

Design/Build Price, the Village shall have the right to require the performance thereof on a lump sum basis, a time and material basis, or all as hereinafter more particularly described (the right of the Village as aforesaid shall apply with respect to each such Change in the Work).

10.2.2 Lump Sum Changes. If the Village elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum proposal submitted by the Company to the Village. The Company's proposal shall be itemized and segregated by labor and materials for the various components of the Change in the Work (no aggregate labor total will be acceptable) and shall be accompanied by signed proposals of any Subcontractors who will perform any portion of the Change in the Work and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the Company's estimate of the time required to perform said changes or additional work.

10.2.3 Time and Materials Changes. If the Village elects to have the Change in the Work performed on a time and materials basis, the same shall be performed, whether by the Company's forces or the forces of any of its Subcontractors, at actual costs to the entity performing the Change in the Work, plus the following markups for overhead and profit:

10.2.3.1 The portion of the proposal relating to construction labor, whether by the Company's forces or the forces of any of its Subcontractors, may include reasonably anticipated payroll costs of job site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved). Payroll costs shall include salaries and wages, plus the costs of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing work after regular working hours shall be included in the above to the extent authorized by the Village, and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Company or any such Subcontractor, as applicable (said overhead and profit to include all supervision except foremen).

10.2.3.2 The portion of the proposal relating to design professional services may include the actual direct salary of those directly involved in the Change in the Work times a direct salary multiplier of 3.0.

10.2.3.3 The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Company or to any of its Subcontractor of materials and equipment to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales and use taxes and up to fifteen percent (15%) of said direct material costs as overhead and profit for the Company or any such Subcontractor (said overhead and profit to include all small tools), and may further include the Company's and any of its Subcontractor's reasonably anticipated rental costs in connection with the Change in the Work (either actual or discounted local published rates), plus up to fifteen percent (15%) thereof as overhead and profit for the Company or any such Subcontractors, as applicable.

10.2.3.4 Where one or more tiers of Subcontracts are on the basis of the Change, the intent of this Section is that the Subcontractor who actually performs or furnishes the work, at whatever tier, will be paid a fee of fifteen percent (15%) of the costs incurred by such Subcontractor and that any higher tier Subcontractor and the Company will each be paid a fee of ten percent (10%) of the amount paid to the next lower tier Subcontractor.

10.2.3.5 The Company shall submit to the Village daily time and material tickets, to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names), the materials used, the equipment rented (not tools) and such other evidence of cost as the Village may require. The Village may require authentication of all time and material tickets and invoices by persons designated by the Village for such purpose. The failure of the Company to secure any required authentication shall, if the Village elects to treat it as such, constitute a waiver by the Company of any claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Village shall not constitute an acknowledgment by the Village that the items thereon were reasonably required for the Change in the Work.

10.2.4 In the event the Company fails to submit its proposal within the designated period, the Village may order the Company to proceed with the Change in the Work and the Company shall so proceed. The Village shall unilaterally determine the reasonable cost and time to perform the Design/Build Work in question, which determination shall be final and binding upon the Company in accordance with Section 10.2.6.

10.2.5 No overhead and profit will be paid by the Village on account of a Change in the Work except as specifically provided in this Agreement. Overhead and profit shall be deemed to include all costs and expenses which the Company or any of its Subcontractor's may incur in the performance of a Change in the Work, including administration, project management staff, general office overhead, tools and equipment, and which are not otherwise specifically recoverable.

10.2.6 Unilateral Changes. If in negotiations, the Village and Company are unable to agree on the adjustment in the Design/Build Price and/or Contract Time corresponding to any change in the Design/Build Work, the Village may issue a unilateral Change Order. Upon receiving such unilateral Change Order, the Company shall promptly proceed or continue with the Design/Build Work involved as required by the unilateral Change Order and the Design/Build Work will be performed on a time and materials basis in accordance with Section 10.2.3.

10.3 Company Notice of Change.

10.3.1 If the Company asserts that an Uncontrollable Circumstance has caused a Change in the Work, or addition to the Design/Build Work, which change causes a material increase or decrease in the Company's cost or the Contract Time required for the performance of any part of the Design/Build Work under this Agreement, the Company shall, within ten (10) days after becoming aware of such event, give the Village written notice as herein required.

Said notice shall include the instructions or circumstances that are the basis of the claim and the Company's best estimate of the cost impact on the Design/Build Price and the Contract Time involved.

10.3.2 If the Company intends to assert a claim under this Section, it must, within ten (10) days after receipt of a written Change Order under Subsection 10.2 above or the furnishing of a written notice under Subsection 10.3.1, submit to the Village a written statement setting forth the specific nature and cost of such claim, unless this period is extended by the Village. The statement of claim hereunder may be included in the notice under Subsection 10.3.1 above. The statement of claim shall include all direct impact costs associated with the Change in the Work, as well as the Company's estimate of the Project Schedule impact of the Change in the Work, if any.

10.4 General Provisions Related To Changes in the Work.

10.4.1 Changes Requiring a Decrease in Design/Build Price. If the Change in the Design/Build Work will result in a decrease in the fixed Design/Build Price, the Village may request a quotation by the Company of the amount of such decrease for use in preparing a Change Order. The Company's quotation shall be forwarded to the Village within five (5) days of the Village's request, or other reasonable period as mutually agreed upon by the parties, and, if acceptable to the Village, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Agreement and/or on such other basis as the parties may mutually determine.

10.4.2 No claim by the Company for a Change in the Work hereunder shall be allowed if asserted after Final Completion and final payment of the Design/Build Price to the Company under this Agreement. Except as otherwise indicated in a Change Order, no claim relating to or flowing from a particular Change in the Work shall be allowed after execution of the Change Order relating to that Change in the Work.

10.5 Regulated Site Conditions.

10.5.1 Should the Company encounter a Regulated Site Condition, the Company shall promptly give notice to the Village of such conditions before they are disturbed and proceed in the manner set forth in Section 12.8. The Village shall thereupon promptly investigate the conditions and, if they find that the conditions materially differ from those shown in this Agreement and constitute a Regulated Site Condition, the Village shall prepare and process a Change Order. Any material increase or decrease of costs in the Design/Build Price resulting from such Regulated Site Condition shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and Changes in the Work.

10.6 Emergencies.

10.6.1 In any emergency affecting the safety of persons, property and/or the Wastewater Facilities, the Company shall act, in its reasonable discretion, to prevent threatened damage, injury or loss to persons or property. The parties shall negotiate in good faith an

equitable Change Order for the Design/Build Price and/or Contract Time, as appropriate, to reimburse the Company for the emergency work resulting in a material increase to the Design/Build Price.

10.7 Changes in Contract Time.

The Company's time of performance shall be adjusted in accordance with the following Sections:

10.7.1 Excusable Delay. If an Uncontrollable Circumstance causes a material delay in the progress of the Design/Build Work by (a) adversely impacting the critical path of the Project Schedule for the Design/Build Work, or (b) delaying the Contract Time, then the time for performance of the Design/Build Work shall be equitably adjusted by Change Order, as appropriate. The Company shall give the Village prompt written notice of delays within ten (10) days of the time the Company becomes aware of such delay.

10.7.2 Reduction of Contract Time. If changes in the Design/Build Work, scope of Work or circumstances arise that warrant a reduction in the Contract Time, the parties shall enter into a Change Order mutually agreeing to an equitable reduction in the Contract Time.

10.8 Value Engineering. The Company is encouraged to develop, prepare, and submit to the Village value engineering change proposals (VECP's) voluntarily. The Company shall share in any savings realized from accepted VECP's, in accordance with the provisions herein.

10.8.1 A Value engineering change proposal (VECP) is a proposal that:

10.8.1.1 requires a Change Order to this Agreement (and any corresponding Change in Scope to the Operations Services) to implement; and

10.8.1.2 results in reducing the Design/Build Price (and any corresponding change or reduction in the Service Fee) without impairing essential functions or characteristics of the Project.

10.8.2 The Company shall include in each VECP the information described below:

10.8.2.1 A description of the difference between the Agreement requirement and the proposed requirement, the advantages and disadvantages of each VECP, including a justification when an item's function or characteristic is being altered and the effect of the change on performance, including any pertinent objective test data;

10.8.2.2 A list and analysis of the Agreement requirements that must be changed if the VECP is accepted, including suggested revisions;

10.8.2.3 Identification of the part of the Project to which the VECP applies;

10.8.2.4 A detailed cost estimate for the affected portions of the Agreement

requirement and the VECP. The cost reduction associated with the VECP shall take into account the Company's costs involved, including any amount attributable to Subcontractors;

10.8.2.5 A description and estimate of costs the Village would incur in implementing the VECP, such as testing and evaluation;

10.8.2.6 A prediction of any effects the proposed change would have on costs to the Village beyond the Contract Time or effects on the Operations Period, if any; and

10.8.2.7 A statement of the time by which the VECP must be accepted by Village in order to achieve the maximum cost reduction, noting any effect on the Contract Time and Schedule of Values.

10.8.3 The Village will notify the Company of the status of the VECP within twenty-one (21) days from the date of receipt. If additional time or information is required, the Village will notify the Company within such time and provide the revised expected date of the decision.

10.8.4 If a VECP is accepted, the Village will issue a deductive Change Order and the Change Order shall reflect that the Company shall receive fifty percent (50%) percent of the net savings to the Village.

10.8.5 The Company shall include an appropriate value engineering clause in all Subcontracts with Subcontractors.

10.8.6 The Village and the Company have agreed that certain opt out or vacant lots or parcels, at the Village's election, may not receive a valve pit or service connection, and such change shall not constitute a VECP.

ARTICLE XI RESPONSIBILITIES

11.1 Duty to Cooperate.

The Company and the Village shall, throughout the performance of the Work, cooperate with each other and perform their respective responsibilities, obligations and services in a timely manner to facilitate the timely and efficient performance of the Work and the Project.

11.2 Reviews and Approvals.

Each party shall provide timely reviews and approvals of all submissions consistent with the turnaround times set forth in the Project Schedule and this Agreement.

11.3 Site Agreements.

The Village shall promptly approve the location of all Sites for the Wastewater

Facilities, including master lift stations or vacuum pump stations, transmission lines and Collection Systems. The Sites upon which the Wastewater Facilities will be located or installed are identified in Appendix 1 attached to this Agreement and have been pre-approved by the Village. The cost of all acquisition purchase price for land or property acquisition and closing costs (recording fees and title searches and policies) for the Sites identified in Appendix 1 shall be paid for by the Village with fee simple title and ownership to be vested in the Village. All due diligence incurred in connection with the acquisition of the Sites and design and construction of the Wastewater facilities thereon shall be paid for by the Company and are included in the Design/Build Price, including appraisals, surveys, Phase I environmental assessments, soil and geotechnical tests and borings.

The Company shall manage the process, on behalf of the Village, for the acquisition and attainment of all easements and rights-of-way in favor of the Village in the manner set forth in Appendix 1 necessary to place or install the Wastewater Facilities, including the attainment of utility easements on private roads or private property, and any lands required for temporary construction facilities or storage of materials and equipment. The process and the Company's responsibilities for the attainment of easements and rights-of-way on private roads and property are identified in Appendix 1. Should the parties fail to obtain easements on private roads or property in the manner described in Appendix 1 due to the unwillingness of the private property owner to grant an easement or similar right in favor of the Village, the Village shall initiate eminent domain or similar legal process to obtain such easement.

11.4 Government Approvals and Permits.

The Village shall provide reasonable assistance to the Company in obtaining Governmental Approvals, permits, approvals and licenses that are the Company's responsibility for the Work under this Agreement and Applicable Law. However, the Village shall not be obligated to incur any third party costs or expenses with regard to the same.

11.5 Compliance with Federal and State Laws and Village Policies.

The Company agrees to comply with all Applicable Law in the performance of this Agreement and in connection with the Project.

11.5.1 Federal and State Laws.

The Village shall pay for or finance all or a portion of the Project with federal and/or State public funding sources, including SRF Loans provided through the FDEP, and ACOE Funds. Accordingly, the Company acknowledges and agrees to comply with all applicable requirements imposed by State and Federal requirements for design and construction contracts as provided in this Agreement and Applicable Law. The Village makes no representations that the RFP contained or this Agreement contains all of the applicable State and Federal requirements or provisions as required for funding of the Project. To the extent applicable to the Project and this Agreement for the design, construction and operation of the Wastewater Facilities, the Company shall comply with all applicable State and federal requirements and provisions, including but not limited to the following:

11.5.1.1 Federal and State Labor Standards Provisions; Prevailing Wages. In connection with any assistance or funding for the Project by the United States of America, including but not limited to SRF Loans or ACOE Funds, the Company shall comply with all applicable Federal and State Labor and Wage Laws for the construction of the Project, and applicable Federal Labor Standards Provisions (Davis-Bacon Act, Copeland Act, and Contract Work Hours and Safety Standards Act), including as set forth in the FDEP Supplementary Conditions (Construction) included as Appendix 19 to this Agreement. The Company acknowledges and agrees that the Project constitutes a public work of the Village for which prevailing wages for the construction of the Project shall be due and shall pay its workers prevailing wages. It shall be the Company's obligation to interpret and implement any prevailing wage requirements for the Project. Prevailing wages shall not apply to Operations Services, unless required by Applicable Law.

11.5.1.2 FDEP Supplementary Conditions (Construction). As may be required for SRF Loans and ACOE Funds, and other State and Federally assisted funding for the Project, the Company shall comply with the FDEP Supplementary Conditions (as applicable to Design/Build Projects and this Agreement), as set forth in Appendix 19 attached to this Agreement, including but not limited to compliance with the following:

- ☐ Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) participation in the Project;
- ☐ Section 306 of the Clean Air Act (42 U.S.C., 1857(h)); Section 508 of the Clean Water Act (33 U.S.C. 1368); Executive Order 11738 (Administration of the Clean Air Act with respect to Federal contracts, grants on loans); and 40 CFR Part 15 prohibiting the use of facilities included in the U.S. Environmental Protection Agency's List of Violating Facilities;
- ☐ Debarment and Suspension (Executive Order 12549);
- ☐ Affirmative Action and Equal Employment Opportunity (Executive Order 11246; the Civil Rights Act of 1964; Department of Defense Directive 5500.11 issued pursuant thereto). The Company shall comply with all applicable State and federal laws pertaining to nondiscrimination which prohibit discrimination based on race, color, age, or national origin;
- ☐ Immigration Reform and Control Act of 1986 (State of Florida Executive Order 11-02);
- ☐ Army Regulation 600-7, entitled "Non discrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."
- ☐ Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 et. seq., as amended (CERCLA);

- ☐ Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq., as amended (RCRA); and
- ☐ Americans with Disabilities Act of 1990, as amended.
- ☐ Occupational Safety and Health Act (OSHA);
- ☐ Trench Safety Act, Sections 553.60 through 553.64, Florida Statutes.

11.5.1.3 ACOE Funds. As applicable to any ACOE Funds received by the Village for the Project, the Company shall comply with all requirements and provisions contained in the ACOE Project Partnership Agreement between the Department of the Army and Islamorada for Technical and Financial Assistance for the Florida Keys Water Quality Improvement Program Regional Wastewater Treatment and Collection Facilities dated August 17, 2008, together with Amendment No. 1 thereto dated February 5, 2010, and attached to the RFP, and any further amendments as may be entered into from time to time between the Village and ACOE for grant funding of the Project. The Company acknowledges and agrees that the Project Partnership Agreements with ACOE require design and construction review and oversight of the Project by ACOE, and the Company shall comply with such requirements and cooperate with the Village and ACOE in such compliance. It is anticipated that the Project Partnership Agreements with ACOE will be modified to reflect the "Project" as defined therein consistent with the scope of Work or Project set forth in this Agreement.

11.5.1.4 Federal Aid Construction Contract Provisions (FHWA-1273). To the extent applicable to the Project, the Company shall comply with the Contract Provisions Federal-Aid Construction Contracts (FHWA - 1273) included in this Agreement as Appendix 20.

11.5.1.5 Compliance with Non-Discrimination Policy. In performance of this Agreement and during the Term, the Company agrees as follows:

(i). The Company will not discriminate against any employee, applicant for employment, Subcontractor, guest, visitor or invitee, because of race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical disability, unless allowed by Applicable Law as a bona fide occupational qualification. The Company shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(ii). Subsection (i) above shall be interpreted in a manner that is consistent with the United States Constitution, the State Constitution and applicable State and federal statutes governing workplace discrimination. The terms used in this Section shall have the same meaning as defined in State statutes governing the same subject matter.

(iii). Nothing in this subsection shall be interpreted as prohibiting bona fide occupational qualifications consistent with applicable State and federal law and

reasonably necessary to the normal operation of Village employment or contracting. Nothing in this subsection shall be interpreted as prohibiting regulations and policies to prevent nepotism or conflicts of interest.

(iv). Nothing in this subsection shall be interpreted as prohibiting action taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the Village.

11.5.1.6 Prohibition against Contingent Fees. Pursuant to Section 287.055(6), Florida Statutes, this Agreement contains the following prohibition on contingent fees: "The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure the RFP or this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the RFP and this Agreement." For the breach or violation of this provision, the Village shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

11.5.2 Trench Safety Act.

The Company shall comply with the Trench Safety Act set forth in Sections 553.60 and 553.64, inclusive, Florida Statutes, and OSHA Standard 29 C.F.R. section 1926.650, subpart P. In order to evidence the Company's compliance with the foregoing, upon execution of this Agreement, the Company shall also execute and deliver to the Village a Trench Safety Compliance Statement in the form attached hereto as Appendix 24 and by this reference made a part of this Agreement. Without limiting the foregoing, at all times during the performance of the Work required in this Agreement, under no circumstances shall any trench remain open overnight.

11.5.3 Village Laws and Policies.

The Company shall comply with the Village Charter and Code of Ordinances, as well any and all adopted Village Policies and regulations pertaining to this Agreement and the Project.

11.6 Parties Duties and Responsibilities

11.6.1 The Village shall keep in force all Project warranties, guarantees, easements and licenses that have been granted or assigned to the Village and are not transferred to the Company or to be performed by the Company under this Agreement.

11.6.2 The Company shall pay all sales, excise, license fees, royalties, ad valorem, property, franchise, occupational and disposal taxes, or other taxes associated with the Project and the Wastewater Facilities. In the event the Company is required to pay any sales tax or use taxes on the value of the services provided by Company hereunder or the services provided by any Subcontractor of Company, the Company shall pay such taxes and provide the Village with proof of payment.

11.6.3 Owner Direct Purchase Program. The Village may exercise its right to implement an owner direct purchase program whereby the Village will directly purchase equipment or materials for the Design/Build Work. Under an owner direct purchase program, the Company shall work with the Owner's Representative and the Village to identify materials and equipment for purchase by the Village. The Company shall negotiate pricing and terms and conditions, and prepare draft purchase orders for the identified equipment or materials to be purchased by the Village under this program, and work with the Village in establishing delivery and payment schedules to the equipment and material vendors. The Company will receive, unload, properly store, and provide insurance consistent with the requirements of this Agreement and Applicable Law for all equipment and materials purchased under this owner direct purchase program. The Company shall work with the Village and the Owner's Representative to establish a protocol and procedure to implement an Owner Direct Purchase Program within ninety (90) days after Notice to Proceed. The fixed Design/Build Price shall be reduced by the value of the purchase orders, plus the applicable sales tax, issued by the Village under the owner direct purchase program.

11.6.4 The Company shall provide the Project with appropriate security personnel and/or devices to protect against any losses resulting from the theft, damage, or unauthorized use of property owned by the Village and shall accept liability for such losses except to the extent such losses are directly caused by the negligent acts or omissions of the Village.

11.6.5 The Village shall continue to be responsible and pay for the general administration and enforcement of (i) the Wastewater Facilities and Collection System, (ii) the Village's Utility Policy, (iii) long-term System and Service Area planning; (iv) the enforcement of any Village orders, ordinances or Applicable Law; and (v) the collection of any fees, rates, charges or assessments from Customers due the Village in connection with the Wastewater Facilities.

11.6.6 Except to the extent that insurance is required of the Company for Operations Services during the Operations Period as set forth in Appendix 13, upon Acceptance of each phase or agreed upon component of the Wastewater Facilities in accordance with the phasing schedule set forth in Section 6.16.5 of this Agreement, the Village will adequately insure the Sites and Wastewater Facilities against peril and liability and will assume financial responsibility for any failure to insure the Sites and Wastewater Facilities.

ARTICLE XII
INSURANCE, INDEMNIFICATION, LIABILITY AND
UNCONTROLLABLE CIRCUMSTANCE RELIEF

12.1 Company Insurance.

At all times during the Term, the Company shall obtain and maintain the Required Insurance in accordance with Appendix 13 to cover losses and liabilities caused by the Work or Operations Services performed by or on behalf of the Company, and shall pay all premiums with respect thereto as the same become due and payable. Except for Builders Risk, the Required Design/Build Period Insurance shall be provided within ten (10) business days of the execution and delivery of this Agreement for the Village's review and approval (Builders Risk Insurance shall be provided at least 30 days prior to the commencement of any Design/Build Work) and shall remain in effect for the periods specified in Appendix 13 in annual (or other) renewable periods. The Required Operation Period Insurance shall be provided as a condition precedent to Acceptance and shall remain in effect for the Operations Period in annual (or other) renewable periods. The Company shall file with the Village certificates of insurance with original endorsements evidencing coverage in compliance with Appendix 13 and this Agreement in a form acceptable to Village.

12.1.1 Insurers, Deductibles and Village Rights. All Required Insurance shall be obtained and maintained from financially sound and generally recognized responsible insurance companies meeting the qualifications set forth in Appendix 13. The insurers issuing policies of Required Insurance shall be authorized to write such insurance in the State of Florida. The insurance coverage may be written with deductible or self-insured retention amounts within the limits provided in Appendix 13, and the Company shall be responsible for any deductible or self-insured retention amounts. The Company shall also be responsible for any excluded losses if such losses are within the liability of the Company hereunder. All policies evidencing such insurance shall provide for: (1) payment of the losses to the Village and to the Company as their respective interests may appear and in accordance with the terms and conditions allowed by the applicable coverage; and (2) prior written notice of the cancellation or non-renewal thereof to the Company and the Village in accordance with Appendix 13. All policies of insurance required by this Section shall be primary insurance to the extent loss or liability is caused by Work or Operations Services performed by or on behalf of the Company.

12.1.2 Certificates, Policies and Notice. The Required Insurance, including any renewals thereof, shall be evidenced by certificates of insurance as provided herein and in Appendix 13. No later than the 30 days prior to the issuance date of each policy of Required Insurance, including any renewals thereof, the Company shall provide the Village with a draft certificate of insurance for review and approval, and shall deliver the final, approved certificate of insurance to the Village promptly following its issuance. Not later than 60 days prior to the beginning of each Contract Year throughout the Term, the Company shall furnish certificates of insurance to the Village to confirm the continued effectiveness of the Required Insurance. Whenever a Subcontractor is utilized, the Company shall either obtain and maintain or require the Subcontractor to obtain and maintain insurance in accordance with the applicable

requirements of Appendix 13. The Company shall maintain current certificates of all Required Insurance at the Project and Sites at all times throughout the Term.

12.1.3 Maintenance of Insurance Coverage. If the Company fails to pay any premium for Required Insurance, or if any insurer cancels or fails to renew any Required Insurance policy and the Company fails to obtain replacement coverage so that the Required Insurance is maintained on a continuous basis, then, at the Village's election (but without any obligation to do so), the Village may pay such premium or procure similar insurance coverage from another company or companies at the Company's cost and upon such payment by the Village the amount thereof shall be immediately reimbursable to the Village by the Company (plus an administration fee of 15%). The Company shall not perform Design/Build Work during any period when any policy of Required Design/Build Period Insurance is not in effect. The Company shall comply with all applicable Required Insurance and take all steps necessary to assure that the Project and the Wastewater Facilities, as applicable, remain continuously insured in accordance with the requirements of this Agreement during the Term hereof and Applicable Law. The failure of the Company to obtain and maintain any Required Insurance shall not relieve the Company of its liability for any losses intended to be insured thereby. Should any failure to provide continuous insurance coverage occur, the Company shall indemnify, defend and hold harmless the Village in the manner provided in this Agreement, from and against any and all losses and expenses arising out of such failure. The purchase of the Required Insurance to satisfy the Company's obligations under this Section shall not be a satisfaction of any Company liability under this Agreement or in any way limit, modify or satisfy the Company's indemnity obligations hereunder.

12.1.4 All insurance coverage's shall be provided as set forth in Appendix 13 by insurers with a rating of A XIII, or better, in the most recent edition of Best's Key Rating Guide, Property-Casualty Edition, and who are either (i) authorized by a subsisting certificate of authority issued by the State of Florida to transact business in the State of Florida, or (ii) except with respect to coverage for the liability imposed by the Florida Workers Compensation Act, an eligible surplus lines insurer under Florida Law.

12.1.5. Each insurance policy shall be endorsed to state that coverage shall not be canceled, non-renewed and shall not be reduced in coverage or limits except in the manner set forth in Appendix 13.

12.1.6. All liability coverage's shall name the Village, its Council and every officer, agent and employee of the Village as additional insured with respect to Work under this Agreement, in the manner set forth in Appendix 13 to this Agreement.

12.1.7. The Company's insurance and any insurance provided in compliance with these specifications and Appendix 13 shall apply only on a primary basis to the Village, and shall not require contribution from any other insurance or self-insurance maintained by Village, to the extent loss or liability is caused by Work or Operations Services performed by or on behalf of the Company.

12.1.8. The Village and the Company agree and shall cause their insurers to waive all rights of subrogation against the other party and its representatives, officers, agents and employees.

12.1.9 The obligations of the Company under this Section shall survive the termination or expiration of this Agreement and shall continue until such time as Company shall have completed and discharged its obligations under this Agreement.

12.2 Indemnity.

12.2.1 The Company hereby covenants and agrees to indemnify, defend and hold harmless, the Village, and its Council members, officers, attorneys, employees, representatives, agents and contractors, to the fullest extent permitted by law, from and against all claims (including workers' compensation and wage claims), demands, suits, actions, liabilities, losses, expenses, damages, penalties, fines, judgments, and costs and expenses, including without limitation the reasonable costs and expenses of attorneys' fees and costs and litigation, asserted by third parties to the extent caused by the negligent acts, errors or omissions, reckless, intentional or willful misconduct of the Company, or any of its employees, consultants, contractors, Subcontractors, or agents, or persons employed or utilized by the Company, regardless of whether or not they are caused in part by a party indemnified hereunder. The Company's indemnity obligations hereunder shall not be limited by any coverage exclusions or other provisions in any insurance policy maintained by the Company which is intended to respond to such events. The Company shall not, however, be required to indemnify or defend the Village for any claims, losses (including workers' compensation and wage claims), liabilities, actual expenses, damages, penalties, judgments, and costs and expenses, including without limitation the reasonable costs and expenses of attorneys' fees and costs and litigation, to the extent caused by the negligence or intentional misconduct of the Village, and its Council members, officers, attorneys, employees, representatives, agents and contractors.

12.2.2 The indemnification obligations under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company and/or any Subcontractor under worker's compensation acts, disability benefit acts, or other employee benefit acts.

12.2.3 In the event that any claims are brought or actions are filed against the Village with respect to the indemnities contained herein, the Company agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. The Company and the Village agree to mutually select the attorneys to appear and defend such claims or actions on behalf of the Village. The Company further agrees to pay at the Company's expense the attorneys' fees and costs incurred by those attorneys approved by the Village to appear and defend such claims or actions on behalf of the Village at both the trial and appellate levels.

12.2.4 To the extent this indemnification clause or any other indemnification clause in this Agreement does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract Documents shall hereby be interpreted as the parties'

intention for the indemnification clauses and Contract Documents to comply with Chapter 725, Florida Statutes, as may be amended.

12.2.5 This Article shall survive the expiration of the Agreement at the end of its Term or its earlier termination.

12.3. Limitation on Extent of Damages.

12.3.1 Any damages that arise out of the performance of this Agreement shall be limited to the actual loss to the other party and that, except as otherwise specifically stated in this Agreement, damages shall not include lost profits, loss of business opportunity, good will or reputation. In the absence of gross negligence, reckless, intentional or willful misconduct, it is the intent of the parties hereto that punitive damages shall not be sought or awarded; however, notwithstanding, the foregoing shall not limit the obligation of the Company under any indemnification provision or otherwise for a violation of any Governmental Approval or Applicable Law, nor shall it limit the Company's responsibility for any penalty or other monetary payment, fine or assessment required due to a violation of any Governmental Approval or Applicable Law.

12.3.2 No Damages for Delay. Notwithstanding any other provisions in this Agreement to the contrary, the Company shall not be entitled to and hereby waives any damages which it may have suffer by reason of delay, including delay due to Uncontrollable Circumstances, and waives all damages it may suffer by reason of such delay, including lost profits, overhead and supervision. Apart from an adjustment to the Contract Time, no payment of claim for damages shall be made to the Company as compensation for damages for any delays or hindrances, from any cause whatsoever in the progress of the Work, whether such delay be avoidable or unavoidable, except to the extent that such delay is caused by the active interference by the Village or Village Fault, and not otherwise compensated for under an agreed Change Order.

12.4 Changes in Law.

12.4.1 A Change in Law means any of the following acts, events or circumstances to the extent that compliance with the change materially expands the scope, interferes with, delays or increases the cost of the Work or the performance of the obligations of this Agreement by either party, that occur after the Contract Date of this Agreement and that could not have been reasonably anticipated or known by the Company prior to or as of the Contract Date:

12.4.1.1. Except as provided for in (ii), (iii) and (iv) below, the enactment, adoption, promulgation, modification, repeal, or change of any Applicable Law (excluding Federal or State income, sales or tax laws) after the Contract Date, unless such Applicable Law was on or prior to the Contract Date duly enacted, adopted, promulgated, modified, repealed or changed, in each case in final form, to become effective without any further action of the Governmental Authorities; and

12.4.1.2. Except as provided in (i), (ii), (iii) and (iv) below, the order or judgment of any Governmental Authority issued after the Contract Date enforcing any Change in Law described in subsection 12.4.1.1 of this definition to the extent such order or judgment is not the result of the negligent, reckless or intentional action, error or omission or lack of reasonable diligence of the Company or of the Village, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a negligent, reckless or intentional action, error or omission or lack of reasonable diligence; or

It is specifically understood, however, that none of the following shall constitute a "Change in Law":

(i) acts, events and circumstances with respect to the Governmental Approvals to the extent that the Company has expressly assumed the permitting risk under Article VI of this Agreement;

(ii) a change in the nature or severity of the actions typically taken by a Governmental Authority to enforce compliance with Applicable Law which was in effect as of the Contract Date;

(iii) any increase in any fines or penalties provided for under Applicable Law in effect as of Contract Date; and

(iv) any act, event or circumstance that would otherwise constitute a Change in Law but that does not change the requirements imposed on the Company by this Agreement or the Contract Standards in effect as of the Contract Date

12.4.2 For each Change in Law, the Company shall immediately, but no later than ten (10) days after becoming aware of such change, prepare a notice to the Village that documents the Company's reason for believing a Change in Law has occurred. If agreed to by the Village, the Company shall then prepare a report describing all actions and changes proposed by the Company to address the Change in Law, including an assessment of alternatives, and all associated projected Capital Modifications or increases/decreases in operations, maintenance, capital and other costs, and the matter shall be addressed as a Change Order under Article X.

12.5 Special, Consequential and Punitive Damages.

Except to the extent specifically excluded by this Agreement herein below, in no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, consequential or punitive damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Agreement. The waiver of the foregoing damages under this Section is intended to apply to only disputes and claims as between the Village and the Company, and specifically shall not apply and is not intended to apply to or limit the Company's agreement to indemnify the Village for third party claims pursuant to Section 12.2 of this Agreement.

Notwithstanding the foregoing limitation, the Company shall be liable and responsible for the following damages or costs, whether or not such are deemed special, consequential or punitive damages: (i) any and all fines, assessments, and penalties imposed by Governmental Authorities arising from non-compliance with the Legislation and DCA Rules for Project progress milestone and final completion and operations compliance dates for the Wastewater Facilities, including the progress milestone dates set forth in Section 3.2, the Substantial Completion Date and the Final Completion Date for the Wastewater Facilities; (ii) violations of any Governmental Approvals and Permits and Applicable Law, and any fines, assessments, and penalties imposed by Governmental Authorities or other regulatory or enforcement agencies in connection with this Project, to the extent caused by the negligent acts, errors or omissions, reckless, intentional or willful misconduct of the Company, or any of its employees consultants contractors, Subcontractors, or agents, or persons employed or utilized by the Company; and (iii) to the extent that such special, consequential or punitive damages are covered by Required Insurance in accordance with Appendix 13 and this Agreement, to the extent caused by the negligent acts, errors or omissions, reckless, intentional or willful misconduct of the Company, or any of its employees consultants contractors, Subcontractors, or agents, or persons employed or utilized by the Company. With the Village's prior written approval, the Company may contest any such fines in administrative proceedings and/or in court, provided that the Company first pays such fines, assessments or penalties, as may be required. The Company shall pay all costs and expenses in connection with any such contest or challenge, and shall indemnify the Village for any and all costs and expenses incurred by the Village in connection with such contest.

12.6 Intentionally Deleted.

12.7 Intentionally Deleted.

12.8 Uncontrollable Circumstances.

12.8.1 Uncontrollable Circumstance Relief. Except as expressly provided under the terms of this Agreement, neither party to this Agreement shall be liable to the other for any loss, damage, delay, default or failure to perform any obligation to the extent it results from an Uncontrollable Circumstance. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies previously accrued and owing under this Agreement, or to perform any obligation hereunder not affected by the occurrence of the Uncontrollable Circumstance. The Village shall pay the Design/Build Price or the Service Fee during the continuance of any Uncontrollable Circumstance, adjusted to account for any cost reductions achieved through Company mitigation measures required by subsection 12.8.2 of this Section, as well as for any cost increases to which the Company is entitled under subsection 12.8.3 of this Section.

12.8.2 Notice and Mitigation. The party that asserts the occurrence of an Uncontrollable Circumstance shall notify the other party in writing within five (5) days after the date the party experiencing such Uncontrollable Circumstance first knew of the occurrence thereof, with a written description of: (1) the Uncontrollable Circumstance and the cause thereof (to the extent known); and (2) the date the Uncontrollable Circumstance began, its estimated

duration, the estimated time during which the performance of such party's obligations hereunder shall be delayed, or otherwise affected. As soon as practicable after the occurrence of an Uncontrollable Circumstance, the affected party shall also provide the other party with a description of: (i) the amount, if any, by which the Design/Build Price or the Service Fee is proposed to be adjusted as a result of such Uncontrollable Circumstance; (ii) any areas where costs might be reduced and the approximate amount of such cost reductions; and (iii) its estimated impact on the other obligations of such party under this Agreement. The affected party shall also provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as practicable, use all reasonable efforts to eliminate the cause therefor, reduce costs and resume performance under this Agreement. While the Uncontrollable Circumstance continues, the affected party shall give notice to the other party, before the first day of each succeeding month, updating the information previously submitted. The party claiming to be adversely affected by an Uncontrollable Circumstance shall bear the burden of proof, and shall furnish promptly any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the other party.

12.8.3 Conditions to Performance, Schedule and Design/Build Price or Service Fee Relief. In the event of an Uncontrollable Circumstance, the Company may, subject to the limitations specifically provided for in this Agreement, be entitled to relief from the performance of its obligations hereunder, an extension of the Project schedule or an increase in the Design/Build Price or the Service Fee, or any combination thereof, which properly reflects the interference with performance, the time lost or the amount of the increased cost (including Cost Substantiated costs associated with the mitigating measures undertaken by the Company pursuant to subsection 12.8.2 of this Section), in each case as a result thereof, but only to the minimum extent reasonably forced on the Company by the event, and the Company shall perform all other Contract Services. Price relief associated with an Uncontrollable Circumstance shall not include profit to the Company. Any cost reduction achieved through the mitigating measures undertaken by the Company pursuant to subsection 12.8.2 of this Section upon the occurrence of an Uncontrollable Circumstance shall be reflected in a reduction of the amount by which the Design/Build Price or the Service Fee would have otherwise been increased or shall serve to reduce the Design/Build Price or the Service Fee to reflect such mitigating measures, as applicable. In the event that the Company believes it is entitled to any relief on account of an Uncontrollable Circumstance, it shall furnish the Village written notice of the specific relief requested and detailing the event giving rise to the claim within thirty (30) days after the giving of notice delivered pursuant to subsection 12.8.2 of this Section, or if the specific relief cannot reasonably be ascertained and such event detailed within such thirty (30) day period, then within such longer period within which it is reasonably possible to detail the event and ascertain such relief. Within thirty (30) days after receipt of such a timely submission from the Company, the Village shall issue a written determination as to the extent, if any, it concurs with the Company claim for performance, price or schedule relief, and the reasons therefor. The Company

acknowledges that its failure to mitigate, or to give timely notice pertaining to, an Uncontrollable Circumstance as required under this Section may adversely affect the Village. To the extent the Village asserts that any such adverse effect has occurred and that the relief to the Company or the additional cost to be borne by the Village under this subsection should be reduced to account for such adverse effect, the Company shall have the affirmative burden of refuting the Village's assertion concerning lack of timely notice and the Village shall have the affirmative burden of proving its assertion of the Company's failure to mitigate. The agreement of the parties as to the specific relief to be given the Company hereunder on account of an Uncontrollable Circumstance shall be evidenced by a Change Order.

12.8.4 Schedule Relief during the Design/Build Period. In Order to be entitled to an adjustment to the Scheduled Substantial Completion Date, the Scheduled Acceptance Date, or to the number of days allowed for the achievement of Final Completion, the Company must demonstrate the impact of the Uncontrollable Circumstance on the Company's CPM schedule, as updated, maintained and revised by the Company in accordance with this Agreement. In no event shall the Company be entitled to relief pursuant to this Section for delays caused by Company Fault or otherwise not attributable to an Uncontrollable Circumstance materially impacting the Company's CPM Project completion schedule.

12.8.5 Capital Modifications. Before proposing any adjustment to the Service Fee in its notice of requested relief under this Section, the Company shall determine whether any increased costs of operation and maintenance of the Wastewater Facilities resulting from an Uncontrollable Circumstance can reasonably and prudently be reduced by the undertaking of a Capital Modification. In the event that the Company makes such a determination, the Company shall so advise the Village in writing in accordance with Section 5.5. The Village shall thereupon determine, in its sole discretion, whether such a Capital Modification shall be undertaken and shall so advise the Company within sixty (60) days of receipt of such notice by the Company. In no event shall the Company undertake such Capital Modification except at the express written direction of the Village.

12.8.6 Acceptance of Relief Constitutes Release. The Company's acceptance of any performance, price or schedule adjustment under this Section shall be construed as a release of the Village by the Company (and all persons claiming by, through, or under the Company) from any and all losses or expenses resulting from, or otherwise attributable to, the Uncontrollable Circumstance giving rise to the adjustment claimed.

ARTICLE XIII SECURITY FOR PERFORMANCE

13.1. Company and Guarantor.

13.1.1. Guaranty Agreement. The Company, concurrently with the execution and

delivery of this Agreement, has caused the Guaranty Agreement to be provided by the Guarantor in the form attached hereto in Appendix 14.

13.1.2. Material Adverse Change to the Financial Condition of the Guarantor. For purposes of this Section, a "Material Adverse Change" shall be any change to the financial condition of the Guarantor that actually has, or is reasonably likely to have, a significant adverse effect on the Guarantor's ability to perform its obligations under this Agreement and the Guaranty Agreement, including any change that results in a 20% decline in the Guarantor's net worth. For purposes of this Section, "net worth" shall mean stockholder or shareholder equity, as reported on the Guarantor's balance sheet. Notwithstanding any of the foregoing, no Material Adverse Change shall be deemed to have occurred under this Section to the extent that the Guarantor, at its sole cost and expense, is able to obtain and maintain either a shadow or actual investment grade credit rating for the Guarantor on its senior debt from one or more of the Rating Agencies. Any credit rating analysis by any of the Rating Agencies pursuant to this Section shall assume a hypothetical borrowing by the Guarantor of an amount at least equal to the Design/Build Price of Ninety Million, Nine Hundred Thousand and No/100 Dollars (\$90,900,000.00). For purposes of this subsection "investment grade" means a rating of at least BBB- from S&P or Fitch and a rating of at least Baa3 from Moodys. The Company and Guarantor shall immediately notify the Village of any Material Adverse Change.

13.1.3. Credit Enhancement Upon a Material Adverse Change. If a Material Adverse Change occurs, the Company and the Guarantor shall, at its sole cost and expense, cause to be provided credit enhancement of its obligations hereunder within 30 days after such occurrence. Such credit enhancement shall be in the form either of (1) an unconditional guarantee of all of the Company's obligations hereunder provided by a corporation or financial institution meeting the minimum financial requirements set forth in subsection 13.1.2 of this Section and otherwise acceptable to the Village, or (2) subject to the approval of the Village in its sole and absolute discretion, a substitute instrument providing security for the performance of the Company's obligations hereunder in a form and manner acceptable to the Village. In the event that the Company or Guarantor provides credit enhancement in the form of a replacement guarantor pursuant to this subsection, the replacement guarantor shall become a Guarantor for purposes of this Agreement and the provisions of this Section shall apply equally to such replacement Guarantor. The Village shall have the right but not the obligation, exercisable in its sole and absolute discretion, to waive, modify, alter or replace the foregoing requirement from time to time as and to the extent the Village deems necessary to protect the public interest and to secure the performance by the Company of its obligations hereunder and by the Guarantor of their obligations under the Guaranty Agreement in light of the nature, extent and potential duration of the Material Adverse Change.

13.1.4. Company and Guarantor Annual Reports. The Company shall annually furnish the Village, within ninety (90) days after the end of the Company's and Guarantor's fiscal year, consolidated balance sheets and income statements for the Company and Guarantor attached to the audited year-end financial statements reported upon by the Company's and Guarantor's independent public accountant. If applicable, the Company shall also furnish the Village with copies of the quarterly and annual reports and other filings of the Guarantor

filed with the Securities and Exchange Commission or comparable foreign regulatory body, as applicable.

13.2. Bonds.

13.2.1. Performance and Payment Bonds. The Company shall provide the Performance Bond and the Payment Bond with the Village as Obligee concurrently with the execution of this Agreement, and all the obligations under the Bonds shall be solely related to the payment and performance of the Design/Build Work required in this Agreement. The Performance Bond and the Payment Bond shall be in the forms attached hereto as Appendix 4 and acceptable to the Village, and shall comply with the provisions of Section 255.05, Florida Statutes. Each of the Payment Bond and the Performance Bond shall be in an amount equal to 100% of the Design/Build Price and shall be recorded in the public records of Monroe County. The Performance Bond and the Payment Bond shall be issued by a surety company, and any and all renewals, extensions or replacements thereafter: (1) approved by the Village and having a rating of "A" in the latest revision of the A.M. Best Company's Insurance Report; (2) listed in the United States Treasury Department's Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsurance Companies"; and (3) holding a valid certificate of authority to transact surety business in the State of Florida. The Performance Bond shall remain open in an amount equal to 100% of the Design/Build Price, including any Design/Build Price adjustments, until Final Completion. The Payment Bond shall remain open in an amount equal to 100% of the Design/Build Price, including any fixed Design/Build Price adjustments, until Final Completion. Prior to the Company's undertaking any Capital Modification under this Agreement, if applicable and agreed to by the parties, the Company shall provide a performance bond and a payment bond, each in an amount equal to the costs of such Capital Modification, and such bonds shall otherwise comply with the requirements of Applicable Law and this Section. Should the performance and payment bonds required by this Section be provided by more than one surety company, the following requirements shall apply: (i) at least one of the co-surety companies shall meet all of the requirements of this Section 13.2.1 for the full amount of the bond, and (ii) each surety shall be jointly and severally liable for the full amount of the bond required. Notwithstanding anything to the contrary in the Performance Bond or the Contract Documents, the Performance Bond will not cover any obligations of the Guarantor arising under the Guaranty Agreement and no claim or cause of action will arise under the Performance Bond relating to any Event of Default by the Guarantor arising under Sections 14.2.5, 14.2.6, 14.2.7 or 13.1.3 of this Agreement.

13.2.2. Operations Performance Bond. The Company shall provide the Operations Performance Bond as of the Acceptance Date in the form attached hereto as Appendix 4, with the Village as Obligee, and all obligations under the Operations Performance Bond shall be solely related to the Operations Services required in this Agreement. The Operations Performance Bond shall serve as security for the performance of the Operation Services by the Company, and shall be in the initial stated amount equal to the annual Service Fee, shall be for a term of one (1) year, and shall be continuously renewed, extended or replaced so that it remains in effect for the entire Term; provided, however, that the stated amount of the Operations Performance Bond shall be adjusted each year to conform to any increase in the

Service Fee during the Operations Period. The Operations Performance Bond shall be issued by a surety company: (1) approved by the Village and having a rating of "A" in the latest revision of the A.M. Best Company's Insurance Report; (2) listed in the United States Treasury Department's Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsurance Companies"; and (3) holding a valid certificate of authority to transact surety business in the State of Florida. If the Operations Performance Bond expires or is terminated prior to the expiration of this Agreement, prior to such expiration or termination, the Company shall provide a substitute Operations Performance Bond in the amount and in accordance with the provisions of this subsection such that there is no gap in coverage. In no event shall the Operations Performance Bond serve as a limitation on the liability of the Company under this Agreement.

13.2.3. Monitoring of Sureties. The Company shall be responsible throughout this Agreement for monitoring the financial condition of any surety company issuing bonds under this Agreement and for making inquiries no less often than annually to confirm that each such surety company maintains at least the minimum rating level specified in this Section. In the event the rating of any issuing surety company falls below such minimum level, the Company shall promptly notify the Village of such event and shall promptly furnish or arrange for the furnishing of a substitute or an additional bond of a surety company whose rating and other qualifications satisfy all above requirements, unless the Village agrees to accept the surety company or agrees to an alternative method of assurance. Upon such notice by the Company of such an event, the Village shall not unreasonably withhold its approval of such assurance.

13.3. Costs of Providing Security for Performance.

13.3.1. Generally. The cost and expense of obtaining and maintaining the Security Instruments required under this Article as security for the performance of the Company's obligations hereunder is included in the fixed Design/Build Price or Service Fee, as applicable, and shall be borne by the Company without further reimbursement from the Village.

ARTICLE XIV TERMINATION, DEFAULT AND REMEDIES

14.1 Village Termination for Convenience.

14.1.1 Early Termination for Convenience. This Agreement may be terminated by the Village at any time for convenience before a Notice to Proceed is issued by the Village and such termination shall be effective immediately upon notice being provided by the Village to the Company. Additionally and notwithstanding any other provision in this Agreement, in the event that after the Contract Date and prior to the Notice to Proceed, this Agreement is deemed or ruled void or unenforceable by a court of competent jurisdiction, then this Agreement shall be terminated effective immediately, and the Village shall not be responsible or liable to the Company for any costs or expenses or for damages, including anticipated lost profits, resulting from such termination. In the event of termination pursuant to this subsection, neither party hereto shall have any further rights, obligations nor liabilities hereunder except to the extent

that any right, obligation or liability set forth herein expressly survives termination of this Agreement. If such termination occurs after a Notice to Proceed is issued by the Village, the Village shall pay the Company for the Design/Build Work completed in the manner set forth in Section 14.1.2 herein below.

14.1.2. Termination for Convenience. The Village shall have the right to terminate this Agreement, in whole or in part, at any time, for its convenience and without cause, upon ninety (90) days prior written notice to the Company. Upon such termination pursuant to this Section prior to or during performance of the Design/Build Work and prior to the Acceptance Date, the Village shall pay the Company for the Design/Build Work completed in accordance with the requirements of this Agreement up to the date of termination the price or compensation under the Agreement corresponding to the Design/Build Work completed, plus (i) reasonable administrative costs of settling and paying claims arising out of the termination of Design/Build Work under purchase orders or Subcontracts; (ii) reasonable costs incurred in demobilization and the disposition of residual materials and equipment; and (iii) 15% to cover reasonable overhead and profit on items (i) and (ii) of this clause. Upon the Village's termination pursuant to this Section during the Operations Period, the Village shall pay the Company all Service Fees due up to the date of termination. Notwithstanding the foregoing, the Village shall not have the right to terminate this Agreement for convenience during the Operations Period until after one (1) year from the Acceptance Date of the Wastewater Facilities.

14.2 Termination for Cause by the Village.

Upon the occurrence of an "Event of Default" by the Company that the Village has provided written notice to the Company and the Company has not cured as provided below, the Village shall have the right to terminate this Agreement, in whole or in part, or pursue any legal rights it may have against the Company under this Agreement and Applicable Law to recover damages or to secure specific performance, including the enforcement of all Payment and Performance Bonds required in this Agreement. Each of the following shall constitute an Event of Default by the Company:

14.2.1. The failure of the Company to perform or observe any of its covenants, agreements, obligations or duties under this Agreement that cannot be cured by the payment of money, including, but not limited to, the following:

(A) Failure of the Company to commence the Design/Build Work in accordance with the Project Schedule

(B) Failure of the Company to perform the Work, including the Operations Services, or portions thereof to completion or otherwise in a diligent, efficient, workmanlike manner, and in accordance with the Contract Standards and this Agreement;

(C) Failure of the Company to use an adequate quantity or quality of personnel, workers, equipment or materials to prosecute and complete the Work within the Contract Time and in accordance with the terms of this Agreement;

(D) Except to the extent excused due to the occurrence of an Uncontrollable Circumstance or Casualty, the failure of the Company to achieve Substantial Completion by the Scheduled Substantial Completion Date of Wastewater Facilities;

(E) Except to the extent excused due to the occurrence of an Uncontrollable Circumstance or Casualty, the failure of the Company to achieve Final Completion by the Scheduled Final Completion Date of Wastewater Facilities;

(F) Except to the extent excused due to the occurrence of an Uncontrollable Circumstance or Casualty, the failure of the Company to achieve operations of the Wastewater Facilities by the Commencement Date of Operations of the Wastewater Facilities; and

(G) Except to the extent excused due to the occurrence of an Uncontrollable Circumstance or Casualty, the abandonment or failure to operate all or a portion of the Wastewater Facilities for two (2) or more consecutive days in any Contract Year; and

(H) The failure of the Company to comply with the terms, conditions and requirements of the KLWTD Agreement, including those set forth in Appendix 8.

14.2.2. The failure by the Company, to make any payment required under this Agreement;

14.2.3 The failure of the Company to make prompt payment to any Subcontractor materialmen or supplier;

14.2.4 The material inaccuracy of any representation or warranty made by the Company or the Guarantor, including pursuant to the RFQ and RFP processes, or pursuant to this Agreement;

14.2.5 The commencement of any bankruptcy, insolvency, liquidation or similar proceeding by or against the Company or the Guarantor which materially and adversely affects the Company's or Guarantor's ability to perform its duties or obligations under this Agreement or the Guarantor's ability to perform its obligations under the Guaranty Agreements; the consent by the Company or the Guarantor to the appointment of, or taking possession by a receiver, liquidator, trustee in bankruptcy or custodian of the Company or the Guarantor or any substantial part of its assets; any assignment of all or substantially all of the assets of the Company or the Guarantor for the benefit of creditors; or the failure by the Company or the Guarantor to pay debts as they become due;

14.2.6 A default by the Guarantor under the Guaranty Agreement or the failure of the Guarantor to make any payment or perform any other obligation under the Guaranty in a timely manner; and

14.2.7 The failure of the Company or the Guarantor to provide credit enhancement when and as required in Section 13.1;

Upon the occurrence of an Event of Default described above, the Village shall provide written notice of the event to the Company. Upon the occurrence of an Event of Default described in Sections 14.2.4, 14.2.5, 14.2.6 and 14.2.7, the Village shall provide written notice of the event to both the Company and the Guarantor. The Company and/or the Guarantors, as applicable, shall have fifteen (15) days after such written notice is given to cure an Event of Default. However, if the cure of an Event of Default cannot reasonably be completed within the fifteen (15) days, an Event of Default shall not occur if within said fifteen (15) days the Company shall have commenced to cure and shall thereafter diligently prosecute within thirty (30) days of the notice. Upon the occurrence of an Event of Default by the Company, and failure to cure within the time provided above, the Village may terminate or suspend the Agreement in whole or in part, by providing written notice thereof to the Company and pursue all appropriate legal remedies as provided in this Agreement and by Applicable Law.

14.3 Other Remedies Upon Company Event of Default.

The right of termination provided under this Section upon an Event of Default by the Company is not exclusive. If this Agreement is terminated by the Village for an Event of Default by the Company, the Village shall have the right to pursue a cause of action for damages, specific performance and equitable remedies, and to exercise all other remedies which are available to it under this Agreement, the Guaranty Agreement, the Bonds and under Applicable Law.

14.4 Relationship to Liquidated Damages.

Any liquidated damages payable by the Company under this Agreement shall cease to accrue on the Termination Date. The Company shall be liable for all liquidated damages that have accrued up to the Termination Date, subject to the limitations stated herein.. The parties acknowledge and agree that such liquidated damages are intended solely to compensate the Village for costs and expenses associated with the specific circumstances identified in the specific provisions providing for such liquidated damages and are not intended to liquidate all damages that the Village is likely to suffer in the event of a Company Event of Default under this Article. Accordingly, except as specifically provided in this Agreement, and except with respect to damages relating solely to the specific circumstances for which liquidated damages are provided under this Agreement, the payment of any such liquidated damages by the Company shall not serve to limit or otherwise affect the Village's right to pursue and recover damages under this Section.

14.5 Termination for Cause by the Company; Payment Due Company.

Upon the occurrence of an "Event of Default" by the Village, as defined below that the Company has provided written notice to the Village and the Village has not cured as provided below, the Company shall have the right to terminate this Agreement. Each of the following shall constitute an Event of Default by the Village if not cured in accordance with the applicable cure provisions set forth below:

14.5.1 The unexcused failure of the Village to perform or observe any of its material covenants, agreements, obligations or duties created by this Agreement with the result that the Company is precluded thereby from performing any one or more of its obligations under the Agreement;

14.5.2 The failure of the Village to make any uncontested payment due and payable under this Agreement;

14.5.3 The material inaccuracy of any representation or warranty made by the Village if the legality of this Agreement or the ability of the Company to carry out its duties and obligations under this Agreement is thereby materially adversely affected;

14.5.4 The commencement of any bankruptcy, insolvency, liquidation or similar proceeding against the Village; the consent by the Village to the appointment of or taking possession by a receiver, liquidator, assignee, trustee or custodian of the Village or any substantial part of its assets, of any assignment for the benefit of creditors, or the failure by the Village to pay its debts as they come due; provided that in the case of commencement of an involuntary petition or proceeding or entry of a judgment or judicial order that includes or seeks to cause any of the above events, such petition, proceeding, judgment or order shall remain undischarged or undismissed for one hundred and twenty (120) days; and provided further that the appointment of a financial control or oversight board by the State of Florida shall not, in and of itself, constitute any such event. The rights and remedies identified herein shall not limit the ability of the Company to seek any other rights and remedies provided by Applicable Law, including the Company's ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of the Company to stop work under any applicable provisions of the Agreement.

Upon the happening of any Event of Default described above, the Company shall send written notice to the Village setting forth in detail the alleged failure or deficiency of the Village. The Village shall have thirty (30) days after receipt of such written notice from the Company to cure such failure or deficiency. If the failure or deficiency is subject to cure, but such cure cannot reasonably be completed within thirty (30) days, an Event of Default by the Village shall not occur if within the thirty (30) days the Village shall have commenced to cure and shall thereafter diligently pursue such cure to completion.

In the event that the Village does not cure such failure or deficiency within said thirty (30) day period or commence cure (or any extension as provided above), the Company may terminate the Agreement, in whole or in part, or suspend performance until the cure is completed or perfected, upon ninety (90) days prior written notice to the Village. Notwithstanding the foregoing, the Village shall make payments to the Company pursuant to Applicable Law, including the Prompt Payment Act.

If the Company should elect to terminate this Agreement for an uncured default by the Village prior to the Commencement Date of Operations of Wastewater Facilities, the Village shall pay the Company for the Design/Build Work completed in accordance with the requirements of this Agreement up to the date of termination the price or compensation under

the Agreement corresponding to the Design/Build Work completed, plus (i) reasonable administrative costs of settling and paying claims arising out of the termination of Design/Build Work under purchase orders or Subcontracts; (ii) reasonable costs incurred in demobilization and the disposition of residual materials and equipment; and (iii) 15% to cover reasonable overhead and profit on items (i) and (ii) of this clause.

14.6 Obligations of the Company Upon Termination or Expiration.

14.6.1 Company Obligations. Upon any termination of the Company's right to perform this Agreement, or upon the expiration of this Agreement, provided the Village has made all undisputed payments required hereunder, the Company shall, as applicable:

- (1) Stop the Contract Services on the termination date and to the extent specified by the Village;
- (2) Promptly deliver to the Village all Design Documents and construction record and As-Built drawings prepared by the Company in carrying out the Design/Build Work which have not previously been delivered to the Village, and all supporting design notebooks, calculations, record files, design meeting memoranda, and construction meeting memoranda;
- (3) Promptly take all action as necessary to protect and preserve all materials, Equipment, tools, facilities and other property including all of the items described in item (8) below;
- (4) Promptly remove from the Project all equipment, implements, machinery, tools, temporary facilities of any kind and other property owned or leased by the Company (including temporary sheds, trailers, workshops and toilets), and repair any damage caused by such removal;
- (5) Clean the Project, including the Sites, and leave it in a neat and orderly condition;
- (6) Subject to this Section, promptly remove all employees of the Company and any Subcontractors and vacate the Project and Sites;
- (7) Promptly deliver to the Village a list of all supplies, materials, machinery, Equipment, property and special order items previously delivered or fabricated by the Company or any Subcontractor but not yet incorporated in the Project;
- (8) Provide the Village with a 30-day supply of chemicals and other consumables and a reasonable supply of spare parts in light of the nature and condition of the Project as of the Termination Date;

(9) Deliver to the Village the Operation and Maintenance Manual and all computer programs used at the Project in the performance of the Contract Services, including all revisions and updates thereto;

(10) Provide the Village with a list of all files relevant to the Project and access and security codes with instructions and demonstrations which show how to open and change such codes;

(11) Deliver to the Village a copy of all books and records in its possession relating to the performance of the Contract Services;

(12) Advise the Village promptly of any special circumstances which might limit or prohibit cancellation of any Subcontract;

(13) Promptly deliver to the Village copies of all Subcontracts, together with a statement of:

- (a) the items ordered and not yet delivered pursuant to each agreement;
- (b) the expected delivery date of all such items;
- (c) the total cost of each agreement and the terms of payment;
and
- (d) the estimated cost of canceling each agreement;

(14) Assign to the Village any Subcontract that the Village elects in writing, at its sole election and without obligation, to have assigned to it. The Village shall assume, and the Company shall be relieved of its obligations under, any Subcontract so assigned;

(15) Unless the Village directs otherwise, terminate all Subcontracts and make no additional agreements with Subcontractors;

(16) Provide the Village with a list of all Project Equipment subject to patents, licenses, franchises, trademarks or copyrights and the associated royalties and license fees associated therewith which the Village will be responsible for paying on or after the Termination Date;

(17) As directed by the Village, transfer to the Village by appropriate instruments of title, and deliver to the Project, as applicable, (or such other place as the Village may specify), all special order items pursuant to this Agreement for which the Village has made or is obligated to make payments;

(18) Promptly transfer to the Village any and all warranties given by any manufacturer or Subcontractor with respect to particular components of the Design/Build Work or the Operation Services;

(19) Notify the Village promptly in writing of any Legal Proceedings against the Company by any Subcontractor or other third parties relating to the termination of the Design/Build Work or the Operation Services (or any Subcontracts);

(20) Give written notice of termination, effective as of date of termination of this Agreement, promptly under each policy of Required Insurance (with a copy of each such notice to the Village), but permit the Village to continue such policies thereafter at its own expense, if possible;

(21) Take such other actions, and execute such other documents as may be necessary to effectuate and confirm the foregoing matters, or as may be otherwise necessary or desirable to minimize the Village's costs, and take no action which shall increase any amount payable by the Village under this Agreement.

14.6.2 Continuity of Service and Technical Support. Upon any termination of the Company's right to perform this Agreement, or upon the expiration of this Agreement, the Company, at the request and direction of the Village, shall provide for an effective continuity of service and the smooth and orderly transition of management to the Village or any replacement operator designated by the Village. Such service shall be for a period of up to 180 days and shall include providing technological and design advice and support and delivering any plans, drawings, renderings, blueprints, operating manuals, computer programs, spare parts or other information useful or necessary for the Village or any replacement operator designated by the Village to carry out and complete the Design/Build Work and to perform the Operation Services. In addition, the Company shall provide the Village and any replacement operator with a one-time training program relating to the operation and maintenance of the Project, including any Capital Modifications thereto. The Company shall be paid for such services consistent with the payment structure set forth in this Agreement.

14.6.3 Transfer of Project and Wastewater Facilities. Upon termination of this Agreement before the expiration of the Term, the Company shall execute such documents and instruments as are reasonably requested by the Village or necessary to transfer the Project and Wastewater Facilities to the Village in good and working condition, less normal wear and tear, in good operating order, maintained in accordance with Good Industry Practices, and in accordance with the Exit Standards and Conditions and the requirements of this Agreement, with operating and maintenance records, and with a level of parts inventory consistent with the O&M Scope of Work without cost to the Village.

14.6.4 Delivery of Books, Records & Agreements.

Within forty five (45) days after the expiration or earlier termination of this Agreement, the Company shall deliver to the Village, the originals, to the extent in the possession of the Company, and copies (as hereinafter described), of the following ("Books and Records"): (i) all

books and records prepared and/or maintained by the Company during the Term required for the operation and maintenance of the Wastewater Facilities; (ii) all permits, plans, purchase and sale agreements, licenses, warranties, contracts, security documents and loan documents pertaining to the Project and the Wastewater Facilities and in the possession of the Company, (iii) all bills of sale evidencing title or rights of the Village; and (iv) any other records or documents pertaining to the Project and the Wastewater Facilities and in the possession of the Company which are required or reasonably appropriate for the ownership, possession, development, construction, sale and management of the Project and the Wastewater Facilities. Furthermore, all original documents delivered by the Company to the Village pursuant to this Section shall be made available to the Company as may be reasonably necessary in connection with any actual or threatened litigation which relates to the Project or the Wastewater Facilities and to which the Company is a party. In addition to the foregoing, the Company shall, immediately upon the termination of this Agreement, identify all contracts relating to the operation and maintenance of the Project and the Wastewater Facilities and assign to the Village or its designee such existing contracts, if any, relating to the operation and maintenance of the Project and the Wastewater Facilities as the Village shall reasonably direct.

14.7. Final Accounting.

Within ninety (90) days after the expiration of the Term or earlier termination of this Agreement (the "Post Termination Period"), the Company shall be obligated to deliver to the Village a final accounting, which shall cover the period from the Contract Date of this Agreement to the termination or expiration date and which shall specifically identify any and all expenses which have been incurred in connection with the Project and the Wastewater Facilities as of the date thereof but which have yet to be paid; provided, however, that if such expiration or termination date shall be a date other than the last day of a calendar month, the final accounting shall be prepared as of the last day of the month in which such expiration or termination occurs.

14.7.1 General Cooperation and Assistance. During the Post Termination Period, the Company shall cooperate and assist the Village and any other party or person designated by the Village in any manner which the Village shall reasonably require to become familiar with the Project and the Wastewater Facilities, its operation and maintenance, and ensure a smooth transition of services, and all matters relating thereto consistent with this Section.

14.7.2 Company Payment of Certain Costs. If termination is pursuant to Section 14.2 (Termination for Cause by the Village), the Company shall be obligated to pay the costs and expenses of undertaking its obligations under this Section. If the Company fails to comply with any obligation under this Section, the Village may perform such obligation and the Company shall pay on demand all reasonable costs thereof subject to cost substantiation.

14.7.3 Village Payment of Certain Costs. If termination is for the convenience of the Village under Section 14.1, or due to a Village Event of Default pursuant to Section 14.5, or upon the expiration of this Agreement, the Village shall pay to the Company within 30 days of the date of the Company's invoice supported by cost substantiation all reasonable costs and expenses incurred by the Company in satisfying its obligations under this subsection 14.7.

14.7.4 Exit Standards and Conditions.

In connection with any termination pursuant to this Article XIV, the Company shall comply with the Exit Tests and Standards set forth in Appendix 15.

14.7.5 Survival of Certain Provisions Upon Termination.

All representations and warranties of the parties contained in Article II hereof and the rights and obligations of the parties stated to survive termination of this Agreement shall survive the expiration or earlier termination of this Agreement.

**ARTICLE XV
DISPUTE RESOLUTION**

15.1. No Waivers.

No action of the Village or Company pursuant to this Agreement (including any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the Village or Company in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the Village or the Company under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

15.2. Forum For Dispute Resolution.

It is the express intention of the parties that all Legal Proceedings related to this Agreement or to the Project or to any rights or any relationship between the parties arising therefrom shall be solely and exclusively initiated and maintained in State court Monroe County, Upper Keys Division, or federal courts located in the Southern District of Florida. The Company and the Village each irrevocably consents to the jurisdiction of such courts in any such Legal Proceeding and waives any objection it may have to the laying of the jurisdiction of any such Legal Proceeding.

15.3 Non-Binding Mediation.

15.3.1 Rights to Request and Decline. Either party may request Non-Binding Mediation of any dispute arising under this Agreement, whether technical or otherwise. The non-requesting party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Section shall apply. The costs of such Non-Binding Mediation shall be divided equally between the Village and the Company.

15.3.2 Procedure. The Mediator shall be a professional engineer, attorney or other professional mutually acceptable to the parties who has no current or on-going relationship to either party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the parties reach agreement with respect to the disputed matter or one party determines in its sole discretion that its interests are not being served by the mediation.

15.3.3 Non-Binding Effect. Mediation is intended to assist the parties in resolving disputes over the correct interpretation of this Agreement. No Mediator shall be empowered to render a binding decision.

15.3.4 Relation to Judicial Legal Proceedings. Nothing in this Section shall operate to limit, interfere with or delay the right of either party under this Article to seek all legal remedies and commence judicial Legal Proceedings upon a breach of this Agreement by the other party, whether in lieu of, concurrently with, or at the conclusion of any Non- Binding Mediation.

15.4 Duty to Continue Work. In the event of an Event of Default or dispute, the Company covenants and agrees that the Company will diligently proceed and continue to provide the Work and services and performance specified in this Agreement, except as may be provided otherwise in this Agreement, regardless of any pending mediation or other action.

ARTICLE XVI DAMAGE AND DESTRUCTION

16.1 Repair of Damage by the Company.

The Company shall use the care and diligence reasonably expected by a similarly situated entity performing Work as required under this Agreement, and shall take all reasonable and appropriate precautions within the Company's control, to protect the Project and Wastewater Facilities from loss, damage or destruction. The Company agrees to notify the Village and insurers in writing, as soon as practical and upon obtaining knowledge thereof, of any damage to the Project, Sites or Wastewater Facilities resulting from fire, hurricane, storm, earthquake, or any other identifiable event of a sudden, unexpected, or unusual nature ("Casualty") and as soon as practicable thereafter shall submit a report to the Village summarizing the Casualty and survey of any such loss, damage or destruction to the Project, the Sites or the Wastewater Facilities. The Company shall also submit to the Village within 24 hours of receipt copies of all accident and other reports filed with, or given to the Company by, Governmental Authorities. If the Wastewater Facilities are damaged by a Casualty and the Company and/or the Village and/or the Company's and/or Village's insurance carriers, as applicable, agree to pay the Company to perform such Work, the Company shall restore the Wastewater Facilities to substantially the same condition as existed before the Casualty, if commercially possible, and except to the extent modifications to the Wastewater Facilities are required by Applicable Law or Governmental Authority. Such restoration shall commence as soon as commercially practicable following the Casualty and with the express consent of

any insurance company, adjuster or Governmental Authority. If the Village requests that the Company make modifications to the Wastewater Facilities in connection with the rebuilding, the Company may condition its consent to those modifications on confirmation that the modifications shall not increase the time and expense necessary to restore the Wastewater Facilities to the same operating condition that the Wastewater Facilities operated prior to the Casualty. The Village shall have the right to monitor, review and inspect the performance of any repair, replacement and restoration work by the Company as if such work constituted Work hereunder.

16.2 Repair Period Notice.

The Company shall, within a commercially practical period after the date of the Casualty and the Company and/or Village and/or the Company and/or Village insurance carrier giving Company the notice to proceed, provide written notice to the Village indicating the anticipated commencement date and period for restoring, repairing or replacing the Wastewater Facilities ("Repair Period Notice"). The Repair Period Notice shall be accompanied by a certified statement executed by the contractor retained by the Company to complete the repairs. If the Company has not retained a contractor, if requested by the Village, a licensed contractor not affiliated with the Company and approved by the Village, shall certify the Company's opinion about the anticipated period for repairing the Wastewater Facilities.

16.3 Village's Option To Terminate.

If the Repair Period Notice provided by the Company indicates that the anticipated period for restoring, repairing or replacing the Wastewater Facilities exceeds two-hundred and seventy (270) days or such other period of time acceptable to the Village, the Village may elect to: (i) terminate this Agreement for convenience consistent with Article XIV after receiving the Repair Period Notice; or (ii) negotiate with the Company in order to otherwise repair the Casualty.

**ARTICLE XVII
ASSIGNMENT AND DELEGATION**

17.1 Assignment by Company.

The Company shall not assign, transfer, sell, convey, lease, sublease, encumber or otherwise dispose of this Agreement, its right to execute the same, or its right, title or interest in all or any part of the Project, the Sites, the Wastewater Facilities, this Agreement or any monies due hereunder whatsoever prior to their payment to the Company, whether legally or equitably, by power of attorney or otherwise, without the prior written consent of the Village, in its sole and absolute discretion. Any such approval given in one instance shall not relieve the Company of its obligation to obtain the prior written approval of the Village to any further assignment. Any such assignment of this Agreement which is approved by the Village in writing, shall require the assignee of the Company to assume the performance of and observe all obligations, representations and warranties of the Company under this Agreement,

and no such assignment shall relieve the Guarantor of any of its obligations under the Guaranty Agreement, which shall remain in full force and effect during the Term hereof. The approval of any assignment, transfer or conveyance shall not operate to release the Company in any way from any of its obligations under this Agreement unless such approval specifically provides otherwise.

Notwithstanding the foregoing, the Company shall have the right to assign this Agreement to Layne Heavy Civil, Inc., as a "Permitted Assignee", subject to the following: (i) the Company shall deliver to the Village the proposed assignment agreement, at least sixty (60) days prior to the effective date of the assignment, for the Village's review and approval; (ii) the Permitted Assignee shall expressly assume and agree to be fully bound by the terms and conditions of this Agreement and assume the performance of all obligations, representations and warranties of the Company under this Agreement; and (iii) no such assignment shall relieve the Guarantor of the performance of any of its obligations under this Agreement or the Guaranty Agreement, which shall remain in full force and effect during the Term hereof; and (iv) the Company and the Guarantor shall execute such other instruments or agreements, as may be reasonably requested or required by the Village to effectuate the assignment.

17.2 By the Village.

The Village may not assign its rights or obligations under this Agreement without the prior written consent of the Company, except that the Village may transfer its rights under and its interest in this Agreement to another Governmental Body, any entity or special district created by or for the Village to build, manage, operate or finance the Wastewater Facilities, if such assignee assumes the duties and obligations of the Village hereunder.

17.3 Subcontract.

This Agreement shall not create any contractual relationship or liability between any of the Company's contractors, Subcontractors, employees or agents and the Village.

**ARTICLE XVIII
CONTRACT ADMINISTRATION**

18.1 Agreement Documents.

This Agreement and all documents and instruments referenced herein shall permit the parties to complete the Design/Build Work within the Contract Time for the Design/Build Price specified. The Contract Documents of this Agreement are intended to be complementary and interpreted in harmony so as to avoid conflict, and interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict or ambiguity between or among this Agreement, the Appendices and other documents referenced in this Agreement, the instruments are prioritized as follows:

18.1.1 All written modifications, amendments and Change Orders to this Agreement issued in accordance with the terms of this Agreement;

18.1.2 This Agreement;

18.1.3 The Appendices to this Agreement;

18.1.4 Any other documents described or referred to in this Agreement.

18.2 Notices.

All notices, consents, approvals or written communications given pursuant to the terms of this Agreement shall be: (1) in writing and delivered in person; (2) transmitted by certified mail, return receipt requested, postage prepaid or by overnight courier utilizing the services of a nationally-recognized overnight courier service with signed verification of delivery; or (3) given by facsimile transmission or electronic mail, if a signed original is deposited in the United States Mail within two (2) days after transmission. Notices shall be deemed given only when actually received at the address first given below with respect to each party. Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent.

Village Notice Address. Notices required to be given to the Village shall be addressed as follows:

Islamorada, Village of Islands
Attn: Village Manager
86800 Overseas Highway
Islamorada, Florida 33036
Facsimile No.: (305) 305 664-6464
Email Address: edward.koconis@islamorada.fl.us

With a copy to:

Village Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134
Attn: Nina L. Boniske, Esq.
Facsimile No.: (305) 854-2323
Email Address: nboniske@wsh-law.com

Contract Administrator Notice Address. Notices required to be given to the Contract Administrator shall be addressed as follows:

Greg Tindle
Wastewater Program Manager
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036
Facsimile No.: (305) 305 664-6464
Email Address: greg.tindle@islamorada.fl.us

with a copy to the Village at the address provided above.

Owner's Representative Notice Address. Notices required to be given to the Village's Owner's Representative shall be addressed as follows:

Thomas S. Brzezinski, Executive Vice President
Wade Trim, Inc.
Renaissance 5
8745 Henderson Rd, Ste 220
Tampa, Florida 33634
Facsimile No.: (813) 884.5990
Email Address: tbrzezinski@wadetrim.com

with a copy to the Village at the address provided above.

Company Notice Address. Notices required to be given to the Company shall be addressed as follows:

Reynolds Water Islamorada, LLC
Attn: Mark Accetturo, President
300 East Broad Street
Fairburn, Georgia 20213
Facsimile No.: (770) 969-4363
Email Address:
mark.accetturo@layne.com

with a copy to:

Layne Christensen Company
Attn: Steve F. Crooke, Senior Vice President and General Counsel
1900 Shawnee Mission Parkway
Mission Woods, Kansas 66205
Facsimile No.: (913) 362-0133
Email Address: steve.crooke@layne.com

ARTICLE XIX
REQUIREMENTS OF LEGISLATION AND DCA ADMINISTRATION RULES

19.1 General.

19.1.1 The Company shall cooperate with the Village to ensure that the Village is in full compliance with the Legislation and DCA Rules, the FDEP Permits and any Applicable Law. The Company hereby undertakes to complete its obligations pursuant to this Agreement in compliance with the Legislation and DCA Rules, the FDEP Permits and any Applicable Law. Accordingly, the Company's covenants of obligations shall include, but shall not be limited to, timely compliance with operating criteria, preparation of notices and reports (including technical monitoring reports and capacity reports), maintenance of records of monitoring information, the establishment of an appropriate cost accounting system and the assembly and delivery of the necessary operating and cost information which the Village may reasonably request or require to comply with the Legislation, the DCA Administration Rule, the FDEP Permits and Applicable Law.

19.1.2 Any notices and reports proposed or required under Applicable Law shall be submitted to the Village for approval before delivery to any Governmental Authority or other third party.

19.1.3 The Company acknowledges and agrees to the Legislation and DCA Rule, the FDEP Permits and any applicable Project deadlines and Project milestone compliance dates, and is familiar with their terms and requirements.

ARTICLE XX
MISCELLANEOUS PROVISIONS

20.1 Compliance with Law.

The Company agrees to comply with all Applicable Law in the performance of this Agreement and in connection with the Project and Wastewater Facilities.

20.2 Application of Taxes & Assessments.

The Wastewater Facilities, and the modifications and improvements to the Wastewater Facilities to be constructed, shall be owned by the Village during the Term of this Agreement. It is the intent of the parties that the Project shall be municipally owned property and not subject to real property or possessory interest taxation. The parties agree to work cooperatively to minimize the property taxes, assessments and any other taxes that may apply to the Wastewater Facilities, in view of their exclusive purpose to provide wastewater collection and treatment services to the Village and its Customers. In this regard, the parties may establish an Owner Direct Purchase Program pursuant to Section 11.6.3 to minimize the sales tax payable by the Village.

In its performance of the Contract Services, the Company acknowledges that construction materials and supplies initially acquired by the Company or any Subcontractor in connection with the Design/Build Work or any Capital Modification, and operating supplies relating to the performance of the Operation Services, are subject to State and local sales tax. The Company further acknowledges that these taxes have been priced into the Fixed Design/Build Price and the Service Fee, and agrees to pay all such taxes without reimbursement from the Village.

20.3 Relationship Between Parties.

The relationship of the Company to the Village is that of independent contractor and not one of employment. None of the employees, agents or Subcontractors of the Company shall be considered employees of the Village. Nothing in this Agreement shall be deemed to constitute either party a partner, agent or legal representative of the other party. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to any party's agent or employee as a result of this Agreement or the performance thereof. For the purposes of all Applicable Law, and all federal, state and local laws and regulations, the Company shall exercise primary management and operational decision making authority.

20.4 Governing Law.

This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Florida. Any action filed to enforce the terms of this Agreement shall be filed in Monroe County, Florida.

20.5 Waiver.

The failure on the part of any party to enforce any provision of this Agreement shall not be construed as a waiver of its right to enforce such provision in the future. A waiver of any term of this Agreement on the part of any party in one case shall not be construed as a waiver in any other case and shall not affect any other term of this Agreement.

20.6 Ownership of Documents.

All deliverables produced pursuant to this Agreement shall be the property of the Village, upon payment by the Village. All information acquired from the Village, or from others at the expense of the Village, in the performance of this Agreement shall be and remain the property of the Village. This includes but is not limited to all records, data, files, computer records, work sheets, deliverable products (complete and incomplete) and all other types of information or writings, whether electronic, digital, graphic matter or other medium upon which intelligence or information may be recorded or retrieved prepared or acquired by the Company in the performance of this Agreement. This excludes documents identifying the salary and benefits of specific employees of the Company as well as other proprietary information related to the business operations of the Company. The Company shall have a right

to retain a copy of all documents it produces under this Agreement. However, such documents are not intended or represented to be suitable for reuse by the Village or others on any other project and the Village shall have no right to use the design documents or construction drawings or specifications for any purpose other than that intended under this Agreement. Any reuse without written verification or adaptation by the Company for the specific purpose intended will be at Village's sole risk and without liability or legal exposure to the Company.

20.7 Ownership of Project; Title to Sites and Wastewater Facilities.

The Project and Wastewater Facilities shall be owned by the Village at all times. The Company shall perform the Design/Build Work and Operation Services provided for herein as an independent contractor and shall not have any legal, equitable, tax, beneficial or other ownership or leasehold interest in the Project or the Wastewater Facilities. During the Term, ownership and title to the Sites and Wastewater Facilities and any modifications or improvements thereto (excluding trade fixtures of the Company that are installed in the Sites) shall be and remain exclusively in the Village.

20.8 Successors and Assigns.

The Company and the Village respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to the covenants, agreement and obligations contained in this Agreement.

20.9 Third Party Beneficiaries.

Except as may be specifically stated in this Agreement, this Agreement shall not create any rights or benefits to parties other than the Village and the Company.

20.10 Copies.

This Agreement shall not be executed in counterparts. Two (2) fully executed copies of the Agreement shall be provided, one for the Village and one for the Company.

20.11 Entire Agreement, Modifications, Headings and Severability.

The parties acknowledge that this Agreement constitutes the entire Agreement between the parties and supersedes all prior representations, warranties, agreements, and understandings oral or written between the parties with respect to its subject matter. Unless stated otherwise in this Agreement, this Agreement may not be modified except in writing signed by both parties. The headings to this Agreement are for convenience and reference purposes only and shall not constitute a part of the Agreement.

20.12 Severability.

If any element of this Agreement is later held to violate the law or a regulation, it shall be deemed void, and all remaining provisions shall continue in force.

20.13 Time of Essence.

Time is of the essence with respect to each provision of this Agreement and the Project milestone dates and compliance dates mandated by the State of Florida, the Legislation and the DCA Rule.

20.14 No Waiver of Governmental Authority.

The consents, approvals and disapprovals given or to be given by the Village under this Agreement are given in the Village's proprietary capacity as a party to this Agreement. Nothing in this Agreement shall be construed as a waiver of, or limitation upon, the authority, powers or actions of the Village acting in its municipal or governmental capacity. Nothing in this Agreement shall be interpreted as limiting the rights and obligations of the Village under Applicable Law in its governmental capacity (including police power actions to protect health, safety and welfare or to protect the environment), or as limiting the right of the Company to bring any action against the Village, not based on this Agreement, arising out of any act or omission of the Village in its governmental capacity.

20.15 Authority of Village Manager.

The Village Manager shall have the authority to execute all documents necessary to implement this Agreement, provided, however, that the Village Manager shall not execute a Change Order that increases the cost to the Village by more than \$25,000 nor shall the Village Manager alter the Final Completion Date or the Commencement Date of Operations of Wastewater Facilities.

20.16 No Liability for Exercise of Police Power.

Notwithstanding and prevailing over any contrary provision in this Agreement, any Village covenant or obligation that may be contained in this Agreement, including the following:

- (i) To cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist, the Company, regardless of the purpose required for such cooperation;
- (ii) To execute documents or give approvals, regardless of the purpose required for such execution or approvals;
- (iii) To apply for or assist the Company in applying for any County, Village or third party permit or needed Governmental Approval; or

(iv) To contest, defend against, or assist the Company in contesting or defending against any challenge of any nature;

Nothing in this Agreement shall bind the Village, the Planning and Development Services Department, or any other County, Village, federal or State department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the Village or other applicable Governmental Authority in the exercise of its police power.

20.17 Notice of Litigation.

In the event the Company or Village receives notice of or undertakes the defense or the prosecution of any Legal Proceedings, claims, or investigations in connection with the Project, the party receiving such notice or undertaking such defense or prosecution shall give the other party timely notice of such proceedings and shall inform the other party in advance of all hearings regarding such proceedings. For purposes of this Section only, "timely notice" shall be deemed given if the receiving party has a reasonable opportunity to provide objections or comments or to proffer to assume the defense or prosecution of the matter in question, given the deadlines for response established by the relevant rules of procedure.

20.18 Further Assurances.

The Village and Company each agree to execute and deliver such further instruments and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Agreement. The Village and the Company, in order to carry out this Agreement, each shall use all commercially reasonable efforts to provide such information, execute such further instruments and documents and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from or in excess of or in addition to those expressly provided for herein.

20.19 Limited Recourse to Village.

No recourse shall be had to the general fund or general credit of the Village for the payment of any amount due the Company hereunder, whether on account of the Design/Build Price or Service Fees, or for any payment or claim of any nature arising from the performance or non- performance of the Village's obligations hereunder. The Village has the authority to impose utility rates, charges and assessments in an amount sufficient to protect the revenue streams under this Agreement. The Village covenants and agrees to dedicate that portion of wastewater fee revenues necessary to make payments under this Agreement.

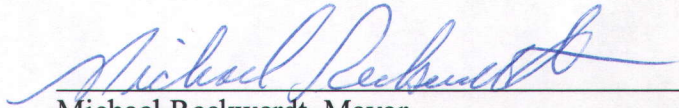
20.20 Prevailing Party. If any litigation is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees which are directly attributed to such litigation in addition to any other relief to which it may be entitled.

20.21 Waiver of Jury Trial. THE COMPANY AND VILLAGE, BY ACCEPTANCE OF THIS AGREEMENT, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THAT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THIS AGREEMENT.

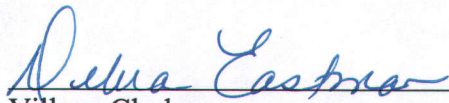
IN WITNESS WHEREOF, the parties have executed this Agreement and acknowledged all Appendices attached hereto as of the date first written above.

VILLAGE:

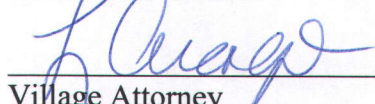
ISLAMORADA, VILLAGE OF ISLANDS, a
Florida municipal corporation


Michael Reckwerdt, Mayor

ATTEST:


Village Clerk

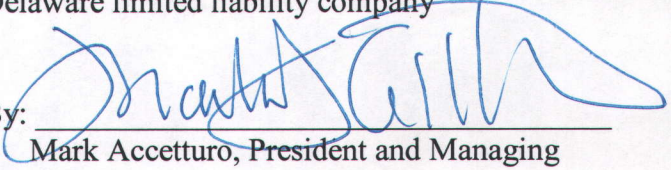
**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY AS TO THE
VILLAGE ONLY:**


Village Attorney

IN WITNESS WHEREOF, the parties have executed this Agreement and acknowledged all Appendices attached hereto as of the date first written above.

COMPANY:

REYNOLDS WATER ISLAMORADA, LLC a
Delaware limited liability company

By: 

Mark Accetturo, President and Managing
Member

APPENDICES

**(Attached to the Design, Build and Operate (DBO) Agreement between
Islamorada, Village of islands, and Reynolds Water Islamorada, LLC**

1. Project Sites
2. Design Drawings for Build/Operate Projects
3. Intentionally Deleted
4. Forms of Payment/Performance Bonds
5. Capital Modifications
6. Design/Build Price and Service Fee Schedule
7. Guaranteed Maximum Electricity Usage
8. Pre-Design Requirements (Design Criteria Package and Design Standards Manual)
9. Operations & Maintenance Plan
10. Operations & Maintenance Minimum Staffing Plan
11. Renewal & Replacement Schedule
12. Key Personnel
13. Insurance Requirements
14. Form of Guaranty Agreement
15. Exit Tests and Standards
16. Initial Project Schedule
17. DBO Management Plan
18. Acceptance and Start Up Tests and Standards
19. FDEP Supplementary Conditions (Construction)
20. Federal Aid Construction Contract Provisions (FHWA-1273)
21. Acceptance Date Certificate
22. Notice of No Lien
23. NPDES Permit (NPK Facilities)
24. Trench Safety Compliance Statement

APPENDIX 1

PROJECT SITES

SITE AND EASEMENT ACQUISITION

This Appendix 1 identifies the Sites on which the Company will build and construct the Wastewater Facilities. This Appendix 1 also sets forth the Scope of Work required of the Company for acquisition of property and easements. There are five (5) Sites which have been identified and preliminarily approved by the Village.

Project Sites.

The Project Sites identified and preliminarily approved by the Village include the following:

1. North Plantation Key (NPK) WWTP and Master Lift Station – This Site, as shown in Appendix 1.a attached herein, is the current location of the Village's North Plantation Key WWTP and the proposed NPK Re-Pump Station to be constructed as part of the Design/Build Work.
2. Middle Plantation Key (MPK) Vacuum Pump Station – This Site, as shown in Appendix 1.b attached herein, is the proposed location for the Middle Plantation Key Vacuum Pump Station to be constructed as part of the Build/Operate Facilities. As an alternative, the original County Public Works site as shown in Wade Trim drawings included in the Preliminary Design Requirements can be utilized.
3. South Plantation Key (SPK) Vacuum Pump Station – This Site, as shown in Appendix 1.c attached herein, is the proposed location for the South Plantation Key Vacuum Pump Station to be constructed as part of the Design/Build Work.
4. Upper Matecumbe Key Vacuum Pump Station – This Site, as shown in Appendix 1.d attached herein, is the proposed location for the Upper Matecumbe Key Vacuum Pump Station to be constructed as part of the Design/Build Work. This location may be modified during the design phase of the Project and located elsewhere on the same property, or on an alternative site located, as shown on Appendix 1.e.
5. Lower Matecumbe Key Vacuum Pump Station – This Site, as shown in Appendix 1.f attached herein, is the proposed location for the Lower Matecumbe Key Vacuum Pump Station to be constructed as part of the Design/Build Work.

The Village Council shall have final approval of the location of all Sites, and the design of all master lift/vacuum pump stations located thereon.

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Site(s) and Easement Acquisition.

As part of the Design/Build Work, the Company will assist the Village in Site(s) and easement acquisition to secure the necessary Sites and easements to design, permit, construct and maintain the Wastewater Facilities (including sewers, manholes, lift stations, collection systems, vacuum sewer, gravity laterals, vacuum pits, vacuum laterals, valves, low pressure sewer, etc).

The acquisition of easements on private roads and/or property will be done in an atmosphere of cooperation with the Village impressing upon Customers the benefits of connecting to the Wastewater Facilities.

The scope of work involved in acquiring and/or taking easements is split between the Village and the Company. Each party's responsibilities are described for the various stages of the process. Throughout the process of acquiring or taking easements, the Company will work closely with Village staff, keeping the staff informed of progress and issues. The following steps are anticipated to be taken:

Identify Private Roads and Ownership - The Company, together with the Village, will identify all private roads or parcels where easements will be needed for the installation and maintenance of the Wastewater Facilities.

Title Search - Undertake a title search. The Company, at its cost, will conduct title searches to identify ownership of required parcels (including Sites and easements).

Sketch and Legal - The Company, at its cost, will prepare a "sketch and legal" to identify each property requiring an easement to be acquired or taken. The Company shall verify that legal descriptions, R/W maps, construction plans, surveys and appraisals correspond. As to Sites to be purchased by the Village, the Company will conduct a survey of each Site in the form necessary for property acquisition and title insurance.

Appraiser - The Company, at its cost, will employ a licensed appraiser (the "Appraiser") to value the Sites (two appraisals will be required for acquisition of the Sites) to be acquired and purchased by the Village, as well as to value each easement on private property to be acquired. The Company will coordinate with the Appraiser. The Company will provide the "sketch and legal" to the Appraiser. In connection with the Village's purchase of the Sites, the Village Council shall approve the purchase price and contract terms for the acquisition of the Sites. All contract forms shall be prepared and/or approved by the Village Attorney.

Other Due Diligence of Sites - In connection with the Village's purchase of the Sites, the Company will, at its cost, perform a Phase I Environmental Assessment on each Site, geotechnical testing, and all other tests and investigations deemed necessary by the Village and Company for the siting and construction of the Wastewater Facilities (pump stations and master pump stations) on the Sites.

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Site Acquisition - In connection with the Village's purchase of the Sites, the Village at its cost, will order and pay for title searches, title policies, recording fees and closing fees. The escrow and closing agent shall be either the Village Attorney or such other agent as may be designated by the Village and approved by the Village Attorney.

Letters to Property Owners - The Company will send letters/notices to property owners (at least two letters shall be sent) regarding the acquisition of the easement, which letter(s) shall contain the valuation of the easement and the consideration offered for acquisition of the easement. The letter(s) shall be sufficient to meet the statutory notice requirements for eminent domain proceedings. The format of the letters and the form of easement shall be approved by the Village Attorney.

Meetings with Property Owners - The Company will attend two (2) meetings with property owners to confirm if the appraised value is acceptable. The meetings will be arranged to address groups of owners located in the same area as listed in Appendix 1. It is anticipated that a Village representative will attend all meetings with the Company.

Voluntary Execution of Easements. Should the easement be obtained voluntarily, without the need for the Village to undertake a legal process of eminent domain, the Company will coordinate with the Village in processing the execution of the easement by the property owner, payment of any consideration amount, and recording of the easement. The Company shall pay the cost of acquiring the easement and recording in the public records.

Acquisition of Easement through judicial proceedings - Should the property owner fail or refuse to voluntarily execute the easement, the Village will undertake the legal process of obtaining the easement through eminent domain or otherwise. The Company will cooperate with the Village in such process and provide all necessary documentation to the Village.

Village Council Meetings - The Company will attend Village Council meetings as necessary to support staff in obtaining Council approvals for completing the easement process.

Eminent Domain - In the event the property owner rejects the appraised value and a negotiated value cannot be agreed, the Village will undertake the legal process for Eminent Domain and pursue obtaining the easement.

- **Suit Preparation** - If tasked by the Village, the Company will review title searches, verify all title information, obtain all suit information from property owner and comply with Florida Public Disclosure Act.

Under supervision of the Village Attorney, the Company shall provide administrative support in the area of preparation, styling and filing of lawsuit packages, organization of same and all required photocopying.

- Legal Support (thru Order of Taking)

If requested, the Company shall provide personnel to assist the Village's attorneys in obtaining Orders of Taking by providing testimony and responding to interrogatories, preparation of pleadings and lawsuits, obtaining case numbers, filing lawsuits at County Clerk's Office, and obtaining an Order of Taking hearing date.

- Legal Support (subsequent to Order of Taking)

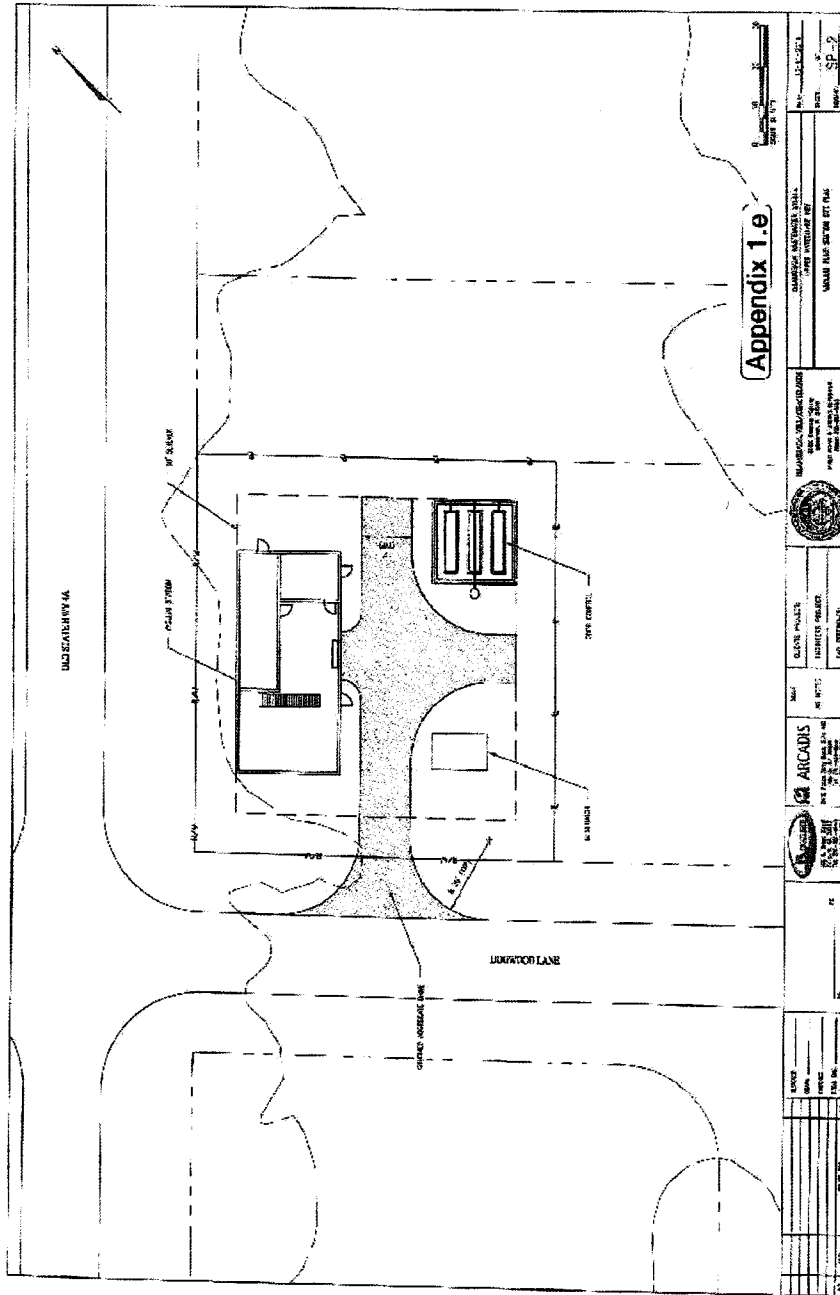
The Company may be required to perform litigation support services subsequent to the Village obtaining an Order of Taking. Such services would be considered as an Optional Service.


ML



Appendix 1.d

22



Appendix 1.e

PROJECT NAME: UNIVERSITY AVE PROJECT NUMBER: SP-2	
PROJECT LOCATION: UNIVERSITY AVE PROJECT OWNER: UNIVERSITY AVE	PROJECT DATE: SP-2 PROJECT STATUS: SP-2
PROJECT DESCRIPTION: UNIVERSITY AVE PROJECT SCOPE: UNIVERSITY AVE	PROJECT BUDGET: UNIVERSITY AVE PROJECT COST: UNIVERSITY AVE
PROJECT TEAM: UNIVERSITY AVE PROJECT LEADER: UNIVERSITY AVE	PROJECT CONTACT: UNIVERSITY AVE PROJECT PHONE: UNIVERSITY AVE
PROJECT ADDRESS: UNIVERSITY AVE PROJECT CITY: UNIVERSITY AVE	PROJECT STATE: UNIVERSITY AVE PROJECT ZIP: UNIVERSITY AVE
PROJECT PERMIT: UNIVERSITY AVE PROJECT EXPIRY: UNIVERSITY AVE	PROJECT REVIEW: UNIVERSITY AVE PROJECT APPROVAL: UNIVERSITY AVE

Handwritten signature and initials "mr" in the bottom right corner.



APPENDIX 2

DESIGN DRAWINGS FOR BUILD OPERATE PROJECTS

By reference in this Appendix, the following Build/Operate Projects are hereby included in the Agreement:

NPK Vacuum Sewer Improvements as prepared by CPH Engineers, Inc., and dated November, 2010.

Middle Plantation Key Collection System and Vacuum Pump Station as prepared by Wade Trim, Inc., and dated June, 2011.

Fontaine Road Collection System within NPK as prepared by Wade Trim, Inc., and dated June, 2011.

Post proposal revisions were made to the Build Operate Projects and are hereby included in the Project Agreement as indicated below.

Post Proposal revisions to NPK Vacuum Sewer Improvements – SPECIFICATION

- 1) Division 1 – General Conditions included in the NPK Vacuum Sewer Improvements Build/Operate Project is deleted. The Company shall follow the General Conditions included in the Design Standards Manual and requirements within the Agreement regarding General Conditions.

Post Proposal revisions to Middle Plantation Key Collection System and Vacuum Pump Station – Design Drawings

- 1) The vacuum pump station will be redesigned by Wade Trim, Inc. to revise the location of the proposed vacuum pump station to the property located at the corner of US-1 and Lysiloma as indicated in Appendix 1 of this Agreement.
- 2) The Company shall include in the Middle Plantation Key Collection System and Vacuum Pump Station any required changes and revisions to accommodate the requirements of the KLWTD set forth in Appendix 8 of this Agreement.
- 3) Any portions of force main in the MPK2 collection system shall be redesigned and constructed by the Company to reflect any needed changes for the MPK system to fit into the final Wastewater Facilities proposed by the Company in their preliminary design drawings as shown in their proposal and the final design.

Post Proposal revisions to Middle Plantation Key Collection System and Vacuum Pump Station – SPECIFICATION

- 1) Division 1 – General Conditions included in the NPK Vacuum Sewer Improvements Build/Operate Project is deleted. The Company shall follow the General Conditions included in the Design Standards Manual and requirements within the Agreement regarding General Conditions.

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APPENDIX 4

FORMS OF PAYMENT/PERFORMANCE AND OPERATIONS BONDS

Handwritten signature and initials
MR

LABOR AND MATERIALS PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Reynolds Water Islamorada, LLC, a Florida limited liability company (the "Company"), as principal, and Travelers Casualty and Surety Company of America (the "Surety"), as surety, are held and firmly bound unto Islamorada, Village of Islands, a Florida municipal corporation (the "Village"), in the sum of Ninety Million, Nine Hundred Thousand and No/100 Dollars (\$90,900,000.00), lawful money of United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, representatives, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, the Company has been awarded and is about to enter into the attached Design, Build and Operate (DBO) Agreement ("DBO Agreement"), dated August 21, 2012, with the Village for the design, build and operate of the Village's Wastewater System, which DBO Agreement is incorporated herein and made a part hereof by reference, which includes the design and construction obligations and performance guarantees stated therein for a Village-wide wastewater system and facilities, and the Company is required by the Village to give this Bond in connection with the execution of the DBO Agreement. Notwithstanding anything to the contrary, all obligations under this bond are solely related to performance of the Design/Build Work under the DBO Agreement.

NOW, THEREFORE, if the Company, or its subcontractors, fails to pay any of the claimants as defined in Section 255.05(1), Florida Statutes, for any materials, provisions, provender, equipment, or other supplies, used in, upon, for or about the performance of the Design/Build Work contracted to be done, or for any Work or labor thereon of any kind, the Surety will pay for the same, in an amount not exceeding the sum specified above, and also, in case suit is brought upon this Bond, reasonable attorneys' fees and costs, to be fixed by the court.

Any alterations in the Design/Build Work to be done, or the materials to be furnished, which may be made pursuant to the terms of the DBO Agreement, shall not in any way release either the Company or the Surety thereunder, nor shall any extensions of time granted under the provisions of the DBO Agreement release either Company or the Surety, and notice of such alterations or extensions of the DBO Agreement is hereby waived by the Surety.

The Surety waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the DBO Agreement or other Contract Documents or any other changes shall not affect Surety's obligations under this Bond.



Any action instituted by a claimant under this Bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

IN WITNESS WHEREOF, the above bounded Company and the above bounded Surety have hereunto set their hands this 21st day of August, 2012.

(Seal)

Company:

Reynolds Water Islamorada, LLC



Mark Accetturo, President and Managing Member

Surety:

(Surety's Corporate Seal)

Travelers Casualty and Surety Company of America

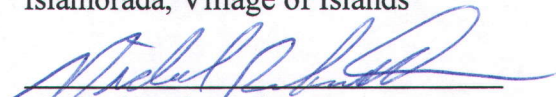
By _____

Title

Address of Surety

Approved:

Islamorada, Village of Islands



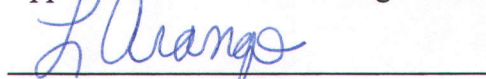
Michael Reckwerdt, Mayor

Attest:

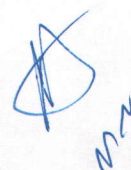


Village Clerk

Approved as to Form and Legal sufficiency:



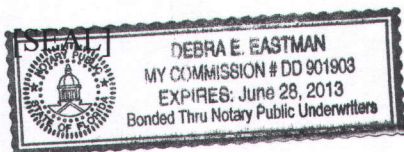
Village Attorney



ACKNOWLEDGMENT OF LABOR AND MATERIALS PAYMENT BOND

STATE OF FLORIDA)
)SS
COUNTY OF Monroe)

The foregoing instrument was acknowledged before me this 21st day of August, 2012 by Mark Accetturo, as President and Managing Member of Company, on behalf of the Company. He is personally known to me or has produced driver's license as identification.



Debra Eastman
Notary Public, State of Florida
Debra Eastman
Print Name of Notary
Commission No. DD901903
Commission Expires: 6/28/13

STATE OF FLORIDA)
)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012 by _____, as _____ of Surety, on behalf of the Surety. He/She is personally known to me or has produced _____ as identification.

[SEAL]

Notary Public, State of Florida

Print Name of Notary _____
Commission No. _____
Commission Expires: _____

(Attach proof of authority of attorney in fact of Surety, if applicable.)

FORM OF PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Reynolds Water Islamorada, LLC, a Florida limited liability company (the "Company"), as principal, and Travelers Casualty and Surety Company of America (the "Surety"), as surety, are held and firmly bound unto Islamorada, Village of Islands, a Florida municipal corporation (the "Village"), in the sum of Ninety Million, Nine Hundred Thousand and No/100 Dollars (\$90,900,000.00), lawful money of United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, representatives, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, the Company has been awarded and is about to enter into the attached Design, Build and Operate (DBO) Agreement ("DBO Agreement"), dated August 21, 2012, with the Village for the design, build and operate of the Village's Wastewater System, which DBO Agreement is incorporated herein and made a part hereof by reference, which includes the design and construction obligations and performance guarantees stated therein for a Village-wide wastewater system and facilities, and the Company is required by the Village to give this Bond in connection with the execution of the DBO Agreement.

Notwithstanding anything to the contrary in the Performance Bond, all obligations under this bond are solely related to performance of the Design/Build Work under the DBO Agreement.

NOW, THEREFORE, if the Company shall well and truly do and perform all of the covenants and obligations for the Design/Build Work in the DBO Agreement and any alteration thereof made as therein provided, on its part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect inclusive of the DBO Agreement warranty period, provided however, that:

- (a) The obligations of the Surety do not apply to those obligations that are solely and distinctly for Operations Services of the Project or Wastewater Facilities..

Any alterations in the Design/Build Work to be done, or the material to be furnished, which may be made pursuant to the terms of the DBO Agreement, shall not in any way release either the Company or the Surety thereunder, nor shall any extensions of time granted under the provisions of the DBO Agreement release either the Company or the Surety, and notice of such alterations or extensions of the DBO Agreement is hereby waived by the Surety.

Handwritten signature and initials in the bottom right corner of the page.

The Surety waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the DBO Agreement or other Contract Documents or any other changes shall not affect Surety's obligations under this Bond.

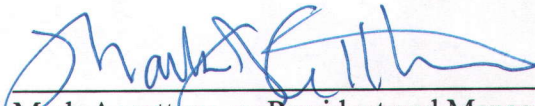
Any action instituted by a claimant under this Bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

IN WITNESS WHEREOF, the above bounded Company and the above bounded Surety have hereunto set their hands this 21st day of August, 2012.

(Seal)

Company:

Reynolds Water Islamorada, LLC


Mark Accetturo, as President and Managing
Member

Surety:

(Surety's Corporate Seal)

Travelers Casualty and Surety Company
of America

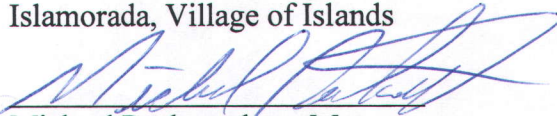
By _____

Title _____

Address of Surety _____

Approved:

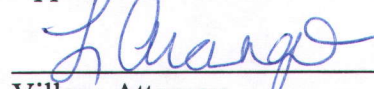
Islamorada, Village of Islands

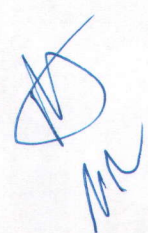

Michael Reckwerdt, as Mayor

Attest:


Village Clerk

Approved as to Form and Legal Sufficiency:


Village Attorney



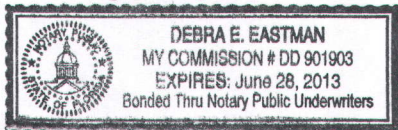
Notice: No substitution or revision to this Bond form will be accepted.

ACKNOWLEDGMENT OF PERFORMANCE BOND

STATE OF FLORIDA)
)SS
COUNTY OF Holmes)

The foregoing instrument was acknowledged before me this 26th day of August, 2012 by Mark Accetturo, as President and Managing Member of Company, on behalf of the Company. He is personally known to me or has produced driver's license as identification.

[SEAL]



Debra Eastman
Notary Public, State of Florida
Debra Eastman
Print Name of Notary
Commission No. DD 901903
Commission Expires: 6/28/13

STATE OF FLORIDA)
)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of August, 2012 by _____, as _____ of Surety, on behalf of the Surety. He/She is personally known to me or has produced _____ as identification.

[SEAL]

Notary Public, State of Florida

Print Name of Notary
Commission No. _____
Commission Expires: _____

(Attach proof of authority of attorney in fact of Surety, if applicable.)

ME

FORM OF OPERATIONS PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That, we, Reynolds Water Islamorada, LLC, a Florida Limited Liability Company hereinafter called ("the Company"), as principal, and Travelers Casualty and Surety Company of America (hereinafter called the "Surety"), as surety, are held and firmly bound unto Islamorada, Village of Islands, a Florida municipal corporation (hereinafter called the "Obligee" or "Village"), in the sum of Seven Hundred and Twenty Five Thousand, Six Hundred and No/100 Dollars (\$725,600.00), for the payment of which we, the Company and the Surety, bind ourselves, our heirs, representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Company has been awarded and is about to enter into the attached Design, Build and Operate (DBO) Agreement ("DBO Agreement"), dated August 21, 2012, with the Village for the design, build and operate of the Village's Wastewater System, which DBO Agreement is incorporated herein and made a part hereof by reference, which includes the Operation Services and performance guarantees stated therein for a Village-wide wastewater system and facilities, the Company is required by the Village to give this Bond in connection with the execution of the DBO Agreement..

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound the Company shall well and truly keep, do and perform each and every, all and singular, the matters and things related to such Operation Services as defined in the DBO Agreement set forth and specified to be by the Company kept, done and performed, at the times and in the manner in the DBO Agreement specified, or shall pay over, make good and reimburse to the above named Obligee, all loss and damage (subject to the terms, conditions and limitations set forth in the DBO Agreement) which the Obligee may sustain by reason of failure or default on the part of the Company so to do, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect, subject, however, to the following conditions:

- 1) No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators, successors or assigns of the Obligee.
- 2) The liability of the Company and the Surety under this Bond is limited to the performance of the Operation Services of the DBO Agreement for the annual Term from _____ to _____. The dates covered by this Bond shall be extended for annual periods, all such extensions to be evidenced by a continuation certificate or by a new bond, duly executed by an authorized representative of the Surety and the Company.
- 3) The liability of the Surety shall not be cumulative from year to year, regardless of the original Term of the DBO Agreement, or number of extensions hereto.
- 4) In the event of a default by the Company in the Operations Services required pursuant to the DBO Agreement, Surety shall pay the Village a sum equal to the

Annual Service Fee (as said term is defined in the DBO Agreement). The liability of the Surety shall not exceed the Bond sum above stated.

The Surety waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the DBO Agreement or other Contract Documents, or any other changes shall not affect Surety's obligations under this Bond.

No claim, suit or action under this Bond by reason of any such default shall be brought against the Surety unless asserted or commenced within 24 months after the effective date of any termination or cancellation of this Bond.

IN WITNESS WHEREOF, the above bound Company and the above bound Surety have hereunto set their hands this _____ day of _____, 20__.

(Seal)

Company:

Reynolds Water Islamorada, LLC

Mark Accetturo, as President and
Managing Member

(Surety's Corporate Seal)

Surety:

Travelers Casualty and Surety
Company of America

By: _____

Title

Address of Surety

Approved:

Islamorada, Village of Islands

Michael Reckwerdt, as Mayor

Attest:

Village Clerk

Approved as to Form and sufficiency:

Village Attorney, Islamorada, Village of Islands

Notice: No substitution or revision to this Bond form will be accepted.

ACKNOWLEDGMENT OF OPERATIONS PERFORMANCE BOND

STATE OF FLORIDA)
)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by Mark Accetturo, as President and Managing Member of the Company, on behalf of the Company. He is personally known to me or has produced ____ as identification.

[SEAL]

Notary Public, State of Florida

Print Name of Notary

Commission No.

Commission Expires:

STATE OF FLORIDA)
)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____ by _____, as _____ of Surety, on behalf of the Surety. He/She is personally known to me or has produced _____ as identification.

[SEAL]

Notary Public, State of Florida

Print Name of Notary

Commission No.

Commission Expires:

[Signature]

APPENDIX 5
CAPITAL MODIFICATION

5.1 Authorization Procedure; Notice to Proceed.

Should Company determine that a need has arisen for a Capital Modification after the Acceptance Date, Company shall submit a "Capital Modification Request" to the Village. A Capital Modification Request shall include the information set forth below and such additional information as the Village may request. Upon receipt of such submission, the Village shall review the Capital Modification Request to determine if the subject Capital Modification is necessary, fair, and reasonable in the Village's sole discretion and shall inform Company in writing if the request is approved. Upon receipt of a Notice to Proceed, the Company shall proceed with the Capital Modification. If the Village has not responded within 45 days of Company's submission, Company may submit a second written Capital Modification Request to the Village and the Owner's Representative. If the Village does not respond within 30 days of receipt of the second Capital Modification Request, said request shall be deemed rejected. If Company's Capital Modification Request is rejected or if the Village requests modifications to the same, Company may resubmit the Capital Modification Request or a modified Capital Modification Request which shall be treated as an original submission under this Section.

5.2 Information Required.

To obtain authorization for a Capital Modification, Company shall submit a written Capital Modification Request summarizing the proposed work. The Capital Modification Request shall describe the design, specifications, reason for the Capital Modifications and such additional information as the Village may require, including but not limited to:

5.2.1 a detailed description of and reason for the Capital Modifications to enable a third party to evaluate the necessity, scope, cost, benefits and design thereof;

5.2.2 a statement of the performance criteria for the Capital Modification;

5.2.3 an outline of Start Up and Testing procedures where the Capital Modification is such that a start up and testing program is appropriate;

5.2.4 a firm price quotation, or a cost estimate if the Work is to be sent out to bid;

5.2.5 an estimated completion schedule; and

5.2.6 the effect, if any, of such Capital Modifications on Company's obligations hereunder.

A handwritten signature, possibly 'MM', is located in the bottom right corner of the page.

5.3 Uncontrollable Circumstance or Change in Law. If the Company represents that the Capital Modifications are required by the occurrence of an Uncontrollable Circumstance or a Change in Law, the Village shall consider and determine in the Village's sole but reasonable discretion:

5.3.1 If the Uncontrollable Circumstance event or Change in Law has occurred and caused the need for Capital Modifications; and

5.3.2 If the Capital Modifications proposed represent the most cost effective solution consistent with the Design Standard of Care to resolve or address the problem presented by the Uncontrollable Circumstance event or Change in Law, taking into account any change in costs associated therewith, the remaining term of this Agreement and alternative methods of addressing the situation; and

5.3.3 If any start up and testing procedures associated therewith are adequate and sufficient.

5.4 Allocation of Costs/Compensation.

The reasonable cost of preparing designs, specifications, cost estimates other technical aspects of submittals made on account of any Capital Modifications shall be paid as set forth in Article X of the Agreement if required by a Change in Law, an Uncontrollable Circumstance event, or as requested by the Village. The reasonable cost of constructing the Capital Modifications should they be made by the Company or a Subcontractor of the Company shall be paid as set forth in Article X.

5.5 Other Provisions.

5.5.1 If the proposed Capital Modifications are submitted in response to an Uncontrollable Circumstance event or a Change in Law, and if the parties cannot agree on the necessity, scope, cost or design of the Capital Modifications, such disagreement may be submitted for dispute resolution as provided in this Agreement.

5.5.2 If Village is required to finance the Capital Modification, Company shall cooperate and assist the Village in obtaining financing, including but not limited to, making necessary applications, meeting with appropriate agencies or other parties and otherwise assisting in financing activities. Company may, at its sole discretion, offer direct financing of the Capital Modifications for review and approval by the Village, in the Village's sole and absolute discretion.

5.5.3 If the Village constructs or causes to be constructed Capital Modifications by a contractor other than Company ("Contractor"), and if the Village wishes Company to operate and maintain said Capital Modifications upon their completion, Company shall:

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- 5.5.3.1 have a reasonable opportunity to review and comment on the proposed plans, specifications, start up testing and acceptance procedures, prior to construction of the Capital Modifications;
- 5.5.3.2 have a reasonable opportunity to object to the Contractor if Company reasonably determines the Contractor is not qualified to perform the work associated with the Capital Modifications;
- 5.5.3.3 have a reasonable opportunity to inspect the work as it progresses, except that Company shall not be permitted to delay or interfere with the Contractor or the progress of the work;
- 5.5.3.4 prior to final completion, have a reasonable opportunity to attend and participate in the necessary inspections;
- 5.5.3.5 receive comprehensive operation and maintenance training, and complete operation and maintenance manuals, including but not limited to manufacturer's instructions;
- 5.5.3.6 receive an assignment of any assignable warranties from vendors, and Contractors providing services, materials and/or equipment under terms and conditions no less than those standard in the industry for the remaining Term.

5.5.4 If approval of any government agency with jurisdiction and authority or any other person or Governmental Authority is required for the implementation of Capital Modifications, then either the Village or Company, as appropriate and as otherwise consistent with this Agreement shall obtain such approval. If the party seeking approval is unable to obtain the required approval, then (1) if such party made the request for the Capital Modifications that party shall withdraw or revise its request or challenge the propriety of the denial, or (2) if the other party made the request for the Capital Modifications the other party shall be notified of the disapproval and either revise or withdraw its request for the Capital Modifications or appeal the denial.

5.5.5 In all other respects, Capital Modifications shall be carried out under similar terms and conditions as specified for the Design/Build Work in the Agreement.

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APPENDIX 6

DESIGN/BUILD PRICE AND SERVICE FEES

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6. Fixed Design/Build Price

PRICE PROPOSAL FORM P-1 (REVISED)-HYB
FIXED DESIGN/BUILD PRICE
ALTERNATIVE NO.1- KLWTD Treatment and Disposal, Hybrid Collection

SUMMARY OF FIXED DESIGN/BUILD PRICE.

The pricing below is a summary of the detailed pricing prepared by the Proposer in response to the Scope of Work for Alternative NO. 1 required for the Project within this RFP. The Proposer is expected to maintain the detailed back-up cost estimate to these numbers for review by the Village, if requested. The Fixed Design/Build Price set forth in this Price Proposal Form P-1 anticipates pricing with public funding and assumes compliance with all applicable State and/or federal requirements for funding of the Project as set forth in Section 3.6 of the RFP.

I. Plantation Key Facilities

a. Construction of Build/Operate Projects	
(i). NPK Vacuum Sewer Improvements	\$ 1,075,129.38
(ii). MPK Collection System and Vacuum Pump Station	\$ 7,630,638.36
(iii). NPK Fontaine Road Collection System	\$ 138,016.29
b. Design and construction of	\$ 10,654,378.38
Collection System and Vacuum Pump Station(s)	
c. Design and construction of transmission force mains	\$ 6,131,571.07
and pump station(s) from MM 90.939 to Key Largo WWTP	
d. Design and construction of transmission force mains	\$ 4,407,117.93
and pump station(s) in Plantation Key	
e. Improvements to NPK WWTP, if required, and	
implementation of reuse at NPK to Founder's Park; or	\$ 1,576,650.00
f. Decommissioning of NPK WWTP	
Subtotal Plantation Key	\$ 31,613,498.79

II. Windley Key Facilities

a. Design and construction of	\$ 650,104.65
Collection System and Vacuum Pump Station(s)	
b. Design and construction of transmission force mains	\$ 1,724,453.73
and pump station(s) in Windley Key	
Subtotal Windley Key	\$ 2,374,558.39

III. Upper Matecumbe Key

a. Design and construction of	\$ 11,542,137.12
Collection System and Vacuum Pump Station(s)	
b. Design and construction of transmission force mains	\$ 2,999,912.41
and pump station(s) in Upper Matecumbe Key	
Subtotal Upper Matecumbe Key	\$ 14,542,049.53

IV. Lower Matecumbe Key

a. Design and construction of	\$ 10,851,541.09
Collection System and Vacuum Pump Station(s)	
b. Design and construction of transmission force mains	\$ 3,822,588.81
and pump station(s) in Lower Matecumbe Key	
Subtotal Lower Matecumbe Key	\$ 14,674,227.90

V. Administrative Costs

a. Administrative, Project Management and General Conditions	\$ 14,583,948.00	
b. Mobilization (not-to-exceed 2% of Fixed D/B Price)	\$ 2,000,000.00	
c. De-Mobilization (not-to-exceed 25% of Mobilization Price)	\$ 500,000.00	
d. Required Design/Build Insurance	\$ 250,000.00	
e. Record Drawings/O&M Manuals	Included	
f. Training	Included	
g. Design/Build Performance Bond	\$ 900,000.00	
h. Labor and Materials Payment Bond	Included	
i. Permits & Governmental Approvals	\$ 500,000.00	
j. Other (Specify) - All Design Work	\$ 8,383,571.40	
Subtotal Administration		\$ 27,107,517.40

VI. Other Items

Land Acquisition Costs	\$ -	
KLWTD Capacity Purchase Costs	\$ -	
Deduct to Abandon North Plantation Key	\$ (266,000.00)	
Design/Construction Coordination requirement for KLWTD inter local agreement	\$ 25,000.00	
Hydraulic Analysis and final point of connection for KLWTD inter local agreement	\$ 25,000.00	
Salinity Meters, SCADA, Telemetry Requirements for KLWTD inter local Agreement	\$ 192,770.00	
Removal of Proposers Assumptions and Exemptions	\$ -	
Builders Risk Insurance	\$ 811,378.00	
Upgrade Vacuum Station Tanks to 316 Stainless Steel	\$ -	
Subtotal Other Items		\$ 788,148.00

TOTAL ALTERNATIVE NO.1 (HYB) FIXED DESIGN/BUILD PRICE \$ 90,900,000.00

VII. Negotiated/Contracted Land Acquisition Costs
(attach substantiating documentation)

Included

*Provisionary Allowance for Complete Asphalt Overlay \$ 8,500,000.00



6-1 Schedule of Values

Table 6-1 sets forth a schedule of Schedule of Values, which includes certain milestone payments and work to be invoiced in proportion to percent completion. A Final Schedule of Values will be provided no later than sixty (60) days after the Notice to Proceed.

TABLE 6-1 SCHEDULE OF VALUES (PRELIMINARY)		
Missions	Preliminary Value	When Included on Progress Application Payment
Entire Project		
Payment/Performance Bond	\$ 800,000.00	100% Upon Submittal of Bonds
Insurance	\$ 1,081,378.00	50% upon submittal of Certificates, Except Builders Risk, 50% upon submittal of Builders Risk Certificate
Mobilization	\$ 1,850,000.00	100% Upon Establishment of Site Offices
Consultation	\$ 350,000.00	100% Upon substantial completion of Project
Record Drawings	\$ 150,000.00	50% upon submittal of draft, 50% upon submittal of final
O&M Manuals	\$ 100,000.00	50% upon submittal of training outline, 50% upon completion of training
Training	\$ 50,000.00	50% upon submittal of draft, 50% upon submittal of final
PM, Supervision and GC's	\$ 14,583,946.00	3-1/3% per month for 30 months
Key Large Pipeline		
Engineering Submittals		
Preliminary (30%) and BOOR	\$ 919,992.85	100% Upon Submittal of Documents
Intermediate (60%)	\$ 669,685.71	100% Upon Submittal of Documents
Final	\$ 334,542.85	100% Upon Submittal of Documents
Hydraulic Analysis		
Draft	\$ 125,453.57	100% Upon Submittal of Documents
Final	\$ 41,817.85	100% Upon Submittal of Documents
Permits		
FEDP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDOT	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDEP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Plantation Key Facilities		
Engineering Submittals		
Preliminary (30%) and BOOR	\$ 752,721.43	100% Upon Submittal of Documents
Intermediate (60%)	\$ 669,685.71	100% Upon Submittal of Documents
Final	\$ 250,907.14	100% Upon Submittal of Documents
Permits		
FEDP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDOT	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDEP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Village	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Windkey Key Facilities		
Engineering Submittals		
Preliminary (30%) and BOOR	\$ 334,542.85	100% Upon Submittal of Documents
Intermediate (60%)	\$ 250,907.14	100% Upon Submittal of Documents
Final	\$ 83,635.71	100% Upon Submittal of Documents
Permits		
FEDP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDOT	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDEP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Village	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Upper Matcumbe Key Facilities		
Engineering Submittals		
Preliminary (30%) and BOOR	\$ 919,992.85	100% Upon Submittal of Documents
Intermediate (60%)	\$ 752,721.43	100% Upon Submittal of Documents
Final	\$ 250,907.14	100% Upon Submittal of Documents
Permits		
FEDP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDOT	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDEP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Village	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Lower Matcumbe Key Facilities		
Engineering Submittals		
Preliminary (30%) and BOOR	\$ 1,003,828.57	100% Upon Submittal of Documents
Intermediate (60%)	\$ 752,721.43	100% Upon Submittal of Documents
Final	\$ 250,907.14	100% Upon Submittal of Documents
Permits		
FEDP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDOT	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
FDEP	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt
Village	\$ 26,315.79	50% Upon Submittal, 50% Upon Receipt

Material and Equipment		
Pipes, Fittings and Restraints	\$ 3,750,000.00	10% of item price upon issuance of Purchase Order, 20% upon submission of approved Shop Drawings, 60% upon delivery of item to site, and 10% upon completion of installation and testing
Valves	\$ 300,000.00	
Vacuum Pits (Sumps)	\$ 3,250,000.00	
Pump Station Equipment	\$ 1,025,000.00	
Generators	\$ 500,000.00	
Electrical Switchgear	\$ 250,000.00	
Odor Control Equipment	\$ 400,000.00	
Work Item		(Work to be invoiced monthly in proportion to work completed) - Note 1.
Key Large Pipeline		see Note 1.
Installation of Pipeline	\$ 5,831,571.07	see Note 1.
Plantation Key Facilities		see Note 1.
NPK Vacuum Sewer Improvements	\$ 1,025,129.38	see Note 1.
NPK Master Pump Station	\$ 1,135,650.00	see Note 1.
MPK Collection System Piping	\$ 5,630,638.36	see Note 1.
MPK Vacuum Station	\$ 1,000,000.00	see Note 1.
Fountain Road Piping	\$ 138,018.29	see Note 1.
South Plantation Key Vacuum Station	\$ 1,000,000.00	see Note 1.
Collection System piping South Plantation	\$ 9,204,376.36	see Note 1.
South Plantation Key Pump Station		see Note 1.
South Plantation Key Force mains	\$ 2,907,117.93	see Note 1.
Wendley Key Facilities		see Note 1.
Collection System and Force main Piping	\$ 2,374,568.39	see Note 1.
Upper Matecumbe Key Facilities		see Note 1.
Upper Matecumbe Vacuum Station	\$ 1,000,000.00	see Note 1.
Collection System Piping	\$ 8,542,137.12	see Note 1.
Upper Matecumbe Pump Station		see Note 1.
Force main Piping	\$ 1,998,912.41	see Note 1.
Lower Matecumbe Key Facilities		see Note 1.
Lower Matecumbe Vacuum Station	\$ 1,000,000.00	see Note 1.
Collection System Piping	\$ 7,361,641.08	see Note 1.
Lower Matecumbe Pump Station		see Note 1.
Force main Piping	\$ 3,122,586.81	see Note 1.
Private Roads		see Note 1.
Collection System Piping KCLWTD	Included per Island	see Note 1.
Salinity Meters, SCADA and Telemetry, Design Coordination, etc.	\$ 242,770.00	see Note 1.
Upgrade Vacuum Station Tanks to 316 Stainless Steel	\$ -	
Provisionary Allowance for Complete Asphalt Overlay		
	\$ 8,500,000.00	

6-2 Drawdown Schedule

Table 6-2 sets forth the preliminary monthly payment drawdown schedule. A final Drawdown Schedule will to be provided no later than sixty (60) days after the Notice to Proceed.

TABLE 2 - DRAWDOWN SCHEDULE (FREEMINAP)				
Invoice No.	Month Covered	Month Submitted	Estimated Payment	Cumulative Total
1	Aug-12	Sep-12	\$ 2,272,500.00	\$ 2,272,500.00
2	Sep-12	Oct-12	\$ 3,181,500.00	\$ 5,454,000.00
3	Oct-12	Nov-12	\$ 3,636,000.00	\$ 9,090,000.00
4	Nov-12	Dec-12	\$ 4,090,500.00	\$ 13,180,500.00
5	Dec-12	Jan-13	\$ 4,545,000.00	\$ 17,725,500.00
6	Jan-13	Feb-13	\$ 5,454,000.00	\$ 23,179,500.00
7	Feb-13	Mar-13	\$ 5,454,000.00	\$ 28,633,500.00
8	Mar-13	Apr-13	\$ 6,363,000.00	\$ 34,996,500.00
9	Apr-13	May-13	\$ 5,908,500.00	\$ 40,905,000.00
10	May-13	Jun-13	\$ 5,454,000.00	\$ 46,359,000.00
11	Jun-13	Jul-13	\$ 5,454,000.00	\$ 51,813,000.00
12	Jul-13	Aug-13	\$ 4,545,000.00	\$ 56,358,000.00
13	Aug-13	Sep-13	\$ 3,636,000.00	\$ 59,994,000.00
14	Sep-13	Oct-13	\$ 3,636,000.00	\$ 63,630,000.00
15	Oct-13	Nov-13	\$ 2,727,000.00	\$ 66,357,000.00
16	Nov-13	Dec-13	\$ 2,727,000.00	\$ 69,084,000.00
17	Dec-13	Jan-14	\$ 2,727,000.00	\$ 71,811,000.00
18	Jan-14	Feb-14	\$ 2,727,000.00	\$ 74,538,000.00
19	Feb-14	Mar-14	\$ 1,818,000.00	\$ 76,356,000.00
20	Mar-14	Apr-14	\$ 1,818,000.00	\$ 78,174,000.00
21	Apr-14	May-14	\$ 1,818,000.00	\$ 79,992,000.00
22	May-14	Jun-14	\$ 1,818,000.00	\$ 81,810,000.00
23	Jun-14	Jul-14	\$ 1,818,000.00	\$ 83,628,000.00
24	Jul-14	Aug-14	\$ 1,818,000.00	\$ 85,446,000.00
25	Aug-14	Sep-14	\$ 1,818,000.00	\$ 87,264,000.00
26	Sep-14	Oct-14	\$ 909,000.00	\$ 88,173,000.00
27	Oct-14	Nov-14	\$ 909,000.00	\$ 89,082,000.00
28	Nov-14	Dec-14	\$ 909,000.00	\$ 89,991,000.00
29	Dec-14	Jan-15	\$ 181,800.00	\$ 90,172,800.00
30	Jan-15	Feb-15	\$ 181,800.00	\$ 90,354,600.00
31	Feb-15	Mar-15	\$ 181,800.00	\$ 90,536,400.00
32	Mar-15	Apr-15	\$ 90,900.00	\$ 90,627,300.00
33	Apr-15	May-15	\$ 90,900.00	\$ 90,718,200.00
34	May-15	Jun-15	\$ 90,900.00	\$ 90,809,100.00
35	Jun-15	Jul-15	\$ 90,900.00	\$ 90,900,000.00
36	Jul-15	Aug-15	\$ -	\$ 90,900,000.00
Total Design Build Price			\$ 90,900,000.00	

6-3 Operations Service Fee

Table 6-3 sets forth the Service Fee Schedule for the delivery of the Interim Operations Services and the Operations Services.


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**APPENDIX 6
(P-3 FORM)
SERVICE FEE SCHEDULE**

YEAR	FIXED O&M FEE
Note A (monthly)	\$ 43,400
Note B (monthly)	\$ 63,751
Note C (monthly)	57,612
Note D (monthly)	60,456
2015	725,600
1 2016	725,600
2 2017	725,600
3 2018	725,600
4 2019	725,600
5 2020	725,600
6 2021	725,600
7 2022	725,600
8 2023	725,600
9 2024	725,600
10 2025	725,600
11 2026	725,600
12 2027	725,600
13 2028	725,600
14 2029	725,600
15 2030	725,600
16 2031	725,600
17 2032	725,600
18 2033	725,600
19 2034	725,600
20 2035	725,600

Amounts exclude sludge hauling and disposal which will be paid directly by the Village
 Note A: North Plantation Key (NPK) Plant and NPK Collection System
 Note B: NPK Plant, NPK Collection, and Middle Plantation Key (MPK) Collection (31 days after substantial completion of MPK Collection)
 Note C: NPK and MPK Collection Systems, no NPK Plant Operations
 Note D: Operation of Wastewater Facilities (31 days after substantial completion of all Wastewater Facilities)

APPENDIX 7

GUARANTEED MAXIMUM ELECTRICITY USAGE

This Appendix establishes the Guaranteed Maximum Electricity Usage the Company will provide during the delivery of the Operations Services, not including electricity usage at the NPK Wastewater Treatment Plant.

The attached form “**SERVICE FEE PROPOSAL FORM P-5 ALTERNATIVE NO. 1B PROPOSAL KLWTD WASTEWATER TREATMENT AND DISPOSAL GUARANTEED MAXIMUM ELECTRICITY USAGE**” displays the Guaranteed Maximum Electricity Usage per range of flows.

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SERVICE FEE PROPOSAL FORM P-5
Alternative 1.2 Decommission NPK and pump All flows to Key Largo
KLWTD WASTEWATER TREATMENT AND DISPOSAL

GUARANTEED MAXIMUM ELECTRICITY USAGE

Range of Flows (Gallons per Day - Average Daily Flow)		Maximum kWh per Calendar Quarter (91.26 Days) HYBRID
From (Low)	To (High)	
0	200,000	21,473
200,001	400,000	84,418
400,001	600,000	139,518
600,001	800,000	195,328
800,001	1,000,000	251,133
1,000,001	1,200,000	306,940
1,200,001	1,400,000	362,747
1,400,001	1,600,000	537,464

Notes:

1. Guaranteed Maximum Energy Usage is based on influent concentrations specified in this RFP and shall apply to energy usage for all Wastewater Facilities included in this RFP, including transmiss on facilities to the KLWTD Plant but excluding energy usage at the KLWTD Plant.
2. Flows (averaged over the calendar quarter) in excess of the amounts specified in this Service Fee Proposal Form P-5 will be calculated using the range of 1,400,001 to 1,600,000 gallons per day.

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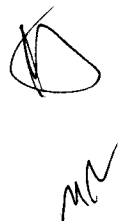
APPENDIX 8

PRE-DESIGN REQUIREMENTS REVISIONS TO DESIGN CRITERIA PACKAGE AND DESIGN STANDARDS MANUAL

Document Title	Date
Village Wide Wastewater System, Design Criteria Package, Islamorada, Village of Islands	June, 2011
Islamorada Village of Islands, May 2011, Design Standards Manual, Village Wide Wastewater System	May, 2011
Agreement for Wastewater Services Between Islamorada, Village of Islands and the Key Largo Wastewater Treatment District	May, 2012

Post Proposal revisions to the Design Criteria Package (DCP) and the Design Standards Manual (DSM) are listed in the subsections below.

Post Proposal Revision to the Design Criteria Package (DCP)	
Reference	Comment
Global Change:	The term "DBOF" shall be revised to the "Company"
Section 2.2.2	The Owner's Representative is responsible for meeting minutes at Project progress meetings, The Company does not have this responsibility.
Section 2.2.2	An electronic Project album containing photographs is an acceptable media.
Section 2.2.3	Calculations may be maintained in PDF format.
Section 2.2.4	Engineer of Record or designated Quality Representative may review calculations as long as the reviewer is a Florida licensed Professional Engineer.
Section 2.3	The CPM Project Schedule will be cost loaded.
Section 2.3	The CPM Project Schedule will be submitted within 60 days of Notice to Proceed.
Section 3.1	Reference to wastewater treatment plants or facilities other than NPK and KLWTD can be deleted.
Section 3.3	The final Preliminary Design Report shall be organized similar to the PDR provided as part of the Company's proposal.
Section 3.3.1	Alternative routes were evaluated in the development of the Company's Preliminary Design Report.
Section 3.3.1.2	A tree survey will be provided for all trees that fall within direct conflict with the Design/Build Work.



Post Proposal Revision to the Design Criteria Package (DCP)	
Reference	Comment
Section 3.4	With respect to the MPK work, The Company is required to complete the design of the force main and connection to NPK. Wade Trim will provide a revised design for the VPS relocation and permitting modifications for this vacuum station and MPK collection system.
Section 3.4.1	Add "and all applicable permits necessary for construction" after "specifications" after the first paragraph of that section.
Section 3.4	The Company will Design and Construct the vacuum pump station modified to reflect the Company's standard approach to Vacuum Pump Station design provided in the Company's Preliminary Design Report.
Section 3.4.2	The Village has instructed The Company to provide Alternative 1(b). No other Alternatives shall be considered.
Section 3.5.1	1 st Paragraph, The Company will chair a Design criteria meeting after NTP.
Section 3.5.2.1	Encroachments will be identified during the survey phase of the Project and dealt with during the 60% design phase.
Section 3.5.2.1	90% design submittal is not required.
Section 3.7	Vacuum extraction services will not be undertaken unless specifically warranted to supplement the DB design documents. Delete and replace with "DBOF shall undertake efforts as necessary to locate underground utilities."
Section 3.8	Thrust restraints and trench dewatering is not required in the geotechnical report. Thrust restraint design and provisions, as well as trench dewatering procedures and requirements will be provided in the final design. Geotechnical investigations for pipeline installation will be performed as necessary according to the Engineer of Record.
Section 3.9	The Company may use its own standard documents instead of those found in Chapter 6 of the Design Standards Manual related to construction activities as long as they meet the Project Requirements. The Company's standard documents will be provided to the Village for review during the design process.
Section 3.11	Appendix 18 of the DBO Agreement will take precedence over this section. The Company shall consider and include specific and required test in Section 3.11 when preparing their Acceptance Test Plan required under Appendix 18.
Section 3.11.2	Delete "the vacuum system manufacturer's field representative as well as"
Section 3.11.2.2	One sump test will be performed at the factory and one after sump and valves are installed.
Section 3.11.2.4	Frequency of Testing of vacuum main shall be undertaken at the discretion of the DBO contractor.
Section 3.11.3.1 b	Acceptable pressure testing parameters shall also include 1.5 times the working pressure for at least (4) consecutive hours on all force mains, or in accordance with manufacturers' recommendations and subject to manufacturer's allowable losses.
Section 3.11.4.5	Systems Testing Submittals shall be provided to the Owner's Representative within two weeks after completion of the tests.



Post Proposal Revision to the Design Criteria Package (DCP)	
Reference	Comment
Section 3.11.4.6	The timing, duration, length, and submittal and response time deadline requirements shall be established in Appendix 18, which will take precedence over the Design Criteria Package in this regard.
Section 3.11.7.e	The Company shall staff the Project as it deems necessary.
Section 3.12.2.f	The timing, duration, length, and submittal and response time deadline requirements shall be established in Appendix 18, which will take precedence over the Design Criteria Package in this regard.
Section 4.2	The Village has specified AirVac to supply the vacuum system components. The Company is therefore bound to supply AirVac standard components. The Company cannot be bound by the requirements of 4.2 should AirVac components not satisfy these requirements.
Section 4.2.2	Gravity lateral pipe sizing shall be as designed by the Engineer of Record. Vacuum main size can vary from 3" in diameter to 10" in diameter, or as accepted in the final design drawings
Section 4.2.4	The Company reserves the right to supply vacuum pits from the entire AirVac range.
Section 4.2.9	Cleanouts will not be provided at 100 foot intervals. Cleanouts will be installed as deemed appropriate by the Company.
Section 4.3.2	This section is deleted.
Section 4.3.3	The Company shall work to reduce, but shall not exceed, the number of low pressure grinder pumps currently shown in its Preliminary Design Report without written justification provided to the Village.
Section 4.4	Spacing between utilities shall be within FDEP and regulatory agency requirements.
Section 4.5.3	Service connections on private roadways will be provided at the property line in front of each resident, business or vacant lot being served at the property line of the respective resident, business, or vacant lot. All connections on private roadways shall be served under this Agreement and the connection shall be at the road easement line with each lot, if designated, or 15' from the centerline of the access easement.
Section 4.7	Delete "highest rated coatings available" and replace with "manufacturer's recommendation for rated coatings."
Section 4.7.1	Vacuum Pump station layout. Layout and architectural features will be in accordance with the Company's standard Vacuum Pumping Station layout as submitted with the Proposal and the DCP. Other than the MPK VPS, the VPS stations will not include a storage room, but will include shelving and adequate floor space to store valve pit packages including valve boxes, breather boxes, and controller boxes. The Company will carry a minimum of 1% of the total installed valve pit packages in inventory at each VPS for each system.,




Post Proposal Revision to the Design Criteria Package (DCP)	
Reference	Comment
Buffer tank – lateral connection	All buffer tanks must be provided with a manhole upstream of the connection. Any property making a connection to a buffer tank must provide a manhole upstream on the connection. The manhole will not be provided by the Company. The Company will connect the buffer tank to the manhole. Recommended design peak flow for a single buffer tank shall be 15.0 gpm and recommended design peak flow for a dual buffer tank shall be 30.0 gpm. For any flows exceeding 30 gpm, Company shall consult AIRVAC/Village.
Design of vacuum system	a) Static loss <13' on any single main line b) Friction loss <5' on any single main line c) Use 0.25 feet of fall between lifts when the distance between lifts is less than 125 feet. d) Use a minimum of 50lf of main sloped at 0.20% prior to a series of lifts. e) Min distance between a series of lifts = 20' f) Minimum distance between the top of a lateral and any lift shall be 6 feet. g) Separate a series of 5 lifts from the next lift or series of lifts by at least 100 feet of vacuum main and ensure that at least 1 energy input is in the zone of separation. h) Lift height shall be as designed by the Engineer of Record.

Appendix A	Company may provide their own civil detail sheets. Standard details can be provided by the Company with review by the Village. All vacuum details used on the project shall be the most recent details provided and approved by AIRVAC.
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Post Proposal Revision to the Design Standards Manual (DSM)	
Reference	Comment
Section 2.4 and Section 5.3	The Company may provide drawings to its internal standard.
Chapter 7 – Design Guidelines	7.1 pavement design, first bullet – is revised to a 6" cut back and one lift of pavement unless on FDOT road then follow FDOT requirements consistent with DCP.
	<i>7.4 HDPE pipe can be used for force mains and low pressure mains. HDPE will be either DR9, DR11 or other appropriate thickness depending on the operating pressure requirements.</i>

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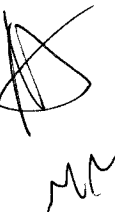
Post Proposal Revision to the Design Standards Manual (DSM)	
Reference	Comment
	7.7 Concrete, criteria to be established by the Engineer of Record.
Appendix F	The Village will review alternative Division 1 specifications proposed by The Company during the design review process.
Appendix G	The Company may use their own Standard Division 2, 3 15, and 16 specifications as long as they meet the requirements of the specifications included in the DSM.
Appendix I	90% percent design submittal is no longer required.
Appendix I	Corridor Analysis provided in the Company's Preliminary Design Report fulfills the Corridor Analysis required in the RFP.
Appendix I	Submitting cost estimates with design submittals are not required.
Appendix I	A regulatory permitting review plan of action is not required during the Study & Planning Phase.

Post Proposal revisions to the Project's scope of work resulting from the execution of an Agreement for Wastewater Services between Islamorada, Village of Islands and the Key Largo Wastewater Treatment District (KLWTD) Dated May 22, 2012 are listed in the subsections below.

Post Proposal Scope Additions from the Agreement for Wastewater Services Between Islamorada, Village of Islands, and the Key Largo Wastewater Treatment District (KLWTD) Dated May 22, 2012	
Reference	Comment
Agreement for Wastewater Services	The Company shall monitor, inspect, and document Customer connections to the Wastewater Facilities to ensure proper standards are met as discussed in the "Connections to Public Infrastructure" section of the Agreement for Wastewater Services' Operation Protocol. The Company shall provide written documentation to the Village for each connection.
Agreement for Wastewater Services	The Company shall maintain salinity meters and monitor, record, and report salinity meter data to the Village in accordance with the "Inflow and Infiltration" section of the Agreement for Wastewater Services' Operation Protocol.
Agreement for Wastewater Services	The Company shall provide all the services required to have the Wastewater Facilities meet the requirements in the "Maintenance" section of the Agreement for Wastewater Services' Operation Protocol.
Agreement for Wastewater Services	The Company shall participate with the Village and KLWTD in developing an Emergency preparedness Plan as required under the "Emergency Condition" section of the Agreement for Wastewater Services' Operation Protocol.
Agreement for Wastewater Services	The Company shall provide coordination with the Village during the Project's design and construction phases including addressing written comments from KLWTD during key design review phases in writing, responding to requests for information, distribution of shop drawings and project submittals, and providing a monthly report to KLWTD. All correspondence between The Company and KLWTD will be through the Owner's Representative. It is understood that all correspondence with KLWTD will be through the Village and document submittals will be streamlined such that one set of reports, submittals, etc. will address both KLWTD and Village requirements.

Post Proposal Scope Additions from the Agreement for Wastewater Services Between Islamorada, Village of Islands, and the Key Largo Wastewater Treatment District (KLWTD) Dated May 22, 2012

Reference	Comment
Agreement for Wastewater Services	The Company-shall develop a hydraulic analysis combining the Village's system with the KLWTD system. The hydraulic analysis will be developed in accordance with the "Pressures" section of the Agreement for Wastewater Services' Operation Protocol. Should the analysis determine that an alternative point of connection be required, The Company-shall pursue one alternative with the KLWTD in accordance with the "Pressures" section of the Agreement for Wastewater Services' Operation Protocol section.
Agreement for Wastewater Services	The Company-shall install salinity and flow meters at each of the vacuum pump stations/lift station combinations, as well as at the point of connection. These meters are to be tied into the Village's and KLWTD's SCADA system for monitoring purposes only. Any required telemetry to distribute the signal to the Village or KLWTD shall be provided by the Company.
Agreement for Wastewater Services	The Company-shall install, operate and maintain and replace the Customer System Meter to be located immediately adjacent to the Point of Connection as discussed in Section 6.b of the Agreement for Wastewater Services. The Company-shall inspect and calibrate the Customer System Meter for accuracy at least once each year or as required by the FDEP as discussed in Section 6.e of the Agreement for Wastewater Services.
Agreement for Wastewater Services	The Company-shall perform Operations Services that meet or exceed the policies and procedures included in the Agreement for Wastewater Services.



APPENDIX 9

OPERATIONS AND MAINTENANCE PLAN

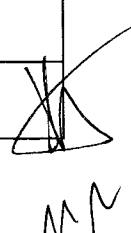
The Operations and Maintenance (O&M) Plan is the guide for addressing the needs and requirements of the Wastewater Facilities. The O&M Plan is composed of several documents, or components, in order to be complete and comprehensive.

An O&M Plan will be developed for Interim Operations Period, which will focus on the North Plantation Key Facilities. A separate O&M Plan will be developed for the Operations Period, which can generally be described as covering the Village-wide wastewater collection system without the North Plantation Key Wastewater Treatment Plant. Due to the size of the sum of the components of the O&M Plans and the fact that they are subject to periodic updates, they will be integrated into this Appendix by reference. The initial O&M Plans and all subsequent updates will be submitted to the Village for review and comment.

The following tables provide an overview of the major O&M Plan components and associated due dates for submission.

North Plantation Key Facilities (Interim Operations Period)

Plan Components	Due Date
STS Health & Safety Policy and Procedure Manual	NTP
Site Specific Safety Manual	30 days after NTP
STS Emergency Preparedness Plan Template (to be replaced by EPP)	NTP
Emergency Preparedness Plan (EPP)	60 days after NTP
Security Plan	90 days after NTP
SOPs	30 days after NTP
Process Control Management Plan	45 after NTP for draft
Domestic Wastewater Facility Permit	NTP (provided by Village)
NPDES Permit	NTP (provided by Village)
Equipment O&M Manuals	NTP (provided by Village)
Best Management Practices Plan	30 days after NTP
Residuals Management and Disposal Plan	30 days after NTP
Laboratory Quality Assurance Program	30 days after NTP



Customer Service Plan	30 days after NTP
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Wastewater Facilities (Operations Period)

Plan Components	Due Date
STS Health & Safety Policy and Procedure Manual	NTP
Site Specific Safety Manual	30 days after Substantial Completion
Emergency Preparedness Plan	60 days after Substantial Completion
Security Plan	45 days after Substantial Completion
SOPs	30 days after Substantial Completion for draft
Permits	Within 15 days of being granted
Equipment O&M Manuals	Final Completion
Asset Management Plan	30 days after Substantial Completion
Best Management Practices Plan	30 days after Substantial Completion
Maintenance and Calibration Log	Substantial Completion
Laboratory Quality Assurance Program	30 days after NTP
Customer Service Plan	30 days after Substantial Completion

SOPs = Standard Operating Procedures

NPDES = National Pollutant Discharge Elimination System

NTP = Notice To Proceed

APPENDIX 10

OPERATIONS AND MAINTENANCE MINIMUM STAFFING PLAN

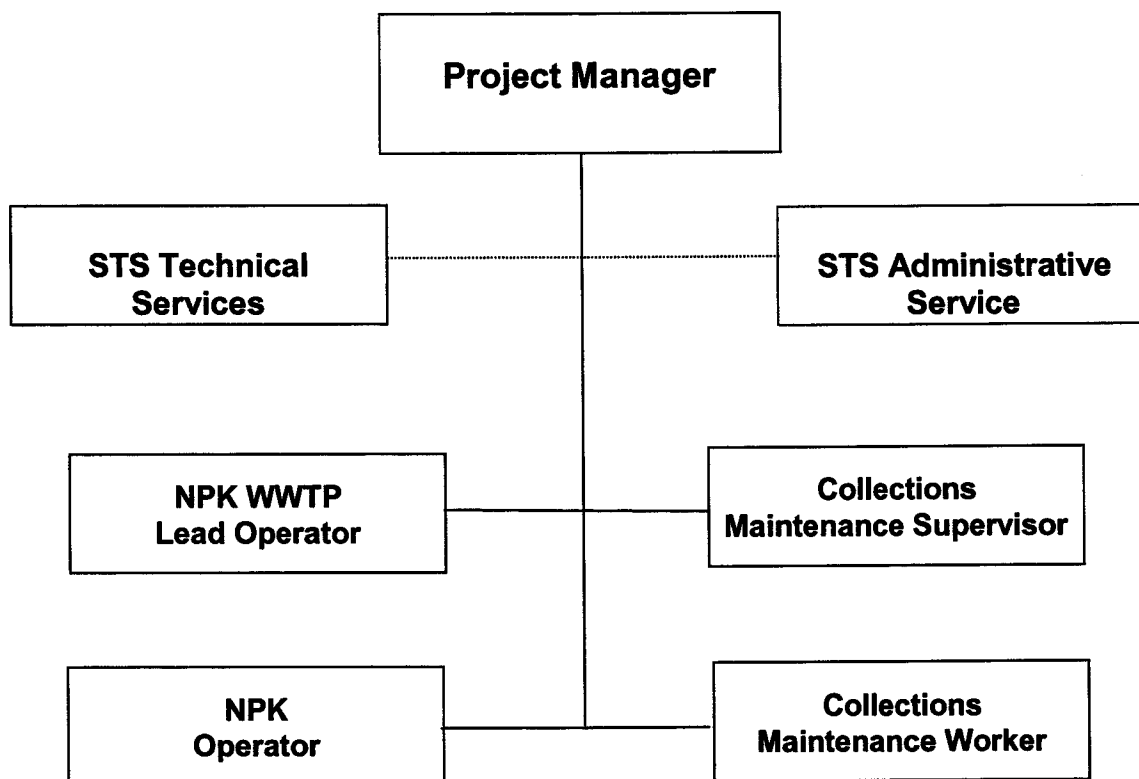
This Operations and Maintenance (O&M) Minimum Staffing plan presents minimum staffing requirements for addressing the needs and requirements of the Wastewater facilities. It includes appropriate licensure for operations personnel as a function of their role at the respective assigned facilities.

A Minimum Staffing Plan is required for O&M Services of the North Plantation Key Wastewater Treatment Plant and its collection system. The North Plantation Key Wastewater Treatment Plant and Facilities will be operated for an Interim Operations Period prior to decommissioning of North Plantation Key Wastewater Treatment Plant.

A separate Minimum Staffing Plan is required for the operation and maintenance of the Wastewater facilities during the Operations Period. The staffing levels indicated for the Wastewater Facilities does not include any staffing for the NPK Wastewater Treatment Plant, which is to be taken out of service prior to the Operations Period. If the Village desires operations and maintenance of the NPK Wastewater Treatment Plant during the Operations Period, it will be handled as a Change in Scope for Operations Services. Each Minimum Staffing Plan will be effective at the time its respective components are in service and some overlap of personnel will occur.

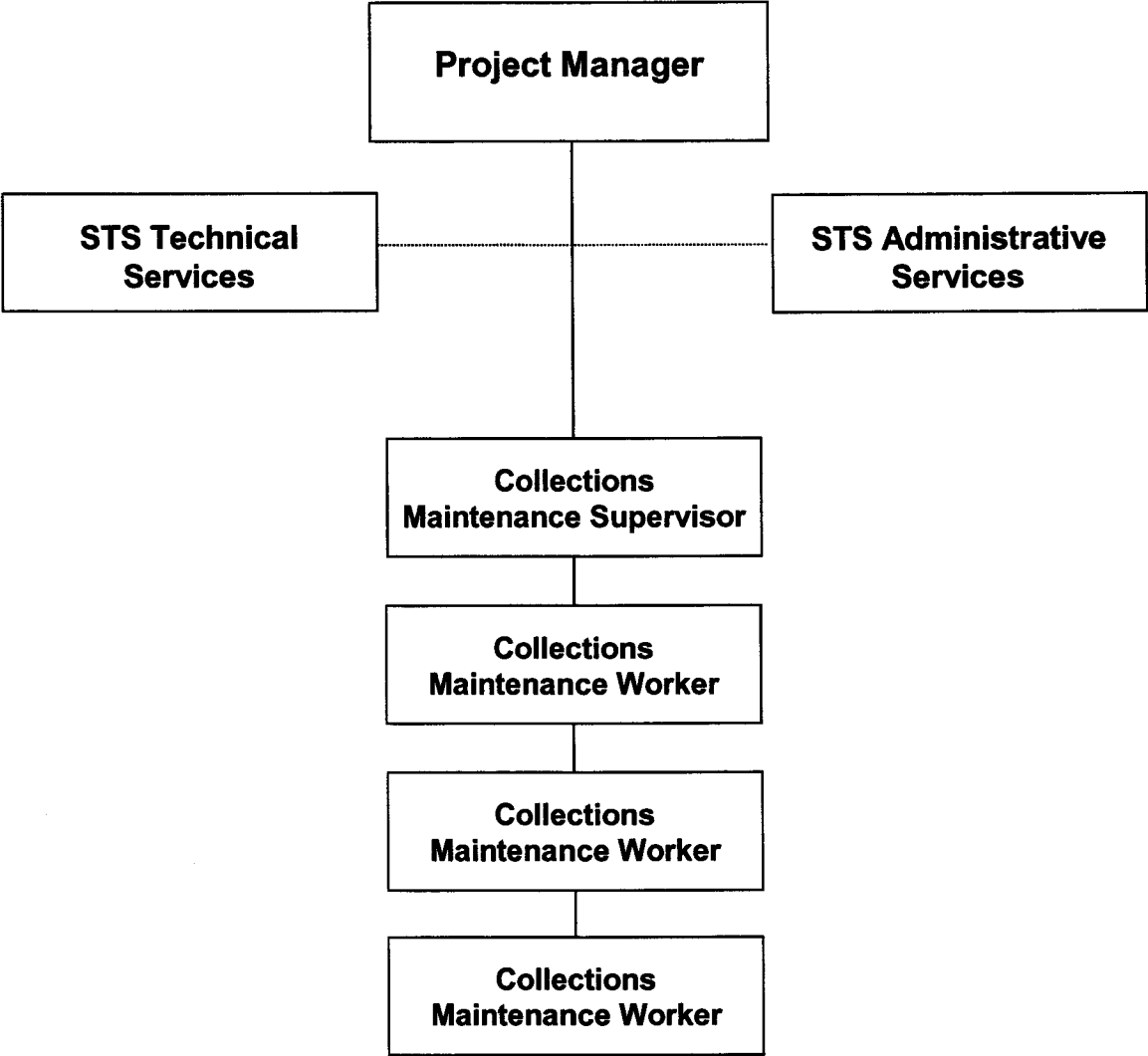
The following organization charts show the Minimum Staffing Plans for the North Plantation Key Wastewater Treatment Plant and Facilities, as well as the Wastewater Facilities.

O&M Minimum Staffing – NPK Facility with NPK and MPK Collection Systems (Interim Operation Period)



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O&M Minimum Staffing – Wastewater Facilities
(Operations Period)



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APPENDIX 11

REPAIR AND REPLACEMENT SCHEDULE

The attached Renewal and Replacement Schedule to this Appendix includes estimated costs in excess of \$1,000.00 for parts and Equipment associated with the Renewal and Replacement of Project components.

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REPLACEMENT

RENEWAL COSTS - Alternate 1.2

ISLAMORADA, FL

EQUIPMENT LISTING

Alternate 1.2

Off Island Treatment, decommission NPK, pump 100% to Key Largo

\$ 3,452,500

FACILITY Equipment Name	FACILITY & AREA	Exis/ New	Type	Duty Stry Units	Total Units	Capacity VS	Units	Head	Manufacturer	Power HP	VFD	Warranty	Unit Price	Notes	Total Price	Life Yrs	Replace Rate
ALTERNATIVE 1.2																	
LMK Vacuum Pump Station																	
Vacuum pump	LMK VPS	N		3	0	3	455 SCFM		Busch RC-0630	25.0	Y	1 Year from Commissioning	\$128,333		\$ 385,000	20	5.00%
Vacuum tank	LMK VPS	N	316 stainless s	1	0	1	2500 GAL							\$0 Incl Above	\$ -	25	4.00%
Sewage transfer pump	LMK VPS	N	N Horiz. Frame	1	1	2	324 GPM	303 FT	Cornel 4NHTB or Equal	150.0	Y	"	\$2,500	\$0 Incl Above	\$ -	25	4.00%
Supply fan/auto damper	LMK VPS	N		3	0	3	8000 SCFM		BioAir	3.0		"	\$89,750		\$ 7,500	15	6.87%
Odor Control	LMK VPS	N		1	0	1	1300 SCFM			1.5		"			\$ -	25	4.00%
Air compressor	LMK VPS	N		1	0	1				1.0		"	\$20,000	\$0 Incl Above	\$ -	25	4.00%
RTU/SCADA equipment	LMK VPS	N		1	0	1			TBD			"	\$20,000	\$0 Incl Above	\$ 20,000	25	4.00%
Flow meter	LMK VPS	N		1	0	1			Rosemount or equal			"	\$95,000		\$ -	25	4.00%
Generator	LMK VPS	N		1	0	1	250 KW		Cummins, Cat or Equal 250 kW			5 Year			\$ 95,000	25	4.00%
UMK Vacuum Pump Station																	
Vacuum pump	UMK VPS	N		3	0	3	455 SCFM		Busch RC-0630	25.0	Y	1 Year from Commissioning	\$128,333		\$ 385,000	20	5.00%
Vacuum tank	UMK VPS	N	316 stainless s	1	0	1	2500 GAL							\$0 Incl airvac	\$ -	25	4.00%
Sewage transfer pump	UMK VPS	N	N Horiz. Frame	1	1	2	324 GPM	303 FT	Cornel 4NHTB or Equal	150.0	Y	"	\$2,500	\$0 Incl airvac	\$ -	25	4.00%
Supply fan/auto damper	UMK VPS	N		3	0	3	8000 SCFM		BioAir	3.0		"	\$89,750		\$ 7,500	15	6.87%
Odor Control	UMK VPS	N		1	0	1	1300 SCFM			1.5		"			\$ 89,750	25	4.00%
Air compressor	UMK VPS	N		1	0	1				1.0		"	\$20,000	\$0 Incl airvac	\$ -	25	4.00%
RTU/SCADA equipment	UMK VPS	N		1	0	1			TBD			"	\$20,000	\$0 Incl airvac	\$ 20,000	25	4.00%
Flow meter	UMK VPS	N		1	0	1			Rosemount or equal			"	\$95,000		\$ -	25	4.00%
Generator	UMK VPS	N		1	0	1	250 KW		Cummins, Cat or Equal 250 kW			5 Year			\$ 95,000	25	4.00%
SPK Vacuum Pump Station																	
Vacuum pump	SPK VPS	N		3	0	3	455 SCFM		Busch RC-0630	25.0	Y	1 Year from Commissioning	\$106,000		\$ 318,000	20	5.00%
Vacuum tank	SPK VPS	N	316 stainless s	1	0	1	2000 GAL							\$0 Incl airvac	\$ -	25	4.00%
Sewage transfer pump	SPK VPS	N	N V. Dry Pit	1	1	2	339 GPM	73 FT	Yoemens 4103LC or equ	25.0	Y	"	\$2,500	\$0 Incl airvac	\$ -	25	4.00%
Supply fan/auto damper	SPK VPS	N		3	0	3	8000 SCFM		BioAir	3.0		"	\$89,750		\$ 7,500	15	6.87%
Odor Control	SPK VPS	N		1	0	1	1300 SCFM			1.5		"			\$ 89,750	25	4.00%
Air compressor	SPK VPS	N		1	0	1				1.0		"	\$20,000	\$0 Incl airvac	\$ -	25	4.00%
RTU/SCADA equipment	SPK VPS	N		1	0	1			TBD			"	\$20,000	\$0 Incl airvac	\$ 20,000	25	4.00%
Flow meter	SPK VPS	N		1	0	1			Rosemount or equal			"	\$95,000		\$ -	25	4.00%
Generator	SPK VPS	N		1	0	1	250 KW		Cummins, Cat or Equal 250 kW			5 Year			\$ 95,000	25	4.00%
MPK Vacuum Pump Station (Modified Wade Trim Design)																	
Vacuum pump	MPK VPS	N		3	0	3	455 SCFM		Busch RC-0630	25.0	Y	1 Year from Commissioning	\$107,667		\$ 323,000	20	5.00%
Vacuum tank	MPK VPS	N	316 stainless s	1	0	1	4000 GAL							\$0 Incl airvac	\$ -	25	4.00%
Sewage transfer pump	MPK VPS	N	N V. Dry Pit	1	1	2	440 GPM	112 FT		30.0	Y	"	\$2,500 Est.	\$0 Incl airvac	\$ -	25	4.00%
Supply fan/auto damper	MPK VPS	N		3	0	3	8000 SCFM		BioAir	3.0		"	\$89,750		\$ 7,500	15	6.87%
Odor Control	MPK VPS	N		1	0	1	1300 SCFM			1.5		"			\$ 89,750	25	4.00%
Air compressor	MPK VPS	N		1	0	1				1.0		"	\$20,000	\$0 Incl airvac	\$ -	25	4.00%
RTU/SCADA equipment	MPK VPS	N		1	0	1			TBD			"	\$20,000	\$0 Incl airvac	\$ 20,000	25	4.00%
Flow meter	MPK VPS	N		1	0	1			Rosemount or equal			"	\$95,000		\$ -	25	4.00%
Generator	MPK VPS	N		1	0	1	250 KW		Cummins, Cat or Equal 250 kW			5 Year			\$ 95,000	25	4.00%
NPK Re-pump Station																	
submersible pumps	NPK RPS	N		2	1	3	1350 GPM	165 FT	Flt 3202 180 or equal	70	Y	1 Year from Commissioning	\$71,667		\$ 215,000	20	5.00%
Mixers	NPK RPS	N		4	0	4	Use 3 existing + 1 relocated from another basin							\$0 Existing equip	\$ -	25	4.00%
Odor Control	NPK RPS	N		1	0	1	Use existing, modify for NPK RPS							\$0 Existing equip	\$ -	25	4.00%
MgOH Metering Pumps	NPK RPS	N		1	1	2	Use existing, modify for NPK RPS							\$0 Existing equip	\$ -	15	6.87%
MgOH Tank	NPK RPS	N		1	0	1	Use existing, modify for NPK RPS							\$0 Existing equip	\$ -	25	4.00%
Generator	NPK RPS	N		1	0	1	500 kW	two feeds, one for NPK RPS and one for remaining NPK VPS				\$20,000	\$150,000	\$ 20,000	\$ 150,000	25	4.00%
RTU/SCADA Equipment	NPK RPS	N		1	0	1								\$ 20,000	\$ 25	4.00%	
Flow meter	NPK RPS	N		1	0	1								\$ 7,500	\$ 25	4.00%	
COLLECTION & Transmission Systems																	
Piping and Fitting Repairs	ALL AREAS	N		All units	20	Years	Various capacities		Various as installed			1 Year from Commissioning	\$ 25,000	Annual Repair	\$ 500,000	20	5.00%
Underground Valves/Boxes	ALL AREAS	N		All units	20	Various capacities	Various as installed		Various as installed			Commissioning	\$ 5,000	Annual Repair	\$ 100,000	20	5.00%
Vacuum Pits	ALL AREAS	N		All units	20	Various capacities	Various as installed		Various as installed			"	\$ 10,000	Annual Repair	\$ 200,000	20	5.00%

REPLACEMENT & RENEWAL COSTS - Alternate 1.2

ISLAMORADA, FL		Alternate 1.2													
EQUIPMENT LISTING		\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
		0	0	0	0	0	0	0	0	0	0	0	0	0	0
		2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
FACILITY	EQUIPMENT NAME	FACILITY & AREA	Exis/ New												
				ALTERNATIVE 1.2											
LMK Vacuum Pump Station	Vacuum pump	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Vacuum tank	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Sewage transfer pump	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Supply fan/auto damper	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Odor Control	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Air compressor	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	RTU/SCADA equipment	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Flow meter	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Generator	LMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
SPK Vacuum Pump Station	Vacuum pump	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Vacuum tank	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Sewage transfer pump	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Supply fan/auto damper	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Odor Control	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Air compressor	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	RTU/SCADA equipment	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Flow meter	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Generator	UMK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
MPK Vacuum Pump Station (Modified Wade I)	Vacuum pump	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Vacuum tank	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Sewage transfer pump	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Supply fan/auto damper	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Odor Control	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Air compressor	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	RTU/SCADA equipment	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Flow meter	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Generator	MPK VPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
NPK Re-pump Station	submersible pumps	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Mixers	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Odor Control	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	MgOH Metering Pumps	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	MgOH Tank	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Generator	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	RTU/SCADA Equipment	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
	Flow meter	NPK RPS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
				\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
COLLECTION & Transmission Systems															
Piping and Fitting Repairs		ALL AREAS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
Underground Valves/Boxes		ALL AREAS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
Vacuum Pits		ALL AREAS	N	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-

REPLACEMENT RENEWAL COSTS - Alternate 1.2

[illegible]

APPENDIX 12

KEY PERSONNEL AND APPROVED SUBCONTRACTORS

12.1 PURPOSE

The purpose of this Appendix is to identify: (1) the key management and supervisory personnel proposed to be used by the Company in performing the Design/Build Work; (2) the key management and supervisory personnel proposed to be used by the Company in performing the Operation Services; and (3) those Subcontractors that the Village has approved for use by the Company in performing the Contract Services.

12.2 KEY MANAGEMENT AND SUPERVISORY PERSONNEL FOR OVERALL PROJECT MANAGEMENT

As referenced in the Agreement, certain key management and supervisory personnel were proposed and shall be used by the Company in connection with the performance of the Overall Management of the project. Such personnel are identified in the Company's organization chart(s) for the Overall Management of the Project as set forth in Attachment 12A to this Appendix. At a minimum, the key management and supervisory personnel shall include: DBO Project Director, Operations and Maintenance Program Director, or equivalents. Resumes for such key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

12.3 KEY MANAGEMENT AND SUPERVISORY PERSONNEL FOR DESIGN/BUILD WORK

As referenced in the Agreement, certain key management and supervisory personnel were proposed and shall be used by the Company in connection with the performance of the Design/Build Work. Such personnel are identified in the Company's organization chart(s) for the Design/Build Work as set forth in Attachment 12B to this Appendix. At a minimum, the key management and supervisory personnel shall include: Design/Build Project Manager, Chief Technical Officer, Engineer-of-Record, QA/QC Manager, Safety Engineer, or equivalents. Any change in the key management and supervisory personnel shall be subject to review and approval of the Village in accordance with the Agreement. Resumes for such key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

12.4 KEY MANAGEMENT AND SUPERVISORY PERSONNEL FOR OPERATION SERVICES

As referenced in the Agreement, certain key management and supervisory personnel were proposed and shall be used by the Company in connection with the performance of the Operation

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Services. Such personnel are identified in the Company's organization chart(s) for the Operations Services as set forth in Attachment 12C to this Appendix. At a minimum, the key management and supervisory personnel shall include: Operations and Maintenance Manager or equivalents. Resumes for such key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

12.5 APPROVED KEY SUBCONTRACTORS

Attachment 12D to this Appendix contains the list of Key Subcontractors that the Village has approved as of the Contract Date and the Company is permitted to engage for the Contract Services. Additional Subcontractors may also be subsequently identified and used to perform the Contract Services as provided below. At any time during the Design/Build Period or the Operation Period, as applicable, the Company may request the Village to update the list of approved Key Subcontractors. The Village will review any suggested changes to such list in accordance with the provisions of the Agreement. The Village will have the right at any time to review and revise the then-current list of approved Subcontractors in accordance with the exercise of its approval rights under the Agreement.

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Attachment 12A

Key Management and Supervisory Personnel for Overall Project Management

Resumes for key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

Wesley Self, P.E.	DBO Program Manager
Les Archer, P.E.	Lead Design Build Manager
Richard Gardner, P.E.	Operations and Maintenance Manager

MS

Attachment 12B

Key Management and Supervisory Personnel for Design/Build Work

Resumes for key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

Richard Holt, P.E.	Design Build Project Manager
Wynne Grubbs, P.E.	Engineer of Record/Design Manager
David Refling, P.E.	Project Quality Representative/Permitting Manager
Don Eckler, P.E.	Collection System Design
Terry Zaudtke, P.E.	Collection System Design
Carleton Sherrer, P.E.	Transmission System Design
Richard Crow	Construction Manager

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Attachment 12C

Key Management and Supervisory Personnel for Operation Services

Resumes for key management and supervisory personnel have been previously provided in the proposal and establish the general level of qualifications for the role identified.

Richard Gardner, P.E.	Operations and Maintenance Manager
Robert Dick	Senior Area Manager
Bob Casey	Operations Project Manager

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Attachment 12D

Approved Subcontractors

This lists the Key Subcontractors that the Village has approved as of the Contract Date and the Company is permitted to engage these Key Subcontractors for the Contract Services. This list of Key Subcontractors is not exclusive, and the Village will make every reasonable effort to promptly approve other Subcontractors, as may be submitted by the Company for approval. The Village shall have the right, to approve all Subcontractors which the Company is permitted to engage for the Design/Build Work valued in excess of five percent (5%) of the Design/Build Price, which approval shall not be unreasonably withheld.

Key Subcontractors

Layne Heavy Civil, Inc.

ARCADIS

Severn Trent Services

CPH Engineers

Eckler Engineering

Redland Company

JA LaRocco

Fountain Engineering

Arrow Directional Drilling

Overholt Construction

Conch Republic Media Group

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APPENDIX 13

INSURANCE REQUIREMENTS

13.1 Required Design/Build Period (Contract Time) Insurance

13.1.1 Insurance Coverage

The Company shall obtain, pay for and maintain, or cause to be obtained, paid for and maintained, the insurance coverage listed below during the Design/Build Period (Contract Time) in connection with the performance of the Design/Build Work without any reimbursement obligation on the part of the Village:

Professional Liability. A professional liability errors and omissions insurance policy covering negligent acts, errors or omissions arising out of the Company's professional services, which policy shall:

- (a) be in an amount no less than \$10,000,000 per claim and in the aggregate; and
- (b) be on a "claims-made" basis.

Such policy shall have a retroactive date effective before the commencement of any Design/Build Work.

Commercial General Liability. A commercial general liability insurance policy, written on an occurrence basis and covering liabilities arising out of the performance of the Design/Build Work and during the Design/Build Period, including independent contractors, products and completed products and operations, personal and advertising liability, and liability assumed under an insured contract. The policy shall not include exclusions for property damage from explosion, collapse or underground hazard, or inadvertent construction defects. The products and completed operations liability coverage shall be maintained for a period of not less than ten (10) years following (1) the Acceptance Date, or (2) if the Termination Date occurs prior to the Acceptance Date, the Termination Date. The insurance shall apply separately for each insured against whom a claim is made or a lawsuit is brought, subject only to the insurance policy limits of liability. This insurance policy shall be subject to the following limits of liability:

- \$25,000,000 per occurrence
- \$25,000,000 annual aggregate (general/project specific)
- \$25,000,000 annual aggregate (products/completed operations)

The "general" aggregate limit shall apply on a "project-specific" basis and shall not be exhausted by any claims other than claims arising out of the Design/Build Work performed under the DBO Agreement. The limit of liability requirements may be met with any combination of primary and excess coverage so long as the excess coverage is written on a "follow form" or umbrella basis.

