fax at 386-329-4546 or by email at aweaver@sjrwmd.com. Interpretations, corrections, and supplemental instructions will be communicated by written addenda to this solicitation posted by Onvia DemandStar and Vendor Registry to all prospective Respondents (at the respective addresses furnished for such purposes) no later than five days before the opening of Bids.

Submission of a Bid constitutes acknowledgment of receipt of all addenda. Bids will be construed as though all addenda had been received. Failure of the Respondent to receive any addenda does not relieve Respondent from any and all obligations under the Bid, as submitted. All addenda become part of the Agreement.

## 7. BUDGET

The estimated budget for the Work is \$1,160,000. The above amount is an estimate only and does not limit the District in awarding the Agreement. Respondents are cautioned to not make any assumptions from the budget estimate about the total funds available for the Work. The District retains the right to adjust the estimated budget in awarding the Agreement. The District also reserves the right to reject all Bids over this estimated budget amount. In addition, the District reserves the right to increase, decrease, or delete any class, item, or part of the Work in order to reduce costs for any reason. The District may discuss alternatives for reducing the cost of the Work with Respondents and make such modifications as it determines to be in its best interest.

## 8. MINIMUM QUALIFICATIONS

Respondent must submit Respondent-provided documentation, as well as, use the "Qualification" forms (General, Similar Projects, and Client References) provided in these documents, to document the minimum qualifications listed below. Failure to include the required Respondent-provided information and these forms with the Bid may result in disqualification of the Respondent and return of its bid unopened .

- a. Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed, or have been successfully operating, at least one project or pilot study

of a similar nature (removal of phosphorus from the water column) within the five years immediately preceding the date for receipt of Bids.

*(Use District form to document the project)*

- b. Respondent must have no less than one year of experience on the project specified above.  
*(Respondent-prepared documentation – no District form provided)*
- c. A description of the TP removal process from a chemical and physical standpoint that defines how the proposed process removes the TP from the water column. The target effluent concentration from the process should also be included. A list of compounds added to the effluent stream by the removal process, including reaction byproducts and additives, and typical effluent concentrations for each compound.

NOTE: Total Phosphorus removal processes that result in a concentration target of greater than 0.055 mg/l will be disqualified. Also, if the documents are not clear, are missing information, or do not adequately describe the process in order for the Committee to determine whether the process meets the minimum requirements as expressed above, the Respondent will be disqualified.

*(Respondent-prepared documentation – no District form provided)*

- d. Representative water quality monitoring data collected during previous treatment operations within the past five years. This data should include the analytes TP, TSS, PO4-D, pH, DO, conductivity, and temperature for both the influent and effluent stream including the date and time the samples were collected. Inflow and outflow TP concentrations, as analyzed by a certified lab for at least two sampling events during at least one previous project, shall be included, as well as, copies of the lab's certification(s) and certified reports.  
*(Respondent-prepared documentation – no District form provided)*
- e. Details of the specific means by which the by-product of the TP removed from the water column will be disposed. Disposal may be accomplished through export out of the Lake Apopka watershed or within the watershed if biologically immobilized by a process, as verified by an independent monitoring agency. Rough estimates of by-product production, the proposed facility size, and a plan for handling the by-products are required.  
*(Respondent-prepared documentation – no District form provided)*
- f. Details of land requirements for TP removal process.  
*(Respondent-prepared documentation – no District form provided)*
- g. Respondent shall request that Dun & Bradstreet (D&B) provide the District with a Comprehensive Report on Respondent to assist the Committee in determining financial capability. Respondent is responsible to pay the cost of the report and have D&B to submit the report directly to the District by no later than the time and date set for receipt of bids.  
*(Respondent-prepared documentation – no District form provided)*
- h. Respondent must provide at least one client reference and may be from the similar project listed in response to subparagraph (a), above.

*(Respondent-prepared documentation – no District form provided)*

- h. Respondent must provide at least one client reference and may be from the similar project listed in response to subparagraph (a), above.

*(Use District form to document the references)*

Irrespective of the minimum qualifications stated above, the District may make such investigations as it deems necessary to determine the ability of the Respondent to perform the Work. The District reserves the right to reject any Bid if the evidence submitted by such Respondent and/or the District's independent investigation of such Respondent fails to satisfy the District that such Respondent is properly qualified to carry out the obligations of the Agreement and complete the Work in a manner acceptable to the District within the time period specified.

## 9. **BID GUARANTY**

Each Bid must be accompanied by a Bid guaranty in the form of a Bid bond or cashier's check, payable to the District, for five percent of the "Total Bid Cost" indicated on the Bid. Cash will not be accepted. The Bid bond must be written through a licensed Florida agency with a company licensed to do business in the State of Florida and meeting the requirements of the Agreement. The guaranty must provide that the Bid will remain firm for 60 days after the designated date and hour of the Bid opening; that if the Bid is accepted, Respondent must enter into a contract with the District in accordance with the Agreement; and that Respondent will provide any required performance and payment bonds and certificates of insurance.

If Respondent withdraws its Bid after receiving notice of acceptance thereof, Respondent will be liable to the District for the full amount of the guaranty as representing the District's damages on account of Respondent's default.

Within ten days after the Bid opening, the Bid guaranty will be refunded to all respondents, except the three lowest responsive and responsible Respondents. The remaining Bid guarantees will be refunded within 30 days after the District and the Successful Respondent have executed the Agreement and all other necessary documents.

Attorneys-in-fact who sign Bid bonds and performance and payment bonds must file with such bonds a certified copy of their power of attorney to sign such bonds. All bonds must be countersigned by a Florida resident agent of the surety, with proof of agency attached.

## 10. **SUBCONTRACTS**

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors for each portion of the Work exceeding ten percent of the Work on the attached "Proposed Subcontractors" form. Respondent must submit with its Bid a list of all known subcontractors who will participate in more than ten percent of the Work. Acceptance of the Bid does not constitute approval of the subcontractors identified with the Bid.

## 11. **SIGNATURE AND CERTIFICATION REQUIREMENTS**

An individual submitting a Bid must sign his/her name therein and state his/her address and the name and address of every other person interested in the Bid as principal. If a firm or partnership submits the Bid, state the name and address of each member of the firm or partnership. If a corporation submits the Bid, an authorized officer or agent must sign the Bid, subscribing the name of the corporation with his or her own name and affixing the corporate seal. Such officer or agent must also provide the name of the state under which the corporation is chartered, and the names and business addresses of the President, Secretary, and Treasurer. Corporations chartered in states other than Florida must submit evidence of registration with the Florida Secretary of State for doing business in the State of Florida. Respondent must certify that all persons or entities having an interest as principal in the Bid or in substantial performance of the Work have been identified in the Bid forms.

## 12. **DISQUALIFICATION OF RESPONDENTS**

Any of the following causes will be considered as sufficient grounds for disqualification of a Respondent and rejection of the Bid:

- a. Contacting a District employee or officer other than the procurement employee named in this solicitation about any aspect of this solicitation before the notice of intended decision is posted.
- b. Submission of more than one Bid for the same subject matter by an individual, firm, partnership, or corporation under the same or different names;
- c. Evidence of collusion among Respondents;
- d. Submission of materially false information with the Bid;



- e. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;
- f. Respondent is failing to adequately perform on any existing contract with the District;
- g. Respondent has defaulted on a previous contract with the District;
- h. The evidence submitted by Respondent, or the District's investigation of Respondent, fails to satisfy the District that Respondent is properly qualified to carry out the obligations of the Agreement in a manner acceptable to the District and within the time period specified;
- i. Any other cause that is sufficient to raise doubt regarding the ability of a Respondent to perform the Work in a manner that meets the District's objectives for the Work.

### 13. REJECTION OF BID

Bids must be delivered to the specified location and received before the Bid opening in order to be considered. Untimely Bids will be returned to the Respondent unopened. Bids will be considered irregular and may be rejected if they show material omissions, alterations of form, additions not called for, conditions, limitations, or other material irregularities. The District may consider incomplete any Bid not prepared and submitted in accordance with the provisions specified herein, and reserves the right to waive any minor deviations or irregularities in an otherwise valid Bid.

The District reserves the right to reject any and all Bids and cancel this request for qualifications when it determines, in its sole judgment and discretion, that it is not in its best interest to award the agreement.

### 14. WITHDRAWAL OF BIDS

Respondent may withdraw its Bid if it submits such a written request to the District prior to the designated date and hour of opening of Bids. Respondent may be permitted to withdraw its Bid no later than 72 hours after the Bid opening for good cause, as determined by the District in its sole judgment and discretion.

### 15. AWARDING THE AGREEMENT

- a. The District's Committee will meet at District headquarters at 4049 Reid Street, Palatka, Florida 32177-2571, to evaluate and determine which respondents are deemed qualified for the purpose of accepting their bid. In pre-qualifying bidders the Committee shall focus upon whether the respondent has the (1) financial capability, (2) access to required equipment, and (3) knowledge and experience to successfully perform. The project approach submitted by the respondents is only relevant in determining whether the potential respondent has a sufficient understanding of the type of services to be provided to successfully perform. If the Committee deems a respondent "not qualified" in any of these areas, the respondent shall be disqualified, and its bid will be returned unopened. Qualifications are based on a "pass/fail" basis only and based upon a majority vote of the Committee in each area of the qualifications. The Committee will open all bids from those respondents deemed qualified. The Committee will meet at the times and dates specified.
- b. The Agreement will be awarded to the lowest responsive, responsible Respondent, being the Respondent deemed qualified as stated in Item 8 above and with the lowest Total Bid Cost who demonstrates, in accordance with the requirements of the bid documents, a verifiable history of the skill, ability, integrity, and reliability necessary for the faithful performance of the Agreement (the "Successful Respondent"). The Agreement may be modified based on the District's acceptance of any alternatives listed in the bid that the District deems in its best interest.
- c. Section 286.0113, Fla. Stat., exempts from being open to the public, any portion of a meeting at which: (1) a negotiation with a Respondent is conducted pursuant to a competitive solicitation; (2) a Respondent makes an oral presentation as part of a competitive solicitation; (3) a Respondent answers questions as part of a competitive solicitation; or (4) negotiation strategies are discussed. Also, recordings of, and any records presented at, the exempt meeting are exempt from §119.07(1)

and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision or until 30 days after opening the bids or final replies, whichever occurs earlier. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

- d. Pursuant to §286.0113 Fla. Stat., if the District rejects all bids and concurrently provides notice of its intent to reissue the competitive solicitation, any recordings or records presented at any exempt meeting relating to the solicitation shall remain exempt from §119.07(1) and §24(a), Art. I of the State Constitution (Public Records) until such time as the District provides notice of an intended decision concerning the reissued competitive solicitation or until the District withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial District notice rejecting all bids.
- e. If two or more bids are equal in all respects, the Agreement will be awarded as follows: (1) to the Respondent that certifies compliance with §287.087, Fla. Stat., via the Drug-Free Workplace Form; (2) to a Respondent university in the State University System pursuant to §373.63, Fla. Stat.; (3) to a Respondent whose bid contains commodities manufactured, grown, or produced within the State of Florida pursuant to §287.082 Fla. Stat.; or (4) by lot.
- f. For 60 days after the designated date and hour of the opening of bids, the Respondent will not be permitted to increase its bid cost.
- g. The District reserves the right to award the Agreement to the next lowest available bidder in the event the Successful Respondent fails to enter into the Agreement, or the Agreement with said Respondent is terminated within 90 days of the effective date.
- h. All Respondents will be notified of the District's intent to award or decision to award the Agreement. For the purpose of filing a bid protest under §120.57(3), Fla. Stat., the time period will commence as provided in "NOTICES AND SERVICES THEREOF."

## 16. EXECUTION OF AGREEMENT

Submittal of a Bid binds the Successful Respondent to perform the Work upon acceptance of the Bid and execution of the Agreement by the District.

Unless all Bids are rejected, a contract substantially in the form included in these documents will be provided to the Successful Respondent, who must execute and return the Agreement to the District within ten days of the date of receipt, along with the following:

- a. A payment bond in the amount of \$250,000
- b. A completed Internal Revenue Service Form W-9;
- c. Satisfactory evidence of all required insurance coverage;
- d. Proof satisfactory to the District of the authority of the person or persons executing the Agreement on behalf of Respondent;
- e. All other information and documentation required by the Agreement.

The District will not execute the Agreement until the above documents have been executed and delivered to the District. The Agreement will not be binding until executed by the District. A copy of the fully executed Agreement will be delivered to the Successful Respondent. The District reserves the right to cancel award of the Agreement without liability at any time before the Agreement has been fully executed by all parties and delivered to the Successful Respondent.

Failure upon the part of the Successful Respondent to execute the Agreement or timely submit the required evidence of insurance coverage, or any other matter required by the Agreement, will be just cause, if the District so elects, for the recommended award to be annulled. In such event, the District will be entitled to the full amount of the Bid guaranty, not as a penalty, but in liquidation of and compensation for damages sustained.

**17. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA**

Respondent is solely responsible for being fully informed of the conditions under which the Work is to be performed in relation to existing conditions. Respondent is responsible for carefully examining the general area of the Work, the requirements of the drawings and other contract documents related to the Work, the time in which the Work must be completed, and any other details of the Work. Respondent must satisfy itself from its own personal knowledge and experience or professional advice as to the character of the Work, the conditions and materials to be encountered, the character, quality, and quantities of the Work, and any other conditions affecting the Work, including surrounding land.

Failure to satisfy the obligations of this paragraph will not relieve a Successful Respondent of its obligation to furnish all material, equipment, and labor necessary to perform the Agreement and to complete the Work for the consideration set forth in its Bid. Any such failure will not be sufficient cause to submit a claim for additional compensation.

No verbal agreement or conversation with any District officer, agent or employee, either before or after the execution of the Agreement, will affect or modify any of its terms.

**18. DIVERSITY**

The District is committed to the opportunity for diversity in the award and performance of all procurement activities. The District encourages its Prime Respondents to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as second and lower tier participants. The District will assist Respondents by sharing information on W/MBEs to encourage their participation.

**19. FLORIDA SALES TAX**

The District is exempt from payment of State of Florida sales tax pursuant to §212.08(6), Fla. Stat. Any tangible personal property that is the subject of this Invitation for Bids is intended to remain tangible personal property and not become part of a public work owned by the District.

**20. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS**

In accordance with §287.133 and §287.134, Fla. Stat., a person or affiliate who has been placed on the convicted or discriminatory vendor lists following a conviction for a public entity crime or placement on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in §287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted or discriminatory vendor lists.

**21. NOTICES AND SERVICES THEREOF**

The District will publish notice of specifications and criteria, including addenda, intended agency decisions, or other matters pertinent to this solicitation on Onvia DemandStar at *DemandStar.com* and Vendor Registry at *vendorregistry.com*. Onvia DemandStar and Vendor Registry may also be accessed through the District's web site at *sjrwm.com*. In addition, the District will post notices of intended agency decisions at the District's headquarters, 4049 Reid Street, Palatka, Florida, Administration Building, Procurement Bulletin Board, on the date the publication is posted on Onvia DemandStar.

Notices that are posted on Onvia DemandStar and Vendor Registry are deemed received at 8:00 a.m. on the next business day following the date posted. Notices that are posted at the District's Procurement

Bulletin Board are deemed received at 8:00 a.m. on the next business day following the date of posting. Notices will be posted for a minimum of 72 hours following the time at which they are deemed received. The time period for filing a Notice of Protest pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, commences at the time notices are deemed received.

As a courtesy to Respondents, the District may send copies of the notices of intended agency decisions via email or facsimile to Respondent. These courtesy communications neither constitute official notice nor vary the times of receipt set forth above.

## **22. PROTEST PROCEDURES**

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by the procurement methodology described herein, or the specifications or criteria, including addenda, must file a Notice of Protest within 72 hours after receipt of the solicitation documents or addenda.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.003, Fla. Admin. Code, any person adversely affected by a District decision or intended decision to award a contract, or to reject all bids, proposals, or qualifications, must file a Notice of Protest within 72 hours after receipt of the decision or intended decision. Pursuant to §287.042(2)(c), Fla. Stat., any person who files an action protesting the decision or intended decision must post with the District Clerk at the time of filing the formal written protest a bond, cashier's check, or money order made payable to the St. Johns River Water Management District in an amount equal to one percent (1%) of the District's estimated contract amount.

Pursuant to §120.57(3), Fla. Stat., and Rule 28-110.004, Fla. Admin. Code, the protester must also file with the District Clerk a Formal Written Protest within ten days after the date the Notice of Protest is filed with the District. The Formal Written Protest must state with particularity the facts and law upon which the protest is based.

No additional time will be added for mailing. All filings must comply with Rule 28-106.104, Fla. Admin. Code, and must be addressed to and received by the District Clerk at the District Headquarters in Palatka, Florida within the prescribed time periods. The District will not accept as filed any electronically transmitted facsimile pleadings, petitions, Notice of Protest or other documents. Failure to file a protest within the time prescribed in §120.57(3), Fla. Stat., or failure to post the bond or other security required by law within the time allowed for filing a bond will constitute a waiver of proceedings under chapter 120, Fla. Stat. Mediation under §120.573, Fla. Stat., is not available.

**FORMS**  
**BID FORM**

Include this form in the Bid Envelope)

RESPONDENT:

The undersigned, as Respondent, hereby declares and certifies that the only person(s) or entities interested in this bid as principal(s), or as persons or entities who are not principal(s) of the Respondent but are substantially involved in performance of the Work, is or are named herein, and that no person other than herein mentioned has any interest in this bid or in the Agreement to be entered into; that this bid is made without connection with any other person, company, or parties making a bid; and that this bid is in all respects fair and in good faith without collusion or fraud.

Respondent represents to the District that, except as may be disclosed in an addendum hereto, no officer, employee or agent of the District has any interest, either directly or indirectly, in the business of Respondent to be conducted under the Agreement, and that no such person shall have any such interest at any time during the term of the Agreement, should it be awarded to Respondent.

Respondent further declares that it has examined the Agreement and informed itself fully in regard to all conditions pertaining to this solicitation; it has examined the specifications for the Work and any other Agreement documents relative thereto; it has read all of the addenda furnished prior to the bid opening, as acknowledged below; and has otherwise satisfied itself that it is fully informed relative to the Work to be performed.

Respondent agrees that if its bid is accepted, Respondent shall contract with the District in the form of the attached Agreement, and shall furnish everything necessary to complete the Work in accordance with the time for completion specified in the Agreement, and shall furnish the required evidence of the specified insurance.

Acknowledgment is hereby made of the following addenda (identified by number) received:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

\_\_\_\_\_  
Respondent (firm name) \_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Signature \_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Typed name and title \_\_\_\_\_  
Fax number

COST SCHEDULE

Include this form in the Bid Envelope

Bid to be opened at 1:00 p.m., September 13, 2018

To: ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

In accordance with the advertisement requesting bids for the Lake Apopka Innovative Total Phosphorus Removal, subject to the terms and conditions of the Agreement, the undersigned proposes to perform the Work for the price contained in the following schedule (fill in all blanks).

If said bid exceeds the estimated amount previously provided, the District expressly reserves the right to increase, decrease, or delete any class, item, or part of the Work, as may be determined by the District.

Respondents are reminded to refer to "PREPARATION AND ORGANIZATION OF BID DOCUMENTS" for information to be included with the bid package.

Total Proposed Cost per pound of Removed Phosphorus ..... \$ \_\_\_\_\_ / pound

The bid will be awarded to the lowest responsive and responsible Respondent for the Total Bid Cost.

Pursuant to §287.084(2) Fla. Stat., a vendor whose principal place of business is outside the State of Florida must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts.

I HEREBY ACKNOWLEDGE, as Respondent's authorized representative, that I have fully read and understand all terms and conditions as set forth in this bid and upon award of such bid, shall fully comply with such terms and conditions.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent (firm name)

\_\_\_\_\_  
Address

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Typed name and title

\_\_\_\_\_  
Fax number

PROPOSED SUBCONTRACTORS

Include this form in the response

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors.

1. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

2. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

3. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

4. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

5. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

6. Name and address of subcontractor: \_\_\_\_\_

\_\_\_\_\_  
Description of work: \_\_\_\_\_

\_\_\_\_\_  
Estimated value of Work: \_\_\_\_\_

CERTIFICATE AS TO CORPORATION

Include this form in the response

The below Corporation is organized under the laws of the State of \_\_\_\_\_; is authorized by law to respond to this Invitation for Bids and perform all work and furnish materials and equipment required under the Agreement, and is authorized to do business in the state of Florida.

Corporation name: \_\_\_\_\_

Address: \_\_\_\_\_

Registration No.: \_\_\_\_\_

Registered Agent: \_\_\_\_\_

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

(Official title)

(Affix corporate seal)

Attest: \_\_\_\_\_

(Secretary)

The full names and business or residence addresses of persons or firms interested in the foregoing bid as principals or officers of Respondent are as follows (specifically include the President, Secretary, and Treasurer and state the corporate office held of all other individuals listed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Identify any parent, subsidiary, or sister corporations involving the same or substantially the same officers and directors that will or may be involved in performance of the Project, and provide the same information requested above on a photocopy of this form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If applicable, attach a copy of a certificate to do business in the state of Florida, or a copy of the application that has been accepted by the state of Florida to do business in the state of Florida, for the Respondent and/or all out-of-state corporations that are listed pursuant to this form.



AFFIDAVIT AS TO NON-COLLUSION AND CERTIFICATION OF MATERIAL CONFORMANCE WITH SPECIFICATIONS

Include this form in the response

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, the undersigned, \_\_\_\_\_ being first duly sworn, depose and say that:

1. I am the owner or duly authorized officer, representative, or agent of:

\_\_\_\_\_ the Respondent that has submitted the attached bid.

2. The attached bid is genuine. It is not a collusive or sham bid.

3. I am fully informed respecting the preparation and contents of, and knowledgeable of all pertinent circumstances respecting the attached bid.

4. Neither Respondent nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Respondent, firm, or person to submit a collusive or sham bid in connection with the Agreement for which the attached bid has been submitted, or to refrain from bidding in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement, collusion, communication, or conference with any other Respondent, firm, or person to fix the price or prices in the attached bid of any other Respondent, or to fix any overhead, profit, or cost element of the bid prices or the bid price of any other Respondent, or to secure through collusion, conspiracy, connivance, or unlawful agreement any advantage against the District or any other person interested in the proposed Agreement.

5. The price(s) quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

6. No official or other officer or employee of the District, whose salary or compensation is payable in whole or in part by the District, is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work, or labor to which it relates, or in any of the profits therefrom.

7. Any materials and equipment proposed to be supplied in fulfillment of the Agreement to be awarded conform in all respects to the specifications thereof. Further, the proposed materials and equipment will perform the intended function in a manner acceptable and suitable for the intended purposes of the District.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Notary Public, state of \_\_\_\_\_ at Large

My commission expires:

(SEAL)

QUALIFICATIONS — GENERAL

Include this form in the response

As part of the bid, Respondent shall complete the following so that the District can determine Respondent’s ability, experience, and facilities for performing the Work.

Name of Respondent: \_\_\_\_\_

Respondent’s tax identification No.: \_\_\_\_\_

Year company was organized/formed: \_\_\_\_\_

Number of years Respondent has been engaged in business under the present firm or trade name: \_\_\_\_\_

Total number of years Respondent has experience in similar advance (Lake Apopka Innovative Total Phosphorus Removal) is work described in the INSTRUCTIONS TO RESPONDENTS: \_\_\_\_\_

Has Respondent previously been engaged in the same or similar business under another firm or trade name? If so, please describe each such instance.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has Respondent ever been adjudicated bankrupt, initiated bankruptcy, or been the subject of bankruptcy proceedings on behalf of the current entity submitting this bid or a prior entity that Respondent substantially operated or controlled? If yes, please describe the nature and result of those proceedings and the entity involved.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe the background/experience of the person or persons who will be primarily responsible for directing the Work that will be performed pursuant to this bid. This inquiry is intended to encompass the project manager and/or superintendent who will be engaged on a daily basis in directing performance of the Work.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

QUALIFICATIONS — SIMILAR PROJECTS

Include this form in the response

Respondent (or a combination of the firm, individual, or project manager assigned to the work) must have successfully completed, or have been successfully operating, at least one project of a similar nature (removal of phosphorus from the water column) within the five years immediately preceding the date for receipt of Bids, as described in the INSTRUCTIONS TO RESPONDENTS. (Add additional sheet for optional additional completed projects.)

**Project 1:**

Agency/company: \_\_\_\_\_

Current contact person at agency/company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Address of agency/company: \_\_\_\_\_

Name of project: \_\_\_\_\_

Description: \_\_\_\_\_

Project value: \_\_\_\_\_ Start date: \_\_\_\_\_ Completion date: \_\_\_\_\_  
(month/year) (month/year)

**Name(s) of assigned personnel:**

Project manager: \_\_\_\_\_

Others: \_\_\_\_\_

**Optional Project 2:**

Agency/company: \_\_\_\_\_

Current contact person at agency/company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Address of agency/company: \_\_\_\_\_

Name of project: \_\_\_\_\_

Description: \_\_\_\_\_

Project value: \_\_\_\_\_ Start date: \_\_\_\_\_ Completion date: \_\_\_\_\_  
(month/year) (month/year)

**Name(s) of assigned personnel:**

Project manager: \_\_\_\_\_

Others: \_\_\_\_\_

QUALIFICATIONS — CLIENT REFERENCE

Include this form in the response

Respondent shall provide one client reference, which may include the similar project listed above. No more than one reference shall be from the District. (For the similar project listed above, simply state “Similar Project No. \_\_\_\_.”)

**Client Reference 1:**

Agency/company: \_\_\_\_\_

Current contact person at agency/company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Agency/Company Address: \_\_\_\_\_

Name of project: \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

Project value: \_\_\_\_\_ Project manager: \_\_\_\_\_

**Client Reference 2:**

Agency/company: \_\_\_\_\_

Current contact person at agency/company: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Agency/Company Address: \_\_\_\_\_

Name of project: \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

Project value: \_\_\_\_\_ Project manager: \_\_\_\_\_

DRUG-FREE WORKPLACE FORM

This form required only in the event of a tie response

The Respondent, (business name) \_\_\_\_\_, in accordance with §287.087, Fla. Stat., hereby certifies that Respondent does the following:

1. Informs employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations
2. Publishes a statement notifying employees that
  - a. the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against its employees for violations of such prohibition.
  - b. as a condition of working on the contractual services that are the subject of this solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, Fla. Stat., or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
3. Gives each employee engaged in providing the contractual services that are the subject of this solicitation a copy of the statement specified in paragraph 2, above.
4. Imposes a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee convicted of a violation listed in sub-paragraph 2.b., above.
5. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of §287.087, Fla. Stat.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_/

BID BOND FORM

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
STATE OF FLORIDA

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_, whose address is: \_\_\_\_\_, (“Principal”), and \_\_\_\_\_, whose address is \_\_\_\_\_, (“Surety”), are held and firmly bound unto the St. Johns River Water Management District, whose address is 4049 Reid Street, Palatka, Florida 32177 (the “District”), in the Penal Sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas Principal has submitted the accompanying bid for Bid 33537, Lake Apopka Innovative Total Phosphorus Removal, which is scheduled to be opened on September 13, 2018.

NOW, THEREFORE, if Principal shall not withdraw this bid within 60 days after date of bid opening and shall within ten days after the prescribed forms are presented to him for signature, enter into a written contract with the District, in accordance with the bid as accepted, and shall give such bond or bonds as may be specified in the contract documents, with good and sufficient sureties, as may be required, for the faithful performance and proper fulfillment of the contract and give such bonds within the time specified; and, if Principal shall pay the District the difference between the amount specified in bid and the amount for which the District may procure the required work supplies, if the latter amount be in excess of the former, then the above obligations shall be void, and of no effect, otherwise to retain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way diminished, impaired, or affected by any extension of the time within which the District may accept such Bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the parties have executed this statement under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being affixed below and this statement being signed by his representative, pursuant to authority of its governing body.

Signed, sealed and delivered in the presence of:

PRINCIPAL  
\_\_\_\_\_  
(Official Title)

By: \_\_\_\_\_  
(typed name) (SEAL)

SURETY  
\_\_\_\_\_  
(Official Title)

By: \_\_\_\_\_  
(typed name) (SEAL)

NOTE: If Principal and Surety are corporations, the respective corporate seals should be affixed and attached. Attach a certified copy of Power-of-Authority appointing individual Attorney-in-Fact for execution of bid bond on behalf of Surety.

PAYMENT BOND

Bond Number \_\_\_\_\_

Surety Number \_\_\_\_\_

St Johns River Water Management District Contract Number 33537

BY THIS BOND, we, \_\_\_\_\_, whose address is \_\_\_\_\_, Phone \_\_\_\_\_, ("Principal"), and \_\_\_\_\_, whose address is \_\_\_\_\_, Phone \_\_\_\_\_, a corporation organized under the laws of the state of \_\_\_\_\_ and licensed to do business in the state of Florida ("Surety"), bind ourselves and our heirs, personal representatives, successors, and assigns, jointly and severally, unto the St. Johns River Water Management District (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, Phone (386) 329 4500, for the use and benefit of claimants, as defined in §255.05(1), Fla. Stat., in the amount of \$250,000.00, for the payment of which sum will and truly be made.

THE CONDITION OF THIS BOND is that if Principal:

- 1.
2. Promptly makes payment to all claimants supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work described in the contract, and
3. Pays the District all losses and damages, expenses, costs, and attorney's fees, including appellate proceedings, that the District sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in §255.05(2) and (10), Fla. Stat.

Any changes in or under the contract documents (which include the plans and specifications) and compliance or noncompliance with any formalities connected with the contract documents or the changes do not affect Surety's obligation under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or decrease in accordance with approved changes or other modifications to the contract documents.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument under their several seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and this Bond fully signed by each party's undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered in the presence of:

Principal \_\_\_\_\_

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

(Official title)

(Typed name)

(SEAL)

Surety \_\_\_\_\_

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

(Official title)

(Typed name)

(SEAL)

(Countersignature by Florida Registered Agent)

NOTE: If Principal and Surety are corporations, the respective corporate seals should be affixed and attached. Attach a certified copy of power of attorney appointing individual attorney-in-fact for execution of Payment Bond on behalf of Surety.

NO RESPONSE FORM  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
INVITATION FOR BIDS 33537,

Your reasons for not responding to this Invitation for Bids are valuable to the St. Johns River Water Management District's procurement process. Please complete this form and return it to the Office of Procurement Services no later than the date set for receipt of bids. Thank you for your cooperation.

Please check (as applicable):

- Specifications too "general" (explain below)
- Insufficient time to respond to the Invitation for Bids
- Do not provide this type of work for this project
- Schedule would not permit us to perform
- Unable to meet bid specifications
- Specifications unclear (explain below)
- Disagree with solicitation or Agreement terms and conditions (explain below)
- Other (specify below)

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE \_\_\_\_\_

RESPONDENT (FIRM NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TYPED NAME AND TITLE

\_\_\_\_\_  
TELEPHONE NUMBER

\_\_\_\_\_  
FAX NUMBER



**AGREEMENT  
BETWEEN THE  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
AND \_\_\_\_\_ TO/FOR  
LAKE APOPKA INNOVATIVE TOTAL PHOSPHORUS REMOVAL**

THIS AGREEMENT is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the "District"), whose address is 4049 Reid Street, Palatka, Florida 32177-2571, and \_\_\_\_\_ ("Contractor"), whose address is \_\_\_\_\_. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

In consideration of the payments hereinafter specified, Contractor agrees to furnish and deliver all materials and perform all labor required for Contract 33537, Lake Apopka Innovative Total Phosphorus Removal (the "Work"). In accordance with IFB 33537, Contractor shall complete the Work in conformity with this Agreement, which consists of and incorporates all of the following documents: (1) advertisement for bids, proposals, or qualifications; (2) Instructions to Respondents; (3) addenda; certifications, and affidavits; (4) bid, proposal, or qualifications submittals; (5) Agreement, including the Statement of Work, and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment hereto, the body of this Agreement shall prevail. This Agreement, including attachments, shall take precedence over all solicitation documents (items 1 – 4). The parties hereby agree to the following terms and conditions.

**1. TERM**

- (a) The term of this Agreement shall be from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof.
- (b) **Effective Date.** The Effective Date is the date upon which the last party to this Agreement has dated and executed the same.
- (c) **Completion Date.** The Completion Date of this Agreement is 24 months from the Effective Date of the Agreement, unless extended by mutual written agreement of the parties. The Work shall be completed for use no later than said date.
- (d) This Agreement may be renewed for one additional 12-month term by the mutual and written consent of each party.

**2. DELIVERABLES**

- (a) The Work is specified in the Statement of Work, Attachment A. Contractor shall deliver all products and deliverables as stated therein. Contractor is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Contractor shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The District's Project Manager shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- (b) If not otherwise addressed in the Statement of Work, upon written request, Contractor shall submit written progress reports to the District's Project Manager at the frequency requested in the form approved by the Project Manager at no additional cost to the District. The progress report

shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report will be cause to withhold payment.

3. **DELIVERABLES.** The Work is specified in the Statement of Work, Attachment A. Contractor shall deliver all products and deliverables as stated therein. Contractor is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Contractor shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work.
4. **FUNDING OF AGREEMENT.** For satisfactory performance of the Work, the District agrees to pay Contractor \$\_\_\_\_\_/pound up to the not-to-exceed amount of \$\_\_\_\_\_ (the “Total Compensation”).
5. **PAYMENT OF INVOICES**
  - (a) Contractor shall submit itemized invoices on a monthly basis for the Work by one of the following two methods: (1) by email to [acctpay@sjrwmd.com](mailto:acctpay@sjrwmd.com) (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, Contractor shall provide additional supporting information as required to document invoices.
  - (b) **End of District Fiscal Year Reporting.** The District’s fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice as of September 30, Contractor shall submit, prior to October 30, a description of the additional Work completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Contractor shall submit a description of the Work completed on the project through September 30 and a statement estimating the dollar value of that Work as of September 30.
  - (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District’s fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Contractor must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**
  - (d) All invoices shall include the following information: (1) District contract number; (2) Contractor’s name and address (include remit address, if necessary); (3) Contractor’s invoice number and date of invoice; (4) District Project Manager; (5) Contractor’s Project Manager; (6) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work; (7) Progress Report (if required); (8) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action, stating the basis for rejection. Payments shall be made within 45 days of receipt of an approved invoice. Disputes regarding invoice sufficiency are resolved pursuant to the dispute resolution procedure of this Agreement.

- (e) **Payments.** Absent exceptional circumstances, Contractor is required to sign up and receive payment(s) electronically from the District via Automated Clearing House (ACH) payment.
  - (f) **Payments withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective Work not remedied; (2) failure of Contractor to make payments when due to subcontractors or suppliers for materials or labor; (3) failure to maintain adequate progress in the Work; (4) damage to another contractor; or (5) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.
  - (g) **Payments.** The District shall pay Contractor 100% of each approved invoice.
6. **PAYMENT AND RELEASE.** Upon satisfactory completion of the Work, the District will provide Contractor a written statement accepting all deliverables. Contractor's acceptance of final payment shall constitute a release in full of all Contractor claims against the District arising from the performance of this Agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement.
7. **INDEMNIFICATION.** Contractor shall indemnify and hold harmless, release, and forever discharge the District, its public officers, employees, agents, representatives, successors, and assigns, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, arising from or caused by the Contractor, its employees or subcontractors, in the performance of the Work. Contractor shall further indemnify the District for all costs and penalties the District incurs related to any failure to offer Patient Protection and Affordable Care Act compliant health care coverage to Contractor-employees performing under this contract.
8. **INSURANCE.** Contractor shall acquire and maintain all insurance required by Attachment B, Insurance Requirements, and shall not commence Work until it has provided Certificates of Insurance to the District as per Attachment B. Receipt of Certificates of Insurance indicating less coverage than required does not constitute a waiver of the Insurance Requirements. Contractor waives its right of recovery against the District to the extent permitted by its insurance policies. Contractor's insurance shall be considered primary, and District insurance shall be considered excess, as may be applicable to Contractor's obligation to provide insurance.
9. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District's Governing Board for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Contractor and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.
10. **PROJECT MANAGEMENT PERSONNEL**
- (a) The Project Managers listed below shall be responsible for overall coordination and management of the Work. Either party may change its Project Manager upon three business days' prior written notice to the other party. Written notice of change of address shall be provided within five business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail;

(3) national overnight courier; (4) email or, (5) fax. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via email or fax are deemed delivered on the date transmitted and received.

DISTRICT

Lindsey Porter, Project Manager  
St. Johns River Water Management District  
601 South lake Destiny Road, Suite 200  
Maitland, FL 32751-7262  
Phone: 407-215-1453  
Email: lporter@sjrwmd.com

CONTRACTOR

TBD, Project Manager  
TBD  
TBD  
TBD  
Phone: TBD  
Email: TBD

- (b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Work.
- (c) Contractor shall provide efficient supervision of the Work, using its best skill and attention. Contractor shall keep, on the worksite during its progress, a competent plant operator that is satisfactory to the District. The superintendent shall not be changed except with the District's consent, unless the superintendent proves to be unsatisfactory to Contractor and/or ceases to be in its employ. The superintendent shall represent Contractor in the absence of Contractor's Project Manager. All directions given to him shall be as binding as if given to Contractor. If the District produces documented evidence and informs the Contractor that any person on the job is incompetent, disorderly, or is working contrary to the Agreement or the District's instructions, that person shall thereupon be immediately dismissed from the project and shall not be given employment on any work connected with this Agreement. The District may request Contractor replace its Project Manager if said manager fails to carry the Work forward in a competent manner, follow instructions or specifications, or for other reasonable cause.
- (d) Contractor shall maintain an adequate and competent professional staff. Contractor's employees, subcontractors, or agents shall be properly trained to meet or exceed any specified licensing, training and/or certification applicable to their profession. Upon request, Contractor shall furnish proof thereof.

## 11. SCHEDULING AND WORK PLANNING; PROGRESS REPORTING

- (a) **Progress Reports.** Contractor shall provide quarterly update/status reports to the District as provided in the Statement of Work. Reports will provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by District's Project Manager and Contractor, and may include emails, memos, and letters.
1. **Progress Meetings.** The District may conduct progress meetings with Contractor on a frequency to be determined by the District. In such event, Contractor shall make available its Project Manager and other appropriate personnel to discuss matters pertinent to the Work.

## 12. FORCE MAJEURE; DELAYS

- (a) **Force Majeure.** Contractor shall not be liable for failure to carry out the terms of this Agreement to the extent such failure is due to a Force Majeure event, except for failures that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact thereof. A Force Majeure event is hereby defined as the failure to carry out any of the terms of this Agreement due to any one of the following circumstances beyond the control of Contractor:
- (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the State of Florida or the United States, (b) a

restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (I) quarantine restrictions, (j) epidemics, (k) strikes, (l) freight embargoes, or (m) sabotage. The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. The District is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure.

- (b) **Delay.** Contractor shall not be compensated for delays caused by Contractor's inefficiency, rework made necessary by Contractor's error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Within ten days after the onset of a delay, Contractor shall notify the District in writing of the delay, which shall provide: (1) a detailed description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten days after the inception of the delay shall only be effective as to additional costs or delay incurred during the ten-day period preceding receipt of such notice. In the case of continuing cause delay for the same cause, only one notice of delay is necessary. **Failure to provide this notice waives any claim for extension of time or additional compensation resulting from such delay.** If the delay is due to the failure of another District contractor to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which the District, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended as necessary to compensate for the delay. All time extensions shall be in the form of a written amendment signed by both parties.

### 13. **MODIFICATION OF SPECIFICATIONS; CHANGE ORDERS; EMERGENCY CHANGES IN WORK**

- (a) **Modification of Specifications.** No verbal agreement or conversation with any officer, agent, or employee of the District after execution of this Agreement shall affect or modify any of its terms. No one is authorized to change any provision of the specifications without written authorization of the District. The presence or absence of a District inspector shall not relieve Contractor from any requirements of this Agreement. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work that are consistent with the purpose of the Work. A DSI may not be used to change the Total Compensation, quantity, quality or the Completion Date of the Work, or to change or modify the Agreement. The DSI shall indicate that both parties agree the adjustments to the Work do not affect the Total Compensation or the Completion Date. Both parties must sign the DSI. If Contractor believes that the proposed supplemental instructions will involve extra cost or extend the Completion Date and the District continues to direct that the DSI be implemented, Contractor shall implement said instructions and may submit a Change Order, subject to the dispute resolution procedure. In an emergency condition, the parties shall follow the procedure for "Emergency Changes in the Work."

#### (b) **Change Orders**

- (i) The District may alter, add to, or deduct from the Work by executing a Change Order without liability to Contractor, except for the reasonable cost of any additional Work. All such Work within Contractor's capacity to perform shall be performed pursuant to the Change Order. Any associated claim for extension of time will be adjusted when the Change Order is issued. The parties shall negotiate the cost of the Change Order on an equitable basis, which may be determined in one or more of the following ways: (1) estimate and acceptance of a lump sum, (2) unit prices named in the contract or subsequently agreed upon, (3) costs and percentage or by (4) cost and a fixed fee. If the parties cannot agree upon cost, Contractor shall implement the Change Order and shall

maintain and present in such form as the District Project Manager may direct the correct amount of the net cost of labor and materials, together with vouchers. The Project Manager will certify the amount due Contractor, including reasonable allowances for overhead and profit. Pending a final determination of value, payments will be based upon the District Project Manager's certification. Final resolution of the amount due to Contractor shall be pursuant to the dispute resolution procedure.

- (ii) For any Change Order requests submitted by Contractor, the District may determine that District instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters that impose additional costs upon Contractor, do not warrant an increase in the Total Compensation or extension of the Completion Date. If Contractor disputes this determination, final resolution shall be pursuant to the dispute resolution procedure.
- (c) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the District may give Contractor an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five days. Within 15 days after commencement of the emergency change in the Work, Contractor shall provide the District with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the District constitutes a waiver of any right to an extension of time or increase in compensation.** Within 15 days after receipt of Contractor's estimate, the parties shall negotiate a Change Order. If unable to reach agreement, disputed issues shall be resolved pursuant to the dispute resolution procedure. In no event shall Contractor decline to perform the emergency change in the Work.

#### 14. TERMINATION AND SUSPENSION

- (a) **District Termination for Cause.** The Agreement may be terminated by the District for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the District regarding the Work, (9) failure to reach an agreement with the land owner (if utilizing property not owned by the District) for the project site as provided in the Statement of Work; or (10) any other material breach of this Agreement. In such event, the District shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the District's sole judgment and discretion, the District may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the District may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient. In such event, Contractor shall not receive any further payment until the Work is completed by the District. Contractor shall be liable for all costs involved in completing the Work, including additional managerial and administrative services, which shall be offset against any amount due to Contractor.
- (b) **District Termination for Convenience.** Notwithstanding any other provision hereof, the District may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon 30 days' written notice to Contractor. In such event, Contractor shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become District property. Upon receipt of notice, Contractor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment,

services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor shall also make every reasonable effort to cancel, upon terms satisfactory to the District, all orders or subcontracts related to the terminated Work. Contractor may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

- (c) **District Suspension for Cause.** The District may issue a written partial or full Stop Work Notice in the event Contractor fails to comply with or is negligent in performing any provision hereof. All performance shall immediately cease as per such notice and no further billable costs shall be incurred. The District may terminate this Agreement if Contractor fails or refuses to comply with a Stop Work Notice.
- (d) **District Suspension for Convenience.** The District may direct Contractor to stop Work, in whole or in part, whenever, in the District's sole judgment and discretion, such stoppage is necessary to ensure proper completion of the Work, avoid injury to third persons, or otherwise meet the District's objectives. The District shall provide Contractor not less than five days' written notice, except in emergency circumstances. Contractor shall immediately comply with such notice. Should such stoppage increase Contractor's cost, an equitable adjustment will be made by Change Order. The notice shall be effective until rescinded in writing, unless the period of suspension is stated in the notice.
- (e) **Contractor's Right to Stop Work or Terminate Agreement**
- (i) **Stop Work.** Contractor may stop work only under the following circumstances: (1) the Work is ordered temporarily discontinued by a court or other public authority; (2) it is necessary to stop work in order to protect the safety of Contractor or third persons; or (3) the District fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Contractor shall provide the District not less than seven days prior written notice of its intention to stop work, except in emergency circumstances or when necessary to prevent injury to persons or property.
- (ii) **Termination.** Contractor may terminate this Agreement under only the following circumstances: (1) the Work is ordered discontinued by a court or other public authority, through no act or fault of Contractor, for a period of not less than three months; (2) the District fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the District Project Manager. In such event, Contractor shall provide not less than 20 days written notice of its intention to terminate and afford the District the opportunity to cure said deficiency within said time period.
- (iii) **Duty to Perform.** Except as expressly provided above, in the event of any event, dispute, or other matter arising under this Agreement, Contractor shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation as a Change Order, subject to the dispute resolution procedure.

### **ADDITIONAL PROVISIONS (In Alphabetical Order)**

#### **15. DEFINITIONS**

**ADDENDA:** Written or graphic instruments issued prior to the opening of responses, which make additions, deletions, or revisions to the solicitation or contract documents.

**AGREEMENT:** The written contract between the District and Contractor covering the Work, which includes all documents attached to this Agreement or incorporated herein by reference. The words “contract” and “Agreement” are synonymous in these documents.

**AMENDMENT:** Any written change made to the terms and conditions of the Agreement.

**BID:** The written offer of Respondent (when submitted on the reproduced approved forms) to perform the Work and furnish the necessary materials in accordance with the provisions of this Agreement.

**BID BOND:** The security furnished with a Bid to guarantee that Respondent will enter into a contract and execute, deliver, and perform all other obligations described in the Invitation for Bids if Contractor receives a Notice of Intent to Award the contract from the District.

**BUSINESS DAY:** Monday through Friday, excepting those holidays observed by the District – New Years Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving (and Friday), and Christmas Day.

**CHANGE ORDER:** A written agreement of the parties after the Commencement Date to amend this Agreement so as to modify the Statement of Work or the Total Compensation or provide for an extension of time.

**CONTRACTOR:** Contractor, its officers, employees, agents, successors, and assigns.

**CONTRACTOR’S PROJECT MANAGER:** The individual designated by the Contractor to be responsible for overall coordination, oversight, and management of the Work for Contractor.

**CONTRACTOR’S PLANT OPERATOR:** Contractor’s representative who is present during the progress of the Work and authorized to receive and fulfill instructions from Contractor’s Project Manager or the District.

**PERFORMANCE AND PAYMENT BOND:** The security furnished by Contractor and surety in either the form provided or in a form approved by the District as a guarantee that Contractor will perform all of its contractual obligations in accordance with the terms of the Agreement and pay in full all bills and accounts for material, labor, services, and supplies used directly or indirectly in the performing the Work.

**PERSON:** Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or others, and any combination of individuals.

**PRINCIPAL:** When used in a bid, proposal, or Performance and Payment Bond, the word “principal” means the same as the word “Contractor.”

**STATEMENT OF WORK:** The District’s written directions, requirements and technical specifications for completing the Work. Standards for specifying materials or testing that are incorporated therein by reference shall have the same force and effect as if fully set forth therein.

**SUBCONTRACTORS:** Those persons having a direct contract with Contractor relating to performance of the Work, including one who furnishes material worked into a special design in accordance with the plans or specifications of the Work, but not including one who merely furnishes material.

**SURETY:** The person bound by the Agreement bond with and for Contractor, and who is primarily liable and engages to be responsible for Contractor’s satisfactory performance of the Work and for its payment of all debts pertaining thereto.

**TOTAL BID:** The total cost to be paid to Contractor for completion of the Work.

**TOTAL COMPENSATION:** The total funds to be expended pursuant to this Agreement upon satisfactory completion of the Work.



**TWO-STEP INVITATION FOR BIDS:** An advertised solicitation for sealed competitive Bids, with the title, date, and hour of the public opening designated. It includes a detailed description of the goods and/or services sought, the date for submittal of Bids, and all contractual terms and conditions.

**WORK:** All labor, materials, equipment, transportation, supporting documentation, and other products, services, or facilities necessary for complete performance of the Agreement.

#### 16. ACCESS; WORK AREA; GATES

**Access.** The District will provide sufficient access to accomplish Work performed on District property. Contractor shall maintain all on-site roadways and paved and unpaved access roadways to and from the worksite in an acceptable and passable condition at no additional cost to the District, which shall, upon conclusion of the Work, be returned to their original condition. Land access to construction sites is restricted to the route designated by the District. Contractor is responsible for improvements and repairs to access routes required during construction. All access routes shall be used for the purpose of the Work only. Contractor shall not disturb lands or waters outside the area of construction, except as may be found necessary and authorized by the District. Contractor shall be responsible for all the site preparation, construction, maintenance and security of the proposed process and shall include all costs (including, permitting, powering, mobilization, site preparation/construction, maintenance, security and demobilization) into the \$/pound bid price. Upon completion of the contract, Contractor will have 90 days to remove all of the infrastructure related to the process. The site shall be returned to preexisting conditions within reason. The bid shall clearly address land requirements and include all costs associated with the location and construction. Prior to beginning construction, Contractor shall submit plans for District review, comment, and acceptance. Potential project sites include but are not limited to three sites on District property, as shown on Figure 2 in the Statement of Work. Limited uplands may require additional fill to meet the Contractor's needs for the site. Depending on the site selected, a permit may be required to construct the site, which will be the responsibility of the Contractor (i.e., Duda Pump Station and Hooper Farms Road sites). If a site is preferred that is not owned by the District, obtaining access to the land will be the responsibility of the Contractor.

- (a) **Work Area.** All Work shall be confined to the designated work area(s). Contractor shall obtain written approval from the District or the land owner, if applicable, before making any adjustments.
- (b) **Gates.** Contractor shall keep all gates to District and any privately-owned lands or easements closed and locked in accordance with District or owner-requirements, as applicable, specifications when not in use, and shall immediately notify the District or owner, as applicable, when a gate has become impaired due to vandalism or other cause. Unless otherwise stated in the specifications, Contractor shall be responsible for providing lock(s) to District and privately-owned properties, as applicable.

#### 17. ASSIGNMENT AND SUBCONTRACTS

- (a) Contractor shall not sublet, assign, or transfer any Work involving more than 10% of the total cost of the Work, or assign any monies due hereunder, without the District's prior written consent. As soon as practicable after signing this Agreement, but not less than seven business days prior to the effective date of any subcontracts, Contractor shall notify the District's Project Manager in writing of the name of any subcontractor that has not been previously disclosed in the procurement process. Within five business days the District shall indicate its approval or disapproval, which shall not be unreasonably withheld. Failure to timely provide such approval or disapproval shall constitute approval. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District. Contractor shall be allowed a maximum five percent markup of their subcontractor's work for oversight and management.

- (b) Contractor is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Contractor is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.

18. **ASSIGNMENT AND SUBCONTRACTS.** Contractor shall not sublet, assign, or transfer any Work, involving more than 20% of the total cost of the Work, or assign any monies due or to become due hereunder, without the District's prior written consent. Neither District approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the District. Contractor is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Contractor is fully responsible to the District for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the District harmless from any liability or damages resulting from any subcontract to the extent allowed by law.

19. **AUDIT; ACCESS TO RECORDS.** Contractor must preserve its books and other records involving transactions related to this Agreement and provide the District, or its duly authorized representatives, access and necessary facilities to inspect and audit those records for five years after the receipt of funds. If an examination or audit is performed, Contractor must continue to maintain all required records until such audit has been completed and all questions arising from it are resolved. Contractor shall refund any payment(s) that are found to not constitute allowable costs based upon an audit examination.

20. **BONDS**

- (a) **Payment Bond.** A payment bond equal to the Total Compensation is required for fixed price contracts greater than \$250,000.
- (b) **Recording.** The bond shall be recorded in the public records of the county where the Work is located. A certified copy of completed and recorded bond must be delivered to and accepted by the District prior to commencement of the Work. Bond premiums shall be paid by Contractor. Bonds shall be on the form provided in the Bid Documents and written through a licensed agency that fulfills the requirements of §287.0935, Fla. Stat.
- (c) **Qualification-Management and Strength.** The Surety executing a bond must be rated no less than "Excellent" for both financial strength and issuer credit, with a rating outlook of stable or positive for both, and must have a financial size rating of VII or better according to the latest information available from A.M. Best Company, Inc.'s, rating and analysis web site.
- (d) In lieu of the bond, Contractor may submit an alternative form of security in the form of cash, money order, certified check, cashiers check, irrevocable letter of credit, or other security acceptable to the District.

21. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, or national origin, age, handicap, or marital status.

22. **CLEANUP; EQUIPMENT REMOVAL.** Upon expiration or termination of this Agreement, Contractor shall restore the worksite to its original condition, except for replacement of vegetation, unless otherwise required by this Agreement. Contractor shall remove from the project area and all public and private property all machinery, equipment, supplies, surplus materials, temporary structures, rubbish, and waste materials resulting from its activities. After 90 days, the District may sell or dispose of any materials left at the worksite as it sees fit and deduct the cost of sale or disposal

from any amounts due to Contractor. Any revenues obtained shall be applied toward costs incurred by the District, with excess revenues paid to Contractor.

**23. COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA.**

**STAT.** Contractor and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

**24. COORDINATION WITH THE DISTRICT AND OTHER DISTRICT CONTRACTORS**

(a) The District may let other contracts in connection with the Work. Wherever work done by the District or another District contractor is contiguous to Contractor's Work, the respective rights of the various interests shall be established by the District so as to secure completion of the Work. Contractor shall arrange its Work so as not to interfere with the District or other District contractors and join its Work to that of others in a proper manner, and in accordance with the intent of the Statement of Work. Contractor shall perform its Work in the proper sequence in relation to that of other District contractors, as may be directed by the District. Contractor shall afford other District contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall properly conduct and coordinate its Work with theirs. Contractor shall take into account all contingent work to be done by others and shall not plead its want of knowledge of such contingent work as a basis for delay or non-performance. Contractor shall be liable for any damage it causes to the work performed by other District contractors.

(b) If any part of the Work depends for proper execution or results upon the work of other District contractors, Contractor shall inspect and promptly report any defects in the other contractors' work that render it unsuitable for Contractor's Work. Failure to so inspect and report shall constitute an acceptance of the other contractors' work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractors' work after execution of the Work.

**25. CORRELATION AND INTENT OF DOCUMENTS; QUESTIONS OR ISSUES REGARDING PERFORMANCE OF THE WORK**

(a) This Agreement and all attachments are complementary. What is called for by one is as binding as if called for by all. The intent is to include all labor and materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work. Materials or work described in words, which so applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.

(b) It is the District's intention to fully assist Contractor in the successful performance of the Work and to respond in a timely manner to questions or issues that arise. Contractor should discuss any questions or issues with the District's Project Manager and communicate such questions or issues in writing when required by this Agreement. The District shall respond through its Project Manager.

**26. DISPUTE RESOLUTION**

(a) **During the course of work.** In the event any dispute arises during the course of the Work, Contractor shall fully perform the Work in accordance with the District's written instructions and may claim additional compensation. Contractor is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment, or other dispute resolution to the District's Project Manager no later than 15 days after the precipitating event. If not resolved by the Project Manager within five business days, the Project Manager shall forward the request to the District's Office of General Counsel,

which shall issue a written decision within 15 days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Work. **Contractor shall proceed with the Work in accordance with said determination. This shall not waive Contractor's position regarding the matter in dispute.**

- (b) **Invoices.** In the event the District rejects an invoice as improper, and the Contractor declines to modify the invoice, the Contractor must notify the District in writing within ten days of receipt of notice of rejection that the Contractor will not modify the invoice and state the reason(s) therefor. Within five business days of receipt of such notice, if not informally resolved through discussion with the District Project Manager, the Project Manager shall forward the disputed invoice and the Contractor's written response to the District's Office of General Counsel. The matter shall then proceed as described in subsection (a), above.

27. **DIVERSITY REPORTING.** The District is committed to the opportunity for diversity in its procurement activities, and encourages its prime vendors (contractors and suppliers) to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as sub-contractors. The District will assist Contractor by sharing information on W/MBEs. Contractor shall provide with each invoice a report describing the company names for all W/MBEs, the type of minority, and the amount spent with each at all levels. The report will also denote if there were no W/MBE expenditures.

28. **DUTY TO INSPECT AND REPORT DEFICIENCIES IN PLANS AND SPECIFICATIONS**

- (a) For any Work that is dependent upon conditions at the worksite, Contractor's acceptance of contract award represents and warrants that Contractor has inspected and satisfied itself concerning the nature and location of the Work and general and local conditions, including, without limitation: (1) conditions affecting transportation, disposal, handling, and storage of materials; (2) availability and quality of labor; (3) availability and condition of roads; (4) climatic conditions and seasons; (5) hydrology of the terrain; (6) topography and ground surface conditions; (7) nature and quantity of surface materials to be encountered; (8) equipment and facilities needed preliminary to and during the Work; and (9) all other matters that can affect the Work and the cost thereof. Contractor's failure to acquaint itself with such conditions will not relieve it from its responsibility for properly estimating the time required or cost of performing the Work. Where the District has investigated subsurface conditions, this data may be provided to Contractor or is available upon request. Contractor must either seek clarification concerning the data or assume the responsibility for its interpretation.
- (b) If Contractor discovers hidden or subsurface conditions that differ materially from those normally expected or indicated in the technical specifications, Contractor shall immediately, and before such conditions are disturbed, notify the District in writing of: (1) subsurface or latent physical conditions differing materially from those indicated in the technical specifications, or (2) unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for herein. The District shall promptly investigate the conditions and determine whether they materially differ so as to cause an increase or decrease in Contractor's cost. Where the differing site conditions materially impact Contractor's cost, an equitable adjustment shall be made and the Agreement modified accordingly. No claim will be allowed if Contractor fails to provide the required notice.
- (c) If Contractor in the course of the Work finds any defect in the plans and specifications, including, but not limited to, any discrepancy between the drawings and the physical conditions at the worksite, or any errors or omissions in the drawings or in the layout, as given by points and instructions, it shall immediately inform the District in writing, which shall be promptly verified by the District. Any Work done after such discovery, until authorized, will be done at

Contractor's risk as to cost overruns and modifications necessary to correct deficiencies in the Work. To ensure the proper execution of its subsequent Work, Contractor shall measure Work already in place or completed and shall immediately report any discrepancy between the executed Work and the drawings or other specifications.

29. **EMPLOYMENT ELIGIBILITY.** Contractor must use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the employment eligibility of all persons hired by Contractor during the term of this Agreement to work in Florida. Additionally, if Contractor uses subcontractors to perform any portion of the Work (under this Agreement) valued in excess of \$3,000, Contractor must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the Work. Within 30 days of this Agreement's Effective Date, Contractor must provide the District with evidence that Contractor is enrolled in the E-Verify system. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: [www.uscis.gov/e-verify](http://www.uscis.gov/e-verify).
30. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Duval County; (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.
31. **INTEREST IN THE BUSINESS OF CONTRACTOR.** Contractor certifies that no officer, agent, or employee of the District has any material interest, as defined in chapter 112, Fla. Stat., either directly or indirectly, in the business of Contractor to be conducted under this Agreement, and that no such person shall have any such interest at any time during the term of this Agreement.
32. **NON-LOBBYING & INTEGRITY.** Pursuant to section 216.347, Fla. Stat., Recipient agrees that funds received from the District under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency. Recipient certifies, by its signature to the Agreement, that to the best of Recipient's knowledge and belief, Recipient has complied with all federal, state, and local laws in its dealings associated with this agreement, including but not limited to, §112.3261, Fla. Stat.
33. **INDEPENDENT CONTRACTOR.** Contractor is an independent contractor. Neither Contractor nor Contractor's employees are employees or agents of the District. Contractor controls and directs the means and methods by which the Work is accomplished. Contractor is solely responsible for compliance with all labor and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the District harmless from any failure to comply with such laws. Contractor's duties include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring employees or subcontractors necessary to perform the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes, income or employment taxes, and, if Contractor is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime as required by said Act; (6) compliance with the Patient Protection and Affordable Care Act 42 U.S.C. §§ 18001, et seq.; and (7) providing employee training, office or other facilities, equipment and materials for all functions necessary to perform the Work. In the event the District provides training, equipment, materials, or facilities to meet specific District needs or otherwise facilitate performance of the Work, this shall not affect Contractor's duties hereunder or alter Contractor's status as an independent contractor. This

paragraph does not create an affirmative obligation to provide any employee benefits not required by law.

#### 34. **INSPECTION AND TESTING OF WORK; TOOLS, PLANT, AND EQUIPMENT**

- (a) **Standards for Quality and Workmanship.** All materials, equipment, and supplies furnished by Contractor for permanent incorporation into the Work shall be new and of the quality standards specified. Unless otherwise specified, all material and workmanship shall meet the requirements in the applicable standards specifications of the American Society for Testing and Materials. If two or more brands, makes of material, devices, or equipment are shown or specified, each should be regarded as the equal of the other. First-calls and the finished product shall be equal to the best-accepted standards of the trade class. The finished product shall be equal to the best-accepted standards of the trade for the category of Work performed. The District's intent is to obtain a high-quality job that will operate and function with the lowest possible maintenance costs. Inspection standards will be established to ensure that this objective is achieved.
- (b) **Inspection.** The Work and all materials or equipment used therefor are subject to inspection by the District at all times in order to ensure compliance herewith. Upon request, Contractor shall provide samples of the type and quantity of the various materials used in the Work, as determined and directed by the District. The District's Project Manager and inspector(s) shall be provided access to the Work wherever it is in preparation or progress. Contractor shall provide proper facilities for such access and inspection. Construction contractors shall maintain one complete copy of the drawings and specifications for the Work at the worksite, which shall be made available to the District upon request.
- (c) **Re-examination of Work.** The District may order re-examination of questioned Work and, if so ordered, the Work shall be uncovered by Contractor. If such Work is found to be in accordance with specifications, the District will pay the cost of re-examination and replacement. If such Work is found to be not in accordance with specifications, Contractor will pay such cost.
- (d) **Tools, Plant, and Equipment.** If at any time before commencement of or during progress of the Work, tools, plant, or equipment appear to the District to be insufficient, inefficient, or inappropriate to secure the quality of Work or the proper rate of progress, the District may order Contractor to increase its efficiency, to improve its character, or to augment the number of or substitute new tools, plant, or equipment, as the case may be. Contractor shall conform to such order. If Contractor maintains that any such order is not in conformance with this Agreement, is unnecessary, or requires Contractor to incur excessive costs or delays, Contractor may submit a Change Order, subject to the dispute resolution procedure. Failure of the District to make such demand shall not relieve Contractor of its obligation to secure the quality of the Work and the rate of progress necessary to timely complete the Work.

- 35. **LAND AND WATER RESOURCES.** Contractor shall not discharge or permit the discharge, directly or indirectly, of any fuels, oils, calcium chloride, acids, insecticides, herbicides, wastes, toxic or hazardous substances, or other pollutants or harmful materials, onto any lands or into any surface or ground waters, including, but not limited to, streams, lakes, rivers, canals, ditches, or reservoirs. Contractor shall investigate and comply with all applicable federal, state, county, and municipal laws concerning toxic wastes, hazardous substances, and pollution of surface and ground waters. If any waste, toxic or hazardous substance, or other material that can cause pollution, as defined in §403.031, Fla. Stat., is dumped or spilled in unauthorized areas, Contractor shall notify the District thereof within one workday and thereafter shall remove the material and restore the area to its original condition. If necessary, contaminated ground shall be excavated and disposed of as directed by the District and replaced with suitable fill material, compacted and finished with topsoil, and planted as required to re-establish vegetation. All cleanup and disposal costs shall be borne by Contractor.

36. **LIENS.** Neither final payment nor payment of any part of the retainage shall become due until Contractor delivers to the District releases of all labor and material cost liens arising from Contractor's performance of the Work, including Contractor and any subcontractor(s), and an affidavit by Contractor stating that the releases and receipts include all labor and material costs for which a lien could be filed. If any subcontractor refuses to furnish Contractor a release or a receipt in full, Contractor may furnish to the District a bond satisfactory to the District, indemnifying the District against any such potential lien. If any lien or potential lien remains unsatisfied, the District may discharge the same forthwith and deduct the cost thereof from any amounts due to Contractor. In the event Contractor has been fully paid or the amount of such lien exceeds the amount due to Contractor, Contractor shall refund to the District all monies that the District paid in discharging such lien, including all costs and a reasonable attorney's fee. The discharging of such a lien by the District shall not constitute a waiver of any claims or defenses that Contractor may have against the lienor.
37. **NUISANCE.** Contractor shall exercise every reasonable means to avoid creating or continuing a public or private nuisance resulting from the Work, including, but not limited to: (1) excessive noise associated with radio or other forms of electronic entertainment for persons at the worksite; (2) dust from construction operations, and (3) the uncontrolled flow of surface waters.
38. **ORGANOCHLORINE PESTICIDES.** The Lake Apopka North Shore Restoration Area (NSRA) is former agricultural property. Soil samples from the NSRA indicate organochlorine pesticide levels that exceed Florida Department of Environmental Protection's Industrial/Commercial soil cleanup target levels. Contractors working in the NSRA are responsible for taking all appropriate measures to provide for the safety of their employees. Recommended measures should be designed to minimize contact with the soil through engineering controls, which may include: (1) wearing waders or rubber boots and gloves to minimize contact with soil and sediments, (2) washing thoroughly with soap and water after contact with soils or sediments, (3) decontaminating any equipment in contact with soil or sediment through washing with soap and water and (4) using enclosed cabs or dust masks to minimize exposure to dust created by Contractor's activities.
39. **PERMITS AND LICENSES; COMPLIANCE WITH LAW.** Contractor shall comply with all applicable federal, state and local laws and regulations, including those pertaining to health and safety. All materials used and work performed must conform to the laws of the United States, the state of Florida and county and municipal ordinances. Contractor represents and warrants that it is duly licensed to perform the Work in accordance with the laws of the state of Florida and the county or municipality in which the Work is to be performed. Unless otherwise specifically provided for herein, Contractor shall give to the proper authorities all required notices relative to the Work in its charge; obtain and pay for all official permits or any other licenses, including any and all professional licenses required by the nature of the Work; and furnish any bonds, security, or deposits required to permit performance of the Work. Contractor is responsible for the resolution of any issues resulting from a finding of noncompliance by any regulatory agencies, due to the Contractor's failure to comply with applicable regulatory requirements, including all costs for delays, litigation, fines, or other costs.
40. **PETROLEUM STORAGE TANKS.** Any petroleum storage tanks with a capacity of 55 gallons or greater that Contractor brings onto District property must be either double-walled or kept within secondary containment that will contain 110% of the tank volume.
41. **PUBLIC RECORDS**
- (a) Contractor is responsible for identifying confidential trade secret information as such upon submittal to the District. Notwithstanding any other provision hereof, the District shall not be liable to Contractor for release of confidential information not identified as such upon submittal. If the District receives a public records request that requests information claimed to be

confidential by Contractor, the District shall take such steps as are necessary to comply with chapter 119, Fla. Stat., while protecting the confidentiality of trade secret information. In the event of a dispute as to whether the requested information is a trade secret, Contractor shall be liable for all costs incurred by the District resulting from the dispute, including any court costs and attorney's fees. The calculation of those costs shall not include costs that are charged to the public records requestor.

- (b) Contractor shall comply with Florida Public Records law under Chapter 119, Fla. Stat. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in §119.011(12), Fla. Stat. Contractor shall keep and maintain public records required by the District to perform the services under this Agreement.
- (c) If Contractor meets the definition of "Contractor" found in §119.0701(1)(a), Fla. Stat.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:
  - (i) Pursuant to §119.0701, Fla. Stat., a request to inspect or copy public records relating to this Agreement for services must be made directly to the District. If the District does not possess the requested records, the District shall immediately notify the Contractor of the request, and the Contractor must provide the records to the District or allow the records to be inspected or copied within a reasonable time. If Contractor fails to provide the public records to the District within a reasonable time, the Contractor may be subject to penalties under s. 119.10, Fla. Stat.
  - (ii) Upon request from the District's custodian of public records, Contractor shall provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat., or as otherwise provided by law.
  - (iii) Contractor shall identify and ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the District.
  - (iv) Upon completion of the Agreement, Contractor shall transfer, at no cost to District, all public records in possession of Contractor or keep and maintain public records required by the District to perform the services under this Agreement. If the Contractor transfers all public records to the District upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the District.

- (d) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DISTRICT'S CUSTODIAN OF PUBLIC RECORDS AT:**

**District Clerk  
St. Johns River Water Management District**



**4049 Reid Street  
Palatka, Florida 32177-2571  
(386) 329-4127  
[clerk@sjrwmd.com](mailto:clerk@sjrwmd.com)**

42. **RELEASE OF INFORMATION.** Contractor shall not publish or release any information related to performance of this Agreement, or prepare, publish, or release any news or press release in any way related to this Agreement, without prior District review and written consent.

43. **REMEDIES FOR NON-PERFORMANCE**

(a) **District Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, the District may avail itself of any statutory and/or common law remedies not set forth herein. In the event of a breach, the District may terminate this Agreement for cause. Alternatively, the District may allow to correct the deficiency, or may take such action as is necessary to correct such deficiency through District action or that of a third party. Delay or failure by the District to enforce any right or remedy hereunder shall not impair, or be deemed a waiver of, any such right or remedy, or impair the District's rights or remedies for any subsequent breach of this Agreement.

(b) **Correction of Deficiencies.** The District shall provide with written notice of deficiency. At the District's sole judgment and discretion, the District may afford an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure. If disputes that a failure of performance has occurred, shall, nevertheless, perform the corrective action and may submit a request for a Change Order subject to the dispute resolution procedure. Unless authorized through a Change Order, the Completion Date shall not be extended in order to correct deficiencies. shall bear the cost of correcting all work of other contractors that is destroyed, damaged, or otherwise negatively impacted by its corrective action. Failure to take timely corrective action may result in termination for cause or the District pursuing alternative remedies, as provided herein.

(c) **District Technical Assistance.** The District may elect to provide technical assistance to in order to complete satisfactory performance of the Work. If the District is performing a function that is required to perform, the District may deduct the cost of providing such technical assistance from the Total Compensation. Prior to providing any such technical assistance, the District shall notify that it considers such assistance to be above and beyond its duties under this Agreement and that it intends to deduct the cost of providing such assistance from the Total Compensation. shall not be entitled to reject technical assistance when the District determines that such assistance is necessary to complete the Work.

44. **ROYALTIES AND PATENTS.** Contractor certifies that, to the best of its information and belief, the Work does not infringe on any patent rights. Unless provided otherwise herein, Contractor shall: (1) pay all royalties, patent, and license fees necessary for the Work; (2) defend all suits or claims for infringement of any patent rights, and (3) save and hold the District harmless from loss on account thereof; provided, however, that the District shall be responsible for any such losses when the utilization of a particular process or product of a particular manufacturer is specified by the District. If Contractor obtains information that the process or article so specified is a patent infringement, it shall be responsible for such loss unless it promptly so notifies the District.

45. **SAFETY.** For any Work that is to be performed on premises that are owned or controlled by the District (the Premises), Contractor has the sole and exclusive duty for the safety of the premises. Contractor shall provide and maintain sufficient protection for the safety of its employees and other persons who may utilize the Premises, and prevent damage to District property, materials, and

equipment. Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Neither Contractor nor its subcontractors shall allow or cause to be allowed any hunting or any weapons, animals, alcohol, or drugs, on or from the Premises or adjacent property. Contractor employees shall not park their vehicles or store equipment or materials adjacent to roads where it may be a hazard to traffic. A clear distance of at least 30 feet from the edge of the pavement or right-of-way shall be kept free of any obstacles unless otherwise authorized by the District. Contractor shall ensure that only authorized personnel are allowed on the worksite and shall post notices warning both employees and the public of all safety hazards created by Contractor.

46. **SCRUTINIZED COMPANIES.** In accordance with §287.135, Fla. Stat., this contract may be terminated by the District if Contractor : (1) is found to have submitted a false certification stating that it is not on the “Scrutinized Companies with Activities in Sudan List” or the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List” or (2) is placed on either list.

**IN WITNESS WHEREOF**, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, or duly authorized designee, and Contractor has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT

CONTRACTOR

By: \_\_\_\_\_  
Ann B. Shortelle, Ph.D., Executive Director (or designee)

By: \_\_\_\_\_  
\_\_\_\_\_  
Typed Name and Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
\_\_\_\_\_  
Typed Name and Title

- Attachments:  
Attachment A — Statement of Work/Technical Specifications  
Attachment B — Insurance Requirements  
Attachment C — District’s Supplemental Instructions (sample)

## ATTACHMENT A — STATEMENT OF WORK

**I. BACKGROUND**

Lake Apopka, the headwaters of the Ocklawaha Chain of Lakes, is the fourth largest lake in Florida (approximately 31,000 acres). The lake is located approximately 15 miles northwest of Orlando. The lake lies mostly within Orange County; the western part of the lake lies in Lake County. Persistent eutrophic conditions sustained algal blooms in the lake for decades (1940s-1990s), resulting in the total loss of submerged aquatic vegetation (SAV), decline in sportfish populations, and accumulation of a 0 to 60 cm thick layer of unconsolidated flocculent organic sediment within the lake. The District has maintained a restoration program to reverse eutrophication in the lake by limiting watershed inputs of the limiting nutrient, phosphorus (P), and removing accumulated P and flocculent sediments from the lake. Documented recovery of SAV and improvements in water quality have shown that the strategy has been successful. However, full recovery of the lake has yet to be achieved due to the large reservoir of P stored in the flocculent sediments that continues to support eutrophic conditions. Sediments are easily re-suspended and a fraction may remain in the water column for weeks to months, providing additional phosphorus release and impeding light availability for SAV. Therefore, the District is seeking technologies that can supplement the current restoration timeline by directly removing P (primarily particulate, including algae) from the lake's water.

A location map, Figure 1, is provided on the next page.

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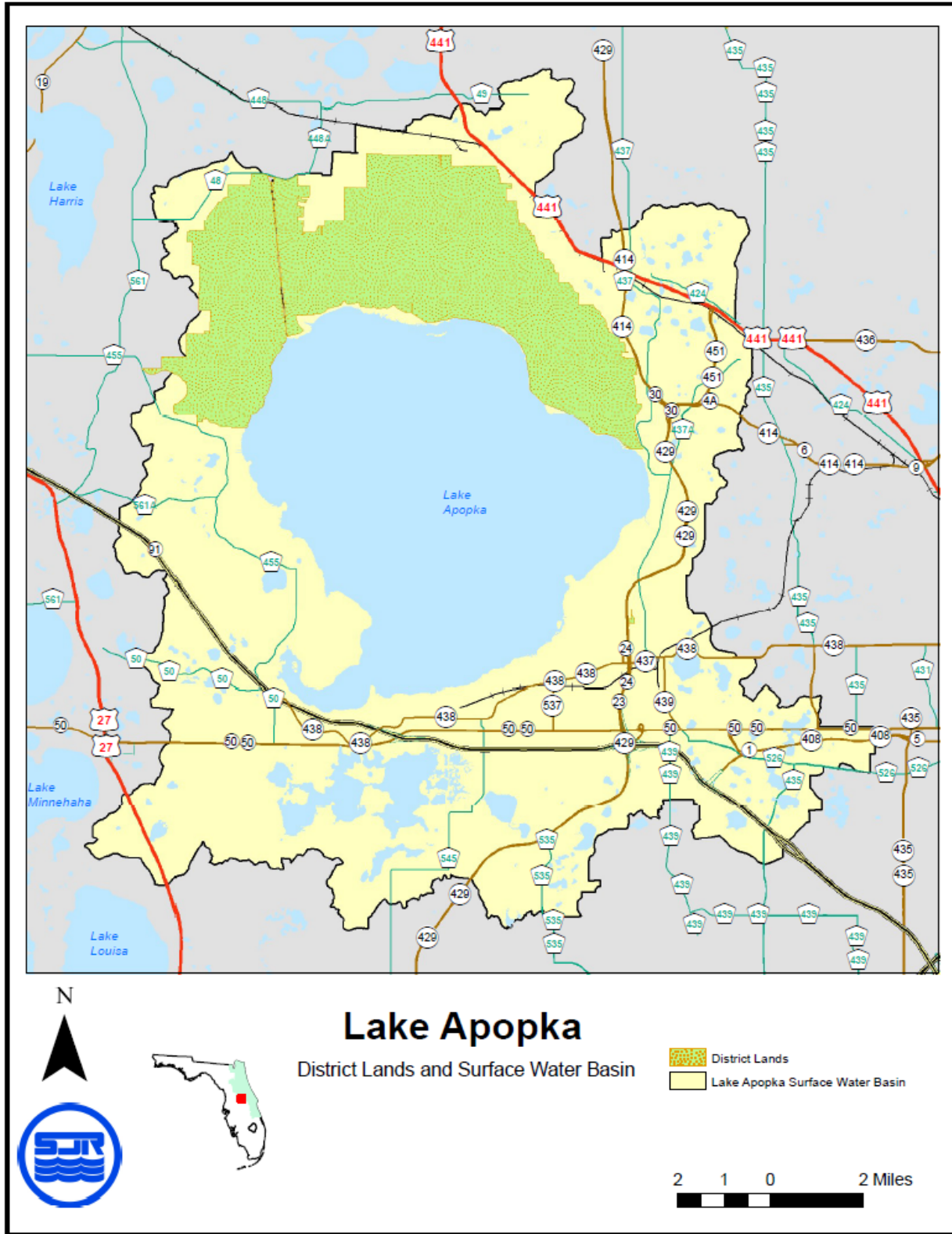


Figure 1: Location Map

## II. OBJECTIVE

The objective of the project is to utilize an innovative, non-traditional treatment technology that is sustainable, reliable and cost-effective and will remove Total Phosphorus (TP) from Lake Apopka's water column for a target cost of \$100/pound, not to exceed \$200/pound TP, with a target operation period of two years.

## III. SCOPE

The District will pay Contractor the accepted bid rate for each pound of TP removed from the water column. Contractor shall provide the design, materials, labor, testing, and disposal of by-product necessary for the process.

Contractor shall operate a treatment process to remove TP from the Lake Apopka water column. Contractor will be responsible to permit, design, construct, operate, and monitor the project to consistently and cost-effectively remove TP.

### Treatment Process Description:

Respondent shall provide a project description with both narrative and graphics that describes the chemical and/or physical principles that the treatment technology uses for removal of phosphorus, its phosphorus removal efficiency, and a brief summary of results from previous projects including operating constraints. This description will specifically outline the fate of particulate phosphorus, dissolved organic phosphorus, and orthophosphate during the treatment process.

**NOTE: Removal of sediment phosphorus will not be reimbursed, unless the phosphorus is naturally resuspended into the water column (see Influent/ Effluent Placement and Sampling).**

Statistics for recent TP and TSS concentrations for Lake Apopka (2007 – 2017) are shown in the table below. These are provided to allow respondents to estimate TP removal efficiency but may vary during the project period. All of the District's water quality data are available via the District's Environmental Data Delivery tool at: <http://webapub.sjrwmd.com/agws10/edqt/>. The treatment process may not alter water quality such that concentrations for any parameters are outside of historical concentrations for the lake (apart from removal of target species). The primary Lake Apopka site names are CLA (center Lake Apopka), SLA (south Lake Apopka) and NLA (north Lake Apopka).

Table 1. TP and TSS Statistics for Center Lake Apopka (CLA) 2007 – 2017

Statistic	TP ( $\mu\text{g L}^{-1}$ )	TSS ( $\text{mg L}^{-1}$ )
Min	27	8.4
Mean	129	86.0
Max	288	314
25 <sup>th</sup> Percentile	89	58.0
50 <sup>th</sup> Percentile	119	79.5
75 <sup>th</sup> Percentile	161	107.5

### Influent/ Effluent Placement and Sampling:

Contractor is responsible to establish the intake location, which must be placed a minimum of two feet above the lake bottom. Contractor shall obtain the District's approval of the location before

installation. Contractor will provide weekly monitoring of TSS, which must be reported to the District to ensure bottom sediments are not being directly removed. If the weekly monitoring influent TSS concentration exceeds  $1,000 \text{ mg L}^{-1}$ , P removal will be reimbursed for the entire week based on the most recent TP concentration measured at the District center lake station (CLA). Average weekly effluent concentrations for TP-T shall be at or below influent concentrations, or Contractor will be required to cease operation until they can demonstrate successful net TP removal from system.

Contractor is responsible to prepare a monitoring plan that will be submitted to the District for review, comment, and approval. Contractor is responsible to provide samples and pay for sample analysis by a certified lab approved by the District. At a minimum, Contractor is responsible to monitor the analytes listed below in both influent and effluent water on a weekly basis. If the TP treatment process introduces chemical species not listed below into the effluent, Contractor must adequately monitor all added chemical species.

Analyte	Method	Holding Times	Required MDL (mg/l)
TSS	EPA 160.2	7 days	4.0
TP-D	EPA 365.3	28 days	0.01
TP-T	EPA 365.3	28 days	0.01
PO4-D (low level)	EPA 365.2	48 hours	0.002
pH (field)	EPA 150.1	in-situ	$\pm 0.2 \text{ SU}$
DO (field)	EPA 170.1	in-situ	$\pm 0.2 \text{ mg/L}$
Conductivity (field)	EPA 120.1	in-situ	$\pm 5\%$
Temperature (field)	EPA 180.1	in-situ	$\pm 0.5^\circ\text{C}$

#### **Site Location and Power Source:**

Contractor is responsible for all the site preparation, construction, maintenance and security of the proposed process and shall include all costs (including, permitting, powering, mobilization, site preparation/construction, maintenance, security and demobilization) into the \$/pound bid price.

Upon completion of the contract, Contractor will have 90 days to remove all of the infrastructure related to the process. The site shall be returned to preexisting conditions within reason. The bid include all costs associated with the land requirements, location and construction. Prior to beginning construction, Contractor shall submit detailed plans for District review, comment, and acceptance. The detailed plans shall be signed and sealed by a licensed professional engineer through the Florida Department of Business and Professional Regulation. Potential project sites include but are not limited to three sites on District property, as shown on Figure 2. Limited uplands may require additional fill to meet the Contractor's needs for the site. Depending on the site selected, a permit may be required to construct on the site, which will be the responsibility of Contractor (i.e. Duda Pump Station and Hooper Farms Road sites). If a site is preferred that is not owned by the District, obtaining access to the land will be the responsibility of Contractor.

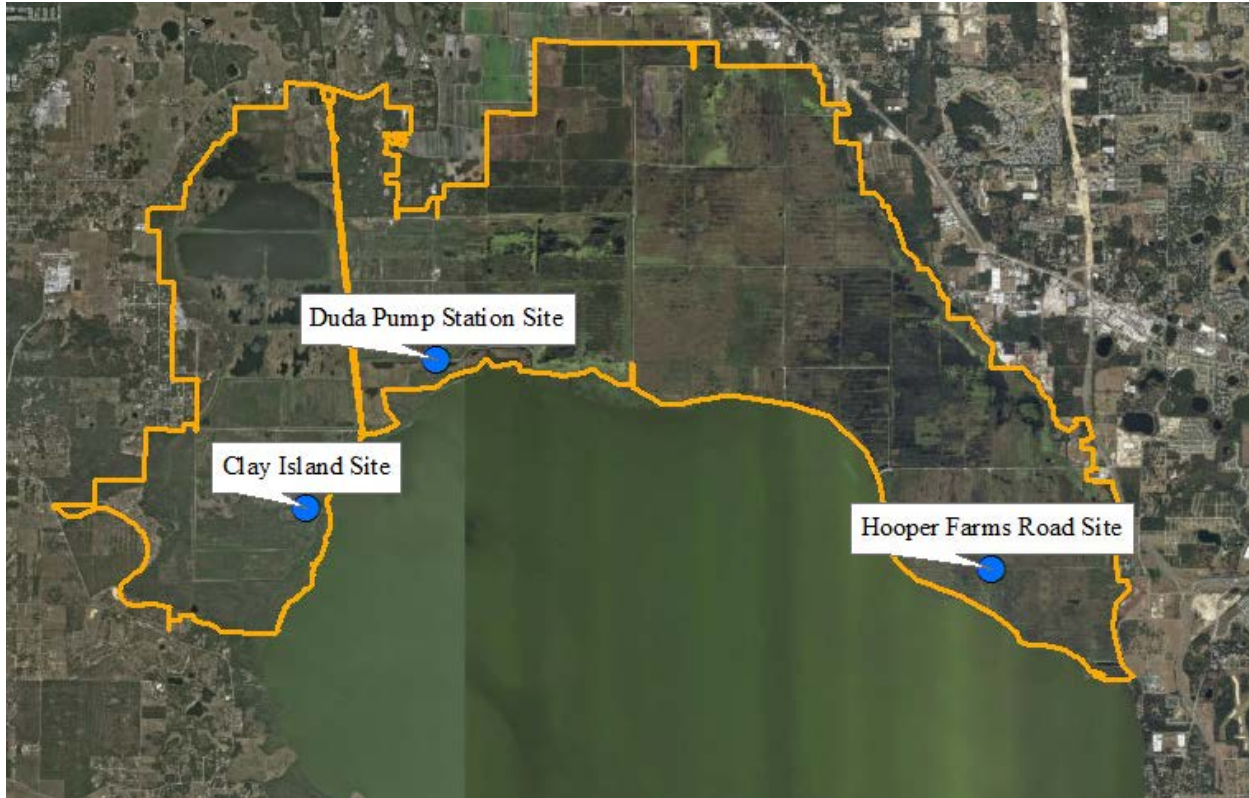


Figure 2: Potential Project Site Locations

Site Details:

- Clay Island Site:
  - Estimated site area: 1.5 ac
  - Distance to power: 1.1 miles from the site
  - Distance to lake water: adjacent to site
- Duda Pump Station Site:
  - Estimated site area: 0.1 ac
  - Distance to power: adjacent to site
  - Distance to lake water: 0.5 miles
- Hooper Farms Road Site:
  - Estimated site area: 0.1 ac
  - Distance to power: power poles are adjacent to site with capability of installing service for three-phase power. Any required costs associated with establishing service to this site would be the responsibility of the Contractor
  - Distance to lake water: 0.5 miles

**Piping and Pumping:**

All piping and pumping of the water for the treatment process shall be the responsibility of Contractor.

**By-Product Disposal:**

Contractor is responsible to dispose of the by-products of the TP removed from the water column . Disposal may be by export out of the Lake Apopka watershed or within the watershed if biologically immobilized by a process approved by the District, as verified by independent monitoring. Disposal costs should be considered when calculating the cost per pound of TP removed.

**Power:**

Contractor may have to provide a separate power feed and meter for the new treatment process. Securing power at the site and paying for the installation and services will be the responsibility of Contractor.

**Adverse Conditions:**

Contractor is responsible to provide contingency plans for potential process interruptions (drought, power loss, flooding/inundation, etc.). The District cannot guarantee TP concentrations will be optimal for maximum treatment efficiency.

**Permits:**

Within 30 days of the Effective Date of the Agreement:

- Contractor is responsible to submit a summary of expected permits required based on process and site selected, including estimate of time required to obtain without support from the District.
- Contractor is responsible to provide a time line for completion of permitting and construction and expected time to first invoice for TP removal.
- Prior to commencement, Contractor shall enter into a separate agreement with the District which allows Contractor to construct and operate the proposed facility on District property.

**Public Access and Use:**

The facility must be compatible with current public use and access to the area. No roads or levees may be blocked such that District vehicles do not retain access.

**Mobilization/Demobilization:**

Contractor is responsible to include all mobilization and demobilization costs into the cost per pound of TP removed bid price. Contractor shall be responsible for site preparation, construction, maintenance, and security of the proposed process.

**Reporting/Deliverables:**

TP removed may be assessed from ongoing mass balances of input and output water measured by sampling, sampling during processing/harvesting, or other means approved by the District. These influent/effluent values will be verified by analysis of material/by-products exported or in some manner appropriate for the process selected. If the District hires an independent monitoring contractor to verify the reported results, the independent monitoring contractor must be provided with all necessary access to the facility for all monitoring purposes. All capital, operational and self-monitoring costs shall be factored into the cost per pound, assuming two years of operation.



#### IV. TASKS AND DELIVERABLES

The District recognizes the fact that TP systems are different and have different design, construction and operational requirements, and further that in a pay-for-performance context, the primary deliverable is TP removed from Lake Apopka's water column. Most tasks are, therefore, identified as potential documentation necessary for reimbursement of invoiced TP.

- Submit quarterly reports on the progress of the TP removal development
- Notify the District independent consultant of system harvest operations
- Provide adequate documentation via previously approved methodology of TP removed with every invoice
  - Average daily TP influent/effluent concentration
  - Flows of water in treatment process
  - TP effluent concentration targets
  - Verification of disposal of process materials, by-products and TP removed
  - Determination of TP removed
  - Mass balance with pounds/TP removed
- Annual Reports
- Final Reports
- Removal of system if determined to be unsustainable or not cost-effective

#### V. TIME FRAMES AND DELIVERABLES

Contractor shall invoice monthly. Each invoice shall be accompanied by monitoring data from both Contractor and the independent monitoring contractor and necessary calculations to support amount of TP being invoiced.

**Alternative schedules may be offered by Contractor subsequent to award. However, project closeout shall not extend beyond five years from the date of the executed contract.**

Quarterly update reports shall be submitted to the District outlining:

- **Activities on site**
- **Future planned changes (for approval)**
- **TP removed monthly**
- **Daily TP concentrations of the influent and effluent**
- **Cost summary**

## ATTACHMENT B — INSURANCE REQUIREMENTS

shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Contractor shall not commence the Work until the District receives and approves Certificates of Insurance documenting required coverage. Contractor's General Liability policy shall include Endorsement CG 20 10 04 13, or equivalent, naming the St. Johns River Water Management District (the "District") as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation (Endorsement 24 04 05 09, or equivalent) against the District for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the District no less than 30 days' notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the District. Approval will not be unreasonably withheld. Contractor is responsible for any deductible or self-insured retention. Insurance must be placed with insurers having an A.M. Best rating of A-V or greater. District receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers' compensation, if applicable, in not less than the minimum limits required by Florida law. If Contractor claims an exemption from workers' compensation coverage, Contractor must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In addition, Contractor must provide a completed District "Affidavit (Non-Construction)" for non-construction contracts. Contractor is solely responsible for compliance with any Federal workers' compensation laws such as Jones Act and USL&H Act, including any benefits available to any workers performing work on this project.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability for each occurrence of not less than \$1,000,000 for personal injury, bodily injury, and property damage, with an aggregate of \$2,000,000. Coverage shall include: (1) contractual liability, (2) products and completed operations, (3) independent contractors, and (4) property in the care, control, or custody of the Contractor. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** \$500,000 combined single limit.
- (d) **Umbrella Policy.** Minimum limits of \$2,000,000 per occurrence.
- (e) **Professional Liability.** (Per claim) \$1,000,000 single limit and \$2,000,000 annual aggregate limit.
- (f) **Watercraft Liability.** \$1,000,000 (each occurrence) for bodily injury and property damage.
- (g) **Pollution/Environmental Impairment Liability Coverage**
  - (i) Contractor is responsible to provide this coverage through its automobile liability, general liability or a separate policy if it transports or stores fuel on a vehicle, trailer or piece of equipment.
  - (ii) Contractor is responsible to provide this coverage through its general liability or a separate policy if it has a fuel storage tank stationed on the worksite.

**Policy Limits.** Not less than \$1,000,000 per claim, personal injury, bodily injury, and property damage and remediation costs.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FROM: Lindsey Porter, Project Manager

CONTRACT NUMBER: 33537

CONTRACT TITLE: LAke Apopka Advance Effluent Treatment

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor adjustments to the work as consistent with the Contract Documents and return to the District’s Project Manager.

1. Contractor’S SUPPLEMENTAL INSTRUCTIONS:
2. DESCRIPTION OF WORK TO BE CHANGED:
3. DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS: .

**Contractor’s approval: (choose one of the items below):**

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

(Contractor agrees to implement the Supplemental Instructions as requested, but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
Lindsey Porter, District Project Manager

Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_  
Alan Weaver, District Sr. Procurement Specialist

c: Contract file  
Financial Services