SCADA SYSTEM MAINTENANCE AND SUPPORT AGREEMENT

This SCADA System Maintenance and Support Agreement (the “Agreement”) is made and entered into by and between Broward County, a political subdivision of the State of Florida (“County”), and ________________________, a (type of entity and state of organization) (“Provider”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

1.1 Board. The Board of County Commissioners of Broward County, Florida.

1.2 Contract Administrator. (Water and Wastewater Operations Director) or such person’s successor as designated by County in writing.

1.3 Documentation. All manuals, user documentation, specifications, and other related materials pertaining to the Hardware that is customarily furnished to purchasers of the Equipment.

1.4 Equipment. The equipment, hardware and other property that comprises the SCADA System. Without any charge during the term of the Agreement, Provider shall supply any updates, upgrades, and releases to any software and firmware provided with the Equipment that are made available to Provider’s other customers.

1.5 Maintenance and Support Services. The maintenance and support required to maintain optimal performance of the Equipment as described in the Documentation and Exhibit C.

1.6 NRWWTP. The North Regional Wastewater Treatment Plant, located at 2401 N. Powerline Road, Pompano Beach, Florida.

1.7 On-Site. The offices of NRWWTP, 2401 N. Powerline Road, Pompano Beach, Florida.

1.8 Purchasing Director. The Broward County Purchasing Director as appointed by the Broward County Administrator.

1.9 SCADA Construction Agreement. The contract that governs the work and services relating to the replacement of the SCADA System for the NRWWTP, pursuant to RFQ ____________.

1.10 SCADA System. The Supervisory Control and Data Acquisition (SCADA) system for the Broward County regional wastewater system, constructed pursuant to the SCADA Construction Agreement and RFQ ____________, which includes: all control room servers, DMZ/WEB server,
off-line development server hardware, system and application software (as configured, tested and installed), firmware, power supplies, printers, network and ancillary equipment. The SCADA system also includes all operator workstations, support workstations, and local control panel mounted integrated display computer hardware, system and application software (as configured, tested and installed), firmware, power supplies, network, ancillary equipment, and all fiber optic, data, and other communication cabling; all existing and new control panels containing Programmable Logic Controller (PLC) based controller hardware, firmware and custom control strategy logic programs (as configured, tested and installed), signal input/output modules, power supplies, network and ancillary panel mounted wiring, equipment and devices.

1.11 **SCADA System Manager.** The single point of contact assigned on behalf of Provider to represent Provider.

1.12 **SCADA System Technician.** The trained and experienced SCADA System technician placed by the Provider at the NRWWTP for the first year of the Agreement.

1.13 **Services.** All installation, integration, programming, configuration, customization, and enhancements of the Equipment, together with necessary and appropriate consulting, training, and project management services, to complete the Statement of Work and meet County’s ongoing needs in connection with the SCADA System as specified in Exhibit A and the Documentation.

## ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

- **Exhibit A** Statement of Work
- **Exhibit B** Payment Schedule
- **Exhibit C** Maintenance and Support Services
- **Exhibit D** CBE Subcontractor Schedule
- **Exhibit E** Required Insurance Coverages
- **Exhibit F** Work Authorization Form

If there is a conflict or inconsistency between any provision contained in Articles 1 - 11 and any provision contained in any of the Exhibits, the provision of Articles 1 - 11 shall prevail and be given effect unless expressly stated to the contrary.

## ARTICLE 3. SCOPE OF SERVICES

3.1 **Scope of Work.** Provider shall perform all work specified in this Agreement, inclusive of the Exhibits. Unless stated otherwise in this Agreement, the work required of Provider includes all labor, materials and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render Provider’s performance impractical, illogical, or unconscionable.
3.2 **Support and Maintenance Services.** Provider shall provide the Maintenance and Support Services to ensure the proper functioning and optimal performance of the Equipment as set forth in the Documentation, pursuant to the terms of Exhibit C hereto (including any Optional Services to the extent elected by County). Maintenance and Support Services for the Equipment shall be invoiced and paid in accordance with the Payment Schedule set forth in Exhibit B.

3.3 **Change of Scope.** Provider acknowledges that Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this Agreement except as expressly provided herein. To the extent any goods or services under this Agreement, or the quantity thereof, are optional ("Optional Services"), County may select the type, amount, and timing of such goods or services pursuant to a Work Authorization (Exhibit F hereto) executed by the Provider and County pursuant to this Section, and provided that no such selection, when combined with those goods or services required under the Agreement, would result in a payment obligation exceeding the applicable maximum amount stated in Section 5.1. Notwithstanding anything to the contrary in the Agreement, Work Authorizations for Optional Services pursuant to this Section shall be executed on behalf of the County as follows: the Contract Administrator may execute any Work Authorization for which the total cost to County is less than $30,000.00; the Purchasing Director may execute any Work Authorization for which the total cost to the County is within the Purchasing Director’s delegated authority; any Work Authorizations above the County’s Purchasing Director delegated authority shall require Board approval. Subsequent to the full execution any Work Authorization, the Contract Administrator will issue a Notice to Proceed for those authorized Optional Services. Provider shall not commence work on any Work Authorization until after receipt of the applicable Notice to Proceed.

**ARTICLE 4. TERM AND TIME OF PERFORMANCE**

4.1 **Term.** The Agreement shall become effective on the date of Final Acceptance under the SCADA Construction Agreement (the "Effective Date"). The term of the Agreement shall be for a period of two (2) years from the Effective Date (the “Initial Term”).

4.2 **Extensions.** County shall have the option to renew this Agreement for up to three (3) additional one-year terms by sending notice thereof to Provider at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise this renewal option. In the event that unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an extension not practicable or if no extension is available, and expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate.

4.3 **Fiscal Year.** The continuation of this Agreement beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with
Chapter 129, Florida Statutes.

4.4 **Delivery.** To the extent not previously provided to County, Provider shall deliver the Equipment and Documentation to County within the timeframe specified in the applicable Work Authorization or as otherwise agreed by the parties in writing at the address to be provided by County. Transportation cost and risk, and the cost of delivery, assembly and installation, including all actions necessary to integrate the Equipment into County’s existing SCADA system, shall be the responsibility of Provider, except to the extent (if any) expressly provided in Exhibit A.

4.5 **Final Acceptance.** Within thirty (30) days following delivery or completion of services under a Work Authorization, County shall test the Equipment, with the assistance of its Enterprise Technology Services (“ETS”) to the extent applicable under Broward County Administrative Code Section 22.148, to determine whether the Equipment: (i) properly functions with the applicable operating software; (ii) provide the capabilities stated in this Agreement and the Documentation; and (iii) if applicable, meet the Acceptance Criteria stated in the applicable Statement of Work (the criteria referenced in (i), (ii), and (iii) are collectively referred to as the criteria for “Final Acceptance”). In the event of a conflict between the Acceptance Criteria and the Documentation, the Acceptance Criteria shall prevail.

4.6 If the Equipment fails to receive Final Acceptance within the time stated in the Work Authorization, County shall have the option to terminate the Agreement by written notice from its Contract Administrator, in which event Provider shall, within fifteen (15) days, pick up the Equipment at Provider's expense and reimburse all sums paid by County under this Agreement, if any. For purposes of this paragraph, any delays caused by County prior to Final Acceptance shall extend the Final Acceptance deadline by the same number of days as the delay caused by County.

4.7 Time is of the essence for all performance required under this Agreement.

**ARTICLE 5.  COMPENSATION**

5.1 For the Initial Term, County will pay Provider up to a maximum amount as follows:

<table>
<thead>
<tr>
<th>Services/Goods</th>
<th>Term</th>
<th>Not-To-Exceed Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment</td>
<td>Initial Term</td>
<td>$</td>
</tr>
<tr>
<td>Maintenance and Support Services</td>
<td>Initial Term</td>
<td>$</td>
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<tr>
<td>Each optional renewal term</td>
<td>Each 1-year renewal term</td>
<td>$</td>
</tr>
<tr>
<td>Optional Services</td>
<td>Duration of the Agreement (inclusive of any renewals)</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL NOT TO EXCEED</td>
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<td>$</td>
</tr>
</tbody>
</table>

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by
Provider as full compensation for all such work. Provider acknowledges that the amounts set forth herein are the maximum amounts payable for the respective terms and constitute a limitation upon County's obligation to compensate Provider for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Provider's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Provider shall not be reimbursed for any expenses it incurs under this Agreement.

5.2 Method Of Billing And Payment

5.2.1 Provider may submit invoices only for goods provided and services completed in accordance with the Payment Schedule set forth in Exhibit B. An original plus one copy of each invoice must be submitted within fifteen (15) days after the end of the month for which payment is sought, except that the final invoice must be submitted no later than sixty (60) days after all services are completed. Provider shall submit with each invoice a Certification of Payments to Subcontractors and Suppliers on the form provided by County, as may be modified in County’s reasonable discretion. If applicable, the certification shall be accompanied by a copy of the notification sent to each subcontractor and supplier listed in item 2 of the certification form, explaining the good cause why payment has not been made.

5.2.2 County shall pay Provider within thirty (30) days of receipt of Provider's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49). To be deemed proper, an invoice must comply with all requirements set forth in this Agreement and must be submitted pursuant to any instructions prescribed by the Contract Administrator. County shall have the right to withhold payment of the invoice based on Provider’s failure to comply with any term, condition, or requirement of this Agreement. The parties hereto agree that any amounts so withheld shall not be subject to payment of any interest by County.

5.2.3 Unless a shorter period is required under applicable law or under the applicable contract, Provider shall pay its CBE subcontractors and suppliers within fifteen (15) days following receipt of payment from County and shall pay all other subcontractors and suppliers within thirty (30) days following receipt of payment from County.

5.3 Payment shall be made to Provider at the most recent address designated under the "Notices" provision of this Agreement.

5.4 Travel. With respect to travel costs and travel-related expenses, Provider agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit B expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by County.
5.5  **Fixed Pricing.** Prices shall remain firm and fixed for the term of the Agreement, including any option terms. However, Provider may offer incentive or volume discounts to County at any time.

**ARTICLE 6. WARRANTIES AND PROPRIETARY RIGHTS**

6.1  **Ownership.** Provider represents and warrants that it is the owner of all right, title, and interest in and to the Equipment and other property being sold to County under this Agreement, that it has the right to sell such Equipment and other property to County, and that such sale is free and clear of any lien or interest of any other person or entity.

6.2  **Warranty.** Provider represents and warrants to County that for a period of one (1) year from the date of Final Acceptance under the applicable Work Authorization, the Equipment when properly installed will perform substantially as described in the Documentation and the Statement of Work (Exhibit A), will be free from defects in workmanship and material, and will have all of the qualities and features and be capable of performing all of the functions described in the Documentation and Statement of Work. This warranty shall not cover any failure of the Equipment resulting from (a) use of the Equipment in other than the manner for which it was intended; or (b) modification of the Equipment by County not authorized by Provider.

6.3  **Remedy for Breach of Warranty.** In the event of written notice from County of a breach of warranty, Provider will, at no charge to County, promptly correct the breach by either (a) correcting or updating Equipment, or (b) providing to County other measures that correct the breach. In addition, upon notice from County of any error or defect in the Equipment, Provider will immediately provide to County any known reasonable methods of operating the Equipment in a manner that eliminates the adverse effects of the error or defect. Any replacement Equipment will be warranted for one (1) year from the date it is installed. The remedies in this Section are in addition to any other rights and remedies County may have under this Agreement or applicable law. If Provider is unable to correct a material warranty breach within a reasonable period of time not to exceed ten (10) business days, County may terminate the Agreement as to the applicable Work Authorization by written notice from its Contract Administrator, in which event Provider shall, within fifteen (15) days, facilitate a return of the Equipment at Provider’s expense and reimburse all sums paid by County under this Agreement as to the applicable Work Authorization, if any, and neither party shall have any further obligation to the other except as to any provision of the Agreement that expressly survives the Agreement’s termination or expiration.

6.4  **Intellectual Property Warranty.** Provider represents and warrants that at the time of entering into this Agreement, no claims have been asserted against Provider (whether or not any action or proceeding has been brought) that allege that any part of the Equipment or other property provided to County under this Agreement infringes or misappropriates any patent, copyright, mask copyright, or any trade secret or other intellectual or proprietary right of a third party, and that Provider is unaware of any such potential claim. Provider also agrees, represents
and warrants that the Equipment will not infringe or misappropriate any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party.

6.5 Warranty Regarding Viruses. Provider further represents and warrants that any software or firmware provided under this Agreement is free from currently-known viruses or malicious software (at the time the software and any subsequent version thereof is provided to County) and that Provider has used commercially reasonable security measures to ensure the integrity of such software and firmware from data leaks, hackers, denial of service attacks, and other unauthorized intrusions.

ARTICLE 7. INDEMNIFICATION AND LIMITATION OF LIABILITY

7.1 Indemnification. Provider shall be fully liable for the actions of its current and former officers, employees, subcontractors and other agents under this Agreement. Provider shall at all times hereafter indemnify, hold harmless and defend County and all of County’s current and former officers, employees and other agents (collectively, “Indemnified Party”) from and against any and all lawsuits, causes of action, demands, claims, losses, fines, penalties, damages, judgments, liabilities, and expenditures, of any kind, including attorneys’ fees, litigation expenses, and court costs (collectively, “Claim”), raised or asserted by any person or entity that is not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Provider or any current or former officer, employee, subcontractor or other agent of Provider, arising from, relating to, or in connection with any obligation or performance under this Agreement. In the event any Claim is brought against an Indemnified Party, Provider shall, upon written notice from County, defend each Indemnified Party against each such Claim through counsel satisfactory to County or, at County’s option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the County Attorney, in his or her reasonable discretion, any sums due Provider under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been resolved. Any sums so withheld shall not be subject to the payment of interest by County.

7.2 Limitation of Liability. Neither Provider nor County shall be liable to the other party for any damages under this Agreement that exceed the largest of the following amounts: (a) $100,000; (b) twice the maximum compensation amount specified in section 5.1 above; or (c) the amount of insurance Provider is required to provide under Article 11 below. Neither party shall be liable for the other party’s special, indirect, punitive, or consequential damages (including damages resulting from lost data or records, other than costs incurred in the recovery thereof), even if the party has been advised that such damages are possible, or for the other party’s lost profits, lost revenue, or lost institutional operating savings. These limitations of liability shall not apply to (i) any Claim resulting from Provider’s actual or alleged disclosure of County Confidential Information or resulting from an actual or alleged data breach in violation of applicable law, (ii) any Claim resulting from an actual or alleged infringement of any interest in any intellectual property, or (iii) any indemnification obligation under this Agreement.
ARTICLE 8. INSURANCE

8.1 Provider shall maintain at its sole expense, on a primary basis, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit E in accordance with the terms and conditions stated in this Article.

8.2 Such policies shall be issued by companies authorized and licensed to transact business in Provider’s home state and rated at least “A-” by A.M. Best Co., unless otherwise approved in writing by County. If any deductible amounts are permitted in Exhibit E, Provider shall be responsible for the payment of all such deductible amounts.

8.3 Provider agrees to list County as an additional insured under Provider’s commercial liability insurance policy and any excess liability insurance policy. The listed certificate holder on these policies shall be “Broward County.”

8.4 Coverage shall be provided on forms no more restrictive than the latest edition of the applicable forms filed by the Insurance Services Office.

8.5 Provider shall notify County in writing within thirty (30) days after Provider learns of any claim against Provider's professional liability insurance policy in which total damages plus defense costs incurred to date exceed $250,000.

8.6 Within fifteen (15) days of execution of this Agreement, Provider shall provide County with proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declarations pages, or insurance policies. Failure to timely provide acceptable proof of insurance, as determined by County, shall entitle County to terminate this Agreement without any liability to Provider.

8.7 All insurance policies required under this Article must expressly provide County with at least thirty (30) days' prior written notice of expiration, cancellation, or restriction of coverage. Provider shall provide certified copies of any policy to County upon County’s request.

8.8 If Provider subcontracts any work under this Agreement, Provider shall ensure that each subcontractor names County as an additional insured under the subcontractor’s general liability insurance policy and any excess coverage policies.

ARTICLE 9. TERMINATION

9.1 This Agreement may be terminated for cause based on any breach that is not cured within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board upon providing written notice to Provider of the termination date, which shall be not less than thirty (30) days after the date
such written notice is provided. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, to the full extent permissible under applicable law, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

9.2 County may terminate this Agreement if Provider is found to have submitted a false certification pursuant to Section 287.135, Florida Statutes, if Provider has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Provider has failed to promptly implement corrective action for audit deficiencies upon reasonable notice by County. Notwithstanding anything contained in this Agreement to the contrary, the rights and obligations of the parties under this paragraph shall be governed by Section 287.135, Florida Statutes, to the full extent applicable.

9.3 Provider represents that neither it nor any of its affiliates has been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes. County may terminate this Agreement effective immediately, without any further obligation to Provider, upon learning that such representation is false or if Provider or any of its affiliates is placed on the discriminatory vendor list.

9.4 Additionally, and notwithstanding anything to the contrary in this Agreement, County may terminate this Agreement without any further liability to Provider upon the decertification of Provider as a Certified Business Entity ("CBE") by County’s Office of Economic and Small Business Development ("OESBD"), if Provider’s status as a CBE was a factor in the award of the Agreement and such status was misrepresented by Provider. However, such termination shall not be effective until expiration of any timely-filed review or appeal of the decertification decision.

9.5 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

9.6 In the event this Agreement is terminated for convenience, Provider shall be paid for any goods and services properly provided through the termination date specified in the written notice of termination. Provider acknowledges that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Provider, for County’s right to terminate this Agreement for convenience, and Provider hereby waives, to the full extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County’s right to terminate for convenience.

**ARTICLE 10. EEO and CBE COMPLIANCE**

10.1 Provider may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, except that any project assisted
by U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26. Provider shall include substantially similar language in its contracts with any and all permitted subcontractors or sub-consultants.

10.2 Provider shall comply with all applicable requirements of County’s CBE Program, established by the Broward County Business Opportunity Act of 2012, in performing this Agreement. Provider acknowledges that the Board, acting by and through the Director of the OESBD, may make administrative modifications to the CBE Program which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Provider and shall include a deadline for Provider to notify County if Provider concludes that the modification exceeds the authority of this paragraph. Failure of Provider to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance by Provider of the modification.

To the extent Provider is subcontracting any work under this Agreement, Provider shall make a good faith effort to include CBE firms in work resulting from any amendment, extension, modification, or change order to the Agreement, and shall report such efforts, along with evidence thereof, to the OESBD.

10.3 The Parties acknowledge that subcontract awards to CBE firms are crucial to the achievement of any CBE participation goal established for this Agreement. Provider understands that each CBE firm utilized on the Project to meet the participation goal must be certified by the OESBD. Provider will meet the following CBE participation goal by subcontracting with CBE firms for work performed under this Agreement:

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<tr>
<th>Total CBE Goal</th>
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Whenever a subcontract with a CBE firm is terminated for any reason, including for cause, Provider shall, with notice to the OESBD, substitute another CBE firm in order to meet the Total CBE Goal referenced above. Such substitution shall not be required if the termination results from County changing the Scope of Work hereunder and there is no available CBE to perform the newly included work.

10.4 To meet the Total CBE Goal, Provider agrees to enter into subcontracts with the CBE firms listed in Exhibit E, covering the amount and scope of work also listed on that exhibit. Within ten (10) days after the Effective Date, Provider shall provide a complete copy of each executed CBE subcontract to the Contract Administrator and the OESBD.

10.5 Provider shall allow County to engage in on-site reviews to monitor Provider’s progress in achieving and maintaining its contractual and CBE Program obligations. Such review and monitoring shall be by the Contract Administrator in conjunction with the OESBD. Provider shall also provide County with sufficient access to Provider’s books and records to enable County to
determine Provider’s ongoing compliance with its commitment to the CBE participation goal and the status of any CBE firm performing any portion of this Agreement.

10.6 To further enable County to monitor compliance with the CBE goal, Provider shall report monthly regarding compliance with its CBE obligations in accordance with Section 5.2 of this Agreement.

10.7 If Provider fails to timely pay any CBE firm as required by Subsection 5.2 of this Agreement, in addition to all other available remedies, County’s Contract Administrator may, at County’s sole discretion, withhold payments to Provider until Provider pays any overdue amounts to the CBE firm. The parties agree that County shall not be required to pay any interest in connection with any such withheld payments. The right to withhold payments stated in this paragraph shall not apply when Provider demonstrates that it has not paid such CBE firm because of a breach of contract by that firm.

10.8 If Provider fails to comply with the CBE-related requirements of this Agreement or the requirements of the Broward County Business Opportunity Act of 2012, County shall have the right to exercise any remedies provided under the Broward County Business Opportunity Act of 2012, the Broward County Administrative Code, this Agreement, or applicable law, with all such remedies being cumulative.

ARTICLE 11. MISCELLANEOUS

11.1 Rights In Documents And Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement shall be and remain the property of County and, if a copyright is claimed, Provider hereby grants to County a non-exclusive perpetual license to use the copyrighted item(s), to prepare derivative works, and to make and distribute copies to the public. In the event of termination or expiration of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Provider, whether finished or unfinished, shall become the property of County and shall be delivered by Provider to the Contract Administrator within seven (7) days of termination or expiration of this Agreement by either party.

11.2 Audit Right And Retention Of Records. Provider shall, by written contract, require its subcontractors to agree to all the requirements and obligations contained in this Section 11.2.

11.2.1 County shall have the right to audit the books, records, and accounts of Provider and its subcontractors that are related to this Agreement. Provider and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Provider and its subcontractors shall preserve and make available at reasonable times, for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or for three (3) years after termination of this Agreement,
whichever is longer. If any audit has been initiated and audit findings have not been resolved at the end of the applicable retention period, the books, records, and accounts shall be retained until resolution of the audit findings.

11.2.2 To the extent Provider is acting on behalf of the County as stated in Section 119.0701, Florida Statutes, the Provider shall:

a. Keep and maintain public records that ordinarily and necessarily would be kept and maintained by County were County performing the services under this Agreement;

b. Provide the public with access to such public records on the same terms and conditions that County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

d. Meet all requirements for retaining public records and transfer to County, at no cost, all public records in possession of Provider upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to County in a format that is compatible with the information technology systems of County.

The failure of Provider to comply with the provisions of this Section 11.2.2 shall constitute a material breach of this Agreement entitling the County to exercise any remedy provided in this Agreement or under applicable law.

11.3 Truth-In-Negotiation Representation. Provider’s compensation under this Agreement is based upon representations supplied to County by Provider, and Provider certifies that the information supplied is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.

11.4 Public Entity Crime Act. Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Provider further represents that there has been no determination that it committed a “public entity crime” as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Provider has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Provider under this Agreement.
11.5 **Independent Contractor.** Provider is an independent contractor under this Agreement. Provider shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.6 **Third Party Beneficiaries.** The parties acknowledge that there are no third party beneficiaries under this Agreement.

11.7 **Notices.** In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

**NOTICE TO COUNTY:**  
Broward County ____________  
Attn:  
115 S. Andrews Ave., Suite _____  
Ft. Lauderdale, Florida 33301  
Email address:

**NOTICE TO PROVIDER:**  
__________________________  
__________________________  
Email address:

11.8 **Assignment And Performance.** Except for subcontracting approved by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Provider without the prior written consent of County. If Provider violates this provision, County shall have the right to immediately terminate this Agreement. Provider represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. Provider agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

11.9 **Conflicts.** Provider agrees that neither it nor its employees will have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Provider’s loyal and conscientious exercise of the judgment and care required to perform under this Agreement. Provider further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Provider is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or
11.10 **Waiver Of Breach.** The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach under this Agreement shall not be deemed a waiver of any subsequent breach.

11.11 **Compliance With Laws.** Provider shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement.

11.12 **Severability.** In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.13 **Joint Preparation.** This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

11.14 **Headings And Interpretation.** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.

11.15 **Governing Law, Venue And Waiver Of Jury Trial.** This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PROVIDER AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**

11.16 **Amendments.** No modification or amendment to this Agreement shall be effective unless it is in writing and executed by authorized representatives of each party. Without limiting the foregoing, the terms of this Agreement shall prevail over and against any additional or contrary terms and conditions in any format or medium whatsoever including, without limitation,
shrinkwrap, click-through, or terms and conditions associated with any upgrade, update, release, patch, or other modification, unless expressly agreed to in writing by an amendment hereto executed by authorized representatives of each party.

11.17 **Prior Agreements.** This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

11.18 **HIPAA Compliance.** It is understood by the parties that County personnel or their agents have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 C.F.R. § 160, 162, and 164 and related statutory and regulatory provisions. In the event Provider is considered by County to be a covered entity or business associate or otherwise required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Provider shall fully protect individually identifiable health information as required by HIPAA and, if requested by County, shall execute a Business Associate Agreement in the form provided by County. Where required, Provider shall handle and secure such PHI in compliance with HIPAA and its related regulations and, if required by HIPAA or other laws, shall include in its "Notice of Privacy Practices" notice of Provider’s and County’s uses of a client's PHI. The requirement to comply with this provision and HIPAA shall survive the expiration or termination of this Agreement. County hereby authorizes the County Administrator to sign Business Associate Agreements if required under this Agreement.

11.19 **Payable Interest.**

11.19.1 **Payment of Interest.** County shall not be liable to pay any interest to Provider for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Provider waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim interest, including for post-judgment interest, if such application would be contrary to applicable law.

11.19.2 **Rate of Interest.** If, for whatever reason, Section 11.19.1 is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

11.20 **Incorporation By Reference.** Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.

11.21 **Representation Of Authority.** Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is, on the date of execution, duly authorized
by all necessary and appropriate action to execute this Agreement on behalf of such party and
does so with full legal authority. Provider represents that it is an entity authorized to transact
business in the State of Florida.

11.22 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions
of Section 16½-157 of the Broward County Code of Ordinances, which requires County
contractors to provide benefits to domestic partners of their employees, Provider agrees to fully
comply with Section 16½-157 during the entire term of the Agreement. If Provider fails to fully
comply with that section, such failure shall constitute a material breach which shall allow County
to exercise any remedy available under this Agreement, under applicable law, or under section
16½-157. For that purpose, the contract language referenced in Section 16½-157 is incorporated
herein as though fully set forth in this paragraph.

11.23 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with
firms that certify the establishment of a drug-free workplace in accordance with Chapter
21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by Provider
shall serve as Provider's required certification that it has or will establish a drug-free work place
in accordance with Section 287.087, Florida Statutes, and Chapter 21.31(a)(2) of the Broward
County Procurement Code, and that it will maintain such drug-free workplace for the full term of
this Agreement.

11.24 Contingency Fee. Provider represents that it has not paid or agreed to pay any person or
entity, other than a bona fide employee working solely for Provider, any fee, commission,
percentage, gift, or other consideration contingent upon or resulting from the award or making
of this Agreement. If County learns that this representation is false, County shall have the right
to terminate this Agreement without any further liability to Provider. Alternatively, if such
representation is false, County, at its sole discretion, may deduct from the compensation due
Provider under this Agreement the full amount of such fee, commission, percentage, gift, or
consideration.

11.25 Living Wage Requirement. If Provider is a "covered employer" within the meaning of the
Broward County Living Wage Ordinance, Broward County Code sections 26-100 – 26-105,
Provider agrees to and shall pay to all of its employees providing "covered services," as defined
therein, a living wage as required by such ordinance, and Provider shall fully comply with the
requirements of such ordinance. Provider shall be responsible for and shall ensure that all of its
subcontractors that qualify as “covered employers” fully comply with the requirements of such
ordinance.

11.26 County Confidential Information. All County-provided employee information, financial
information, and personally identifiable information for individuals or entities interacting with
County (including, without limitation, social security numbers, birth dates, and banking and
financial information and other information deemed exempt or confidential under state or
federal law) constitutes County Confidential Information. County Confidential Information may
not, without the prior written consent of County or as otherwise required by law, be used by
Provider or its employees, agents, subconsultants or suppliers for any purpose other than for the benefit of County pursuant to this Agreement. Additionally, Provider expressly agrees to be bound by and to defend, indemnify and hold harmless County and its officers and employees from the breach of any federal, state or local law by Provider or its employees, agents, subconsultants or suppliers regarding the unlawful use or disclosure of County Confidential Information. Unless otherwise requested by County, upon expiration of termination of this Agreement, Provider shall immediately turn over to County all County Confidential Information existing in any form, tangible or intangible, and no copies thereof shall be retained by Provider or its employees, agents, subconsultants or suppliers. It is understood and agreed that in the event of an actual or threatened breach of this paragraph, damages will not be an adequate remedy and the County shall be entitled to injunctive relief to restrain or remedy any such breach or threatened breach. The obligations under this paragraph shall survive the termination or expiration of this Agreement.

11.27 **Force Majeure.** If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

11.28 **Miscellaneous.** Provider shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

11.29 **Counterparts.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of ________________, 2015, and PROVIDER, signing by and through its ________________, duly authorized to execute same.

COUNTY

ATTEST: BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as Ex-officio Clerk of the Broward County Board of County Commissioners

By: ________________

___ day of ________________, 20___

Insurance requirements approved by
Broward County
Risk Management Division:

By: ________________

Name: ________________

Title: ________________

By: ________________

René D. Harrod (Date)
Assistant County Attorney

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney

Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telexcopier: (954) 357-7641

RDH
2014-11-26 WWS SCADA Hardware and Maintenance Agreement
11/26/2014
#14-099.00
WITNESSES:

__________________________________________
Signature

__________________________________________
Print Name of Witness above

__________________________________________
Signature

__________________________________________
Print Name of Witness above

By: ________________________________________
Authorized Signor

__________________________________________
Print Name and Title

_____ day of __________, 20___

ATTEST:

__________________________________________
Print Name of Witness above

__________________________________________
Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)
Exhibit A – Statement of Work

Provider will provide Maintenance and Support Services pursuant to Exhibit C for the Equipment that comprises the SCADA System, which Equipment is located at the following locations:

(a) Operations Center: 2555 W. Copans Road, Pompano Beach, Florida.

(b) North Regional Wastewater Treatment Plant: 2401 N. Powerline Road, Pompano Beach, Florida.

(c) Regional Master Pump Stations (MPS) and related Master Meters:

Master Pump Stations:

MPS 410
3901 NW 8 Place
(SE Corner St. Road 7 & Sunrise Blvd.)
Lauderhill, FL 33311

MPS 220
1119 Hillsboro Mile (A1A)
Hillsboro Beach, FL

MPS 224
4115 NE 22 Ave
Lighthouse Point, FL

MPS 221
1961 NE 48 St.
Pompano Beach, FL

MPS 226
2600 NE 16 Ave/
Pompano Beach, FL

MPS 440
200 Goolsby Blvd.
Deerfield Beach, FL

MPS 450
3710 N. State Rd. 7
(Inside Water Treatment Plant 1A)
Lauderdale Lakes, FL

MPS 451
300 NW 66 St.
(Old Palmdale WTP).
Fort Lauderdale, FL 33309

MPS 452
2101 NW 49 Ave
Lauderhill
(Inside Lauderhill WTP)

MPS 453
3025 NE 11th Ave
Lauderhill

MPS 454
4201 W. Commercial Blvd.
Tamarac, FL

MPS 455
6113 NW 77 Way
Tamarac, FL

MPS 456
7001 SW 17 St.
Broadview
North Lauderdale, FL 33068

MPS 457
610 SW 71 Ave.
Rock Island Road
N. Lauderdale, FL 33068

MPS 458
901 SW 71 Ave-Rock Island Road
N. Lauderdale, FL 33068

Septage Receiving Facility
3100 N. Powerline Rd.
Pompano Beach, FL

MPS 460
12000 NW 40 St.
Coral Springs, FL

MPS 462
3800 NW 85 Ave
Coral Springs, FL
(Inside Coral Springs, FL)
1. Training

SCADA SYSTEM TRAINING

A. Provider shall provide on-site training at a location selected by County for up to 15 County personnel/invited guests once annually for five (5) days (which shall not exceed two round-trips) on mutually agreed upon dates for annual training and updates on the SCADA System. Where practicable, and as agreed by the County, the training shall include any curriculum that results in certifications, required or offered by or recommended by the SCADA software manufacturer.

B. Provider shall provide all equipment, training and presentation materials for 15 attendees.

C. Instructors, all necessary equipment, and training and presentation materials shall be provided by Provider at no additional cost.

D. Provider shall submit a detailed training agenda to the County for review and approval 120 calendar days prior to the planned annual training.

E. Provider shall submit the resume(s) of the proposed instructional staff for County review and approval at least 120 calendar days prior to the planned annual training. Proposed instructors shall have not less than three (3) years of experience with the SCADA software in water and wastewater treatment plant applications.

ALLEN BRADLEY SOFTWARE AND EQUIPMENT TRAINING

A. Provider shall provide on-site training at a location selected by County for up to 15 County personnel/invited guests once annually for five (5) days (which shall not exceed 2 roundtrips) on mutually agreed upon dates, for annual training and updates on Allen Bradley PLC, SCADA programming, and software and equipment maintenance.

B. Provider shall provide Allen Bradley certified and approved trainers.

C. Annual training shall consist of Allen Bradley approved training courses that progress through the approved Allen Bradley certifications for PLCs, SCADA software and related equipment. The certification courses and progressions shall be mutually agreed to by Provider and County 180 calendar days prior to the planned training.

D. If the approved Allen Bradley certification training is less than five (5) days in length, County shall select from the Allen Bradley training curriculum regularly offered by Provider for the balance of the 5 day training period.

E. Provider shall provide all equipment, training and presentation materials for 15 attendees.

F. Instructors, all necessary equipment, and training and presentation materials shall be provided by Provider at no additional cost.

G. Provider shall submit a detailed training agenda to the County for review and approval 120 calendar days prior to the planned annual training.

2. New Work

CONSULTING AND PROFESSIONAL SERVICES FOR OTHER NRWWTP CAPITAL CONSTRUCTION
Periodically the County will expand or modify the Regional Wastewater System, the NRWWTP or related subsystems (hereinafter referred to as “New Work”). The New Work may necessitate commensurate modifications, integrations, or updates of the SCADA System to accommodate the New Work. In order to assure unit responsibility on the part of the contractor responsible for the New Work, these modifications, integrations, or updates to the SCADA System will be performed by the Provider through a subcontract with the contractor selected by the County (and not through this Agreement).

The Provider shall submit identical fair market proposals directly to all potential contractors preparing bids for such work in accordance with the applicable deadline(s) as may be set by County (“Proposal Due Date”). Proposals shall be lump sum (unless otherwise specified in the bid document) for all necessary SCADA System work identified and delineated as the proprietary work of the Provider in the bid plans and specifications for any New Work. The Provider, as subcontractor for the New Work, shall accept the then-current standard Broward County terms and conditions without exceptions or changes in the applicable agreement for Provider’s services relating to the New Work.

Provider’s time and effort to cooperate and collaborate with the County’s design consultant in the development of plans and specifications during design and to prepare and provide fair market proposals to potential contractors relating to the New Work shall be the “New Work Flat Fee” as stated in Exhibit B. The New Work Flat Fee constitutes a one time, single payment, for the term of this Agreement, for full and final consideration for the obligation to provide the services required by this section. Such New Work Flat Fee is in compensation for the ongoing obligation to support design effort and develop fair market proposals for presently unspecified projects.

If the Provider fails to submit fair market proposals to potential contractors on or before the Proposal Due Date, the Provider will be assessed liquidated damages in the amount of $1,500.00/day for each day beyond the Proposal Due Date. In the event Provider fails to comply with the provisions of this section for more than thirty (30) days after written notice by County of non-compliance with this section, County may upon written notice terminate this Agreement in part or in its entirety with all liquidated damages incurred prior to the effective date of termination due immediately.

3. Optional Services:

A. OPTIONAL MAINTENANCE SERVICES

County may elect by issuance of an appropriate Work Authorization to engage Provider to perform Preventive Maintenance (Exhibit C, Section C), SCADA System Software Updating and Testing (Exhibit C, Section D), and/or Corrective and Preventive Maintenance of Allen Bradly Programmable Logic Controllers (Exhibit C, Section E) as set forth more fully in the application section of Exhibit C.

B. SPECIAL PROJECTS

County may authorize special projects not expressly covered under the scope of services. Provider shall work with the County to develop and agree on a detailed scope, time for performance, and deliverables for Special Projects. The fee for Special Projects shall be developed from a negotiated level of effort. The hourly rates for the Provider’s staff shall be as stated in Exhibit B. Hardware to support Special Projects, if not provided by the County, shall be provided on a pass-through basis.
C. TRANSITION & DISENTANGLEMENT SERVICES

The parties acknowledge and agree that upon the expiration or termination of this Agreement, the good faith efforts of Provider to facilitate the smooth, efficient, and secure transition of data and services to another provider (or to County, to the extent applicable) without any unnecessary interruption or adverse impact on County operations (“Disentanglement”) is a critical objective of the parties and a material obligation of Provider under this Agreement. All obligations of Provider under this Agreement shall be construed consistent with this objective.

At request of County, Provider shall provide prompt, good faith, and reasonable assistance to County in disentangling County data, business, and operations from the Equipment and, to the extent applicable, transitioning to a new software, system, or provider.
Exhibit B – Payment Schedule

The rates specified below shall be in effect for the entire term of the Agreement, including any renewal term, unless the contrary is expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

Any per diem living expenses or fees incurred by Provider under this Agreement shall be the sole responsibility of Provider, unless otherwise expressly agreed by the Parties in writing. Any travel expenses or fees incurred by Provider under this Agreement shall be the sole responsibility of Provider, unless otherwise expressly agreed by the Parties in writing.

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Hardware Description</th>
<th>Invoiced</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provider-manufactured SCADA Equipment</td>
<td>Upon Final Acceptance under the applicable Work Authorization</td>
<td>Per Equipment Price List (Attachment 1 hereto)</td>
<td></td>
</tr>
<tr>
<td>Third-party manufactured SCADA Equipment</td>
<td>Upon Final Acceptance under the applicable Work Authorization</td>
<td>Costs solely on Pass-Thru Basis*</td>
<td></td>
</tr>
</tbody>
</table>

* Provider will charge County for third-party manufactured Equipment solely on a Pass-Thru Basis, meaning that Provider will charge County the same price that Provider actually pays its suppliers for the Equipment, including freight and taxes. A copy of the Provider’s invoice(s) from supplier of such parts and materials shall be submitted upon request by County with the Provider’s invoice for payment.

Provider may update the Equipment Price List no more than annually effective upon each anniversary of the Effective Date, provided that Provider provides County with notice at least 90 days prior to the anniversary of the updated Equipment Price List. The Equipment Price List shall be consistent with or lower than any published price lists by the Provider and no higher than the Provider charges its most favored customer. Failure to submit the updated Equipment Price List at least 90 days prior to the anniversary date will result in the existing list remaining in effect for the ensuing year. Additional Equipment may be added to the Equipment Price List at any time during the term of the Agreement upon written notice to County, provided that such additional does not affect any increase in prices of existing listed components.
## Maintenance and Support Services

<table>
<thead>
<tr>
<th>Year / Term</th>
<th>Specific Maintenance Services</th>
<th>Unit</th>
<th>Invoicing</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>On-Site Support (Exhibit C, Section A)</td>
<td>Annually (commencing after Final Acceptance)</td>
<td>Monthly in arrears</td>
<td>$____/annually</td>
</tr>
<tr>
<td>Initial Term</td>
<td>Corrective Maintenance (Exhibit C, Section B)</td>
<td>Annually (commencing after expiration of one-year warranty)</td>
<td>Monthly in arrears</td>
<td>$____/annually</td>
</tr>
<tr>
<td></td>
<td>Preventative Maintenance (Exhibit C, Section C)</td>
<td>Annually (commencing after expiration of one-year warranty)</td>
<td>Monthly in arrears</td>
<td>$____/annually</td>
</tr>
<tr>
<td>Year 2 of Initial Term &amp; any 1-year optional renewal terms</td>
<td>SCADA System Software Updating and Testing (Exhibit C, Section D)</td>
<td>Annually</td>
<td>Quarterly in arrears</td>
<td>$____/annually</td>
</tr>
<tr>
<td>Any annual term (if elected by County)</td>
<td>Corrective and Preventive Maintenance of Allen Bradley Programmable Logic Controllers (Exhibit C, Section E)</td>
<td>Annually</td>
<td>Monthly in arrears</td>
<td>$____/annually</td>
</tr>
</tbody>
</table>

## Training

<table>
<thead>
<tr>
<th>Description</th>
<th>Users/Seats</th>
<th>Invoicing</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCADA System Training Annual Training (5 days of on-site Training, max of two trips)</td>
<td>15 Seats</td>
<td>Upon completion</td>
<td>$____/day (includes all training equipment, materials and travel)</td>
</tr>
<tr>
<td>Allen Bradley Software and Equipment Training Annual Training (5 days of on-site Training, max of two trips)</td>
<td>15 Seats</td>
<td>Upon completion</td>
<td>$____/day (includes all training equipment, materials and travel)</td>
</tr>
</tbody>
</table>
### Other (Optional Services)

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit or Term</th>
<th>Invoicing</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Work Flat Fee</td>
<td>One-Time payment for entire contract term (inclusive of all renewals)</td>
<td>Upon Effective Date</td>
<td>$ _____</td>
</tr>
<tr>
<td>Consulting or Professional Services</td>
<td>Hourly</td>
<td>Monthly in arrears unless otherwise stated in applicable Work Authorization</td>
<td>$____/hour</td>
</tr>
<tr>
<td>Special Projects</td>
<td>Per Work Authorization</td>
<td>Upon Final Acceptance of work performed unless otherwise stated in applicable Work Authorization</td>
<td>$____/hour or as stated in applicable Work Authorization</td>
</tr>
<tr>
<td>Transition/Disentanglement</td>
<td>Hourly</td>
<td>Monthly in arrears</td>
<td>$____/hour</td>
</tr>
</tbody>
</table>

Provider shall include hourly rates of typical personnel that work in the design, programming, support and maintenance of SCADA systems.

Hourly rates stated in this Exhibit B are subject to change annually beginning on the first anniversary of the Effective Date upon at least ninety (90) days' prior written request by Provider and approval by the Contract Administrator. Any increase in these rates shall be limited to the lesser of the change in Consumer Price Index ("CPI") or three percent (3%). The increase or decrease in CPI shall be calculated as follows: the difference of CPI current period less CPI previous period, divided by CPI previous period, times 100. The CPI current period shall mean the most recent published monthly index prior to contract anniversary. The CPI previous period shall mean for the same month of the prior year. All CPI indices shall be obtained from the U.S. Department of Labor table for Consumer Price Index - All Urban Consumers (Series ID CUURA320SA0) for the area of Miami-Fort Lauderdale, FL (All Items), with a base period of 1982-84 = 100.
ATTACHMENT 1 TO EXHIBIT B
Equipment Price List
**Exhibit C – Maintenance and Support Services**

Provider shall provide assistance to County personnel in the maintenance and support to the extent necessary in order to ensure continuous optimal functioning of the Equipment, Software and SCADA System for the duration of the Agreement. Provider’s support and maintenance obligations include on-site maintenance at any office or location of a Broward County agency, although to the extent reasonable and customary under the circumstances, Provider may provide services electronically.

A. **ON-SITE SUPPORT**  
   **Year 1, Initial Term**

1. Provider shall provide a skilled, experienced SCADA System Technician with not less than 3 years direct experience programming and modifying the SCADA System in a Wastewater or Water Treatment Plant applications, to work on-site Monday through Friday 7:30 am to 4:00 pm, excluding County recognized holidays and be available to assist County personnel in addressing special emergency issues between 4:00 pm and 7:30 am, weekends, and holidays.

2. Unless otherwise expressly approved by County, Provider shall submit the resume of the proposed SCADA System Technician to County at least 90 days prior to planned placement on-site. The County has the sole discretion to accept or reject the SCADA System Technician.

3. SCADA System Technician functions shall include but not be limited to assist County personnel in the correction of any SCADA System malfunction, perform preventive maintenance of software and hardware components, train County personnel on troubleshooting and operation of SCADA System, and all other activities to ensure continuous optimal functioning of the SCADA System.

4. Provider shall replace the SCADA System Technician at the County’s request:
   
   A. Within 30 calendar days upon notification by County for technical or competency issues.

   B. Immediately upon notification by County of violation of security, safety or any County policies as determined by the Contract Administrator.

   C. Provider shall provide immediate, temporary, replacement on-site SCADA System Technician concurrently with dismissal of a SCADA System Technician for causes under A.3.A or A.3.B. until a suitable permanent replacement is approved by the County. The Provider shall provide the resume of the temporary SCADA System Technician for County review and approval.

B. **CORRECTIVE MAINTENANCE**  
   **Year 2, Initial Term and any 1-year options**

1. County personnel will be responsible for initial response and troubleshooting to any system malfunction. When determined appropriate by County, county personnel shall escalate to Provider for assistance. Provider shall begin maintenance for any escalated malfunction within two (2) hours of notification by County, and Provider shall start immediately and work continuously until the problem is resolved (collectively, the "Regular Response Times"). For escalated issues that are identified as an emergency by the County, Provider
shall begin maintenance for any escalated emergency malfunction within two (2) hours of notification by County, and Provider shall start immediately and work continuously until the problem is resolved no later than forty-eight (48) hours from notification (collectively, "Emergency Response Times"). The initial response to a malfunction shall be in the form of a site visit or access through the use of a remote maintenance terminal by a trained, and experienced, technician. A malfunction is defined as any part of the SCADA System which does not perform as designed.

2. Any escalated malfunction identified by County as an emergency that is not repaired within forty-eight (48) hours of notification to the Provider on the malfunction, shall incur liquidated damages in the amount of $1,500.00 /day to be paid by Provider to the County, unless such delay is otherwise excused by the County in writing. This amount is stipulated by the parties to be a reasonable estimate of damages that would be incurred by County for Provider's failure to complete the repair in a timely manner as required and is not a penalty. This shall be in addition to any charges incurred for failure to timely respond.

3. If service for any malfunction is not completed within forty-eight (48) hours of notification by County, then County shall have the right to call in any service organization to perform the necessary repairs and the Provider shall be responsible for the payment, or reimbursement to County, of such emergency service. Any repairs undertaken by County personnel or any other qualified service organization, in accordance with this subparagraph shall not affect any warranty or service agreement or any other commitment undertaken hereunder.

4. Service for any malfunction shall be available twenty-four (24) hours per day, seven (7) days per week, 365 days per year. In the event the Provider does not commence repairs within two (2) hours after notification, County shall have the right but not the obligation at any time thereafter to notify the Provider of such non-performance and, if the emergency repairs have not commenced within one (1) hour from the notification by the County to the Provider of said non-performance, then County shall have the right to call in any qualified service organization to perform the necessary repairs and the Provider shall be responsible for the payment, or reimbursement to the County, of such emergency service. Any emergency service repairs undertaken by County personnel or any other qualified service organization, in accordance with this subparagraph shall not affect any warranty or service agreement or any other commitment undertaken hereunder.

5. A toll free telephone number shall be maintained by the Provider at which the Provider can be reached twenty-four (24) hours per day, seven (7) days per week, 365 days per year to discuss and resolve maintenance service. The telephone shall be attended by a live technical support person, trained, and experienced, and capable of understanding and addressing SCADA System issues.

6. Provider agrees to stock, in a secure locked area designated by County, spare parts and components to ensure prompt repair of the SCADA System.

7. If any SCADA System malfunction is determined by Provider to be the fault of any other company, County will so notify said company and request appropriate repairs or alterations. If it is determined that the SCADA System malfunction is associated with Provider’s installation work or the SCADA System itself, Provider will pay all costs of the service call.

8. Provider shall clear all trouble reports with the SCADA System Manager and with County's staff person who reported the trouble. Repairs will not be considered complete until cleared.
9. Provider shall establish and maintain a work ticket database. A complete database of all work performed on the System will be compiled and submitted to County monthly in a mutually acceptable format.

10. Provider shall establish and maintain Site Logs recording site activities. Each time the Provider’s technicians visit a site, or access the SCADA System remotely, a record of the date, time, and work performed will be recorded in the Site Log. The Site Logs shall be integrated into a monthly Site Log report and will be compiled and submitted to County in a mutually acceptable format. Any Equipment or device removed from the site for repair shall be included in the Site Log.

11. Provider shall create and maintain a SCADA System Software Log. The Software Log will be recorded on a database and kept at Provider’s location. Each time the SCADA System is updated or upgraded the Provider will enter the date, technician name, Equipment, old version, new version, reason for the upgrade or update, engineering contact, and the results of the change, into the SCADA System Software Log. Provider shall compile and submit to County, bi-annually, in a mutually acceptable format the up-to-date record of all upgrades and updates.

12. Provider shall create and maintain a network hardware configuration diagram in a mutually acceptable application. Each time the network hardware configuration is upgraded or changed Provider will update the diagram and submit electronic copy to County.

13. When equipment cannot be repaired, a replacement component shall be provided by Provider. The replacement component must be approved in advance by the County's Contract Administrator, be of equal or better performance, and be compatible with County’s existing systems. No substitutions allowed without prior approval of the County’s Contract Administrator.

14. Provider shall provide to County, on an annual basis, a complete inventory report compiled in a mutually agreed upon format showing the quantities of all Equipment under maintenance. In addition, all changes in configuration of Software and hardware shall be included in the inventory report.

15. Upon completion of any modification or repair, Provider shall place to its original position any Equipment which had to be moved in order to effect the modification and/or repair. Additionally, debris and rubbish created by Provider shall be removed by Provider and the premises left clean.

16. County shall identify and have accessible to Provider, a staff person, twenty-four (24) hours a day, seven (7) days a week, who shall be authorized to act on behalf of the County with regard to Provider’s service response.

17. County shall be responsible for commercial power and local telephone lines services.

18. County shall facilitate the transfer of information to Provider pertaining to Software and Equipment elements of these systems which interface with Provider's System. Provider agrees to maintain the confidentiality of any such information and shall sign a reasonable confidentiality agreement to that effect, when so requested by County.
19. County will obtain any licenses or other authorizations required by the Federal Communications Commission (FCC) and Provider will assist in the preparation of license applications.

C. **PREVENTATIVE MAINTENANCE (OPTIONAL SERVICES – IF ELECTED BY COUNTY)**

   **Year 2, Initial Term and any 1-year options**

1. All preventative maintenance service activities shall be performed as a unique service and independent of corrective maintenance service operations.

2. All preventative maintenance service activities shall be performed by County personnel with the assistance of a Provider SCADA Technician. The Provider assistance shall be provided remotely when possible and onsite as scheduled and approved by the SCADA manager.

3. Preventive Maintenance shall include two weeks of at least five consecutive days per year of an on-site Provider SCADA System Technician to assist County personnel in the execution of maintenance items identified in the Operations Manual for the SCADA System. County SCADA manager shall schedule with Provider when routine on-site maintenance is required at least 60 days in advance. Such notice from the County shall include details of the maintenance activities to be performed by the Provider’s SCADA System Technician during the on-site time. Unused days out of these two weeks per year will rollover to be used within the remaining term of the Agreement (including any extension or amendment).

4. Preventive maintenance activities shall include but are not limited to the periodic cleaning, adjusting, calibrating, system diagnostics, and fine tuning of the Equipment; replacement or repair of worn parts; prompt installation of any PLCs and SCADA software updates, upgrades, or releases of embedded software or firmware; back up of all PLCs and SCADA system applications programs; verification of historian and reports performance; training of county personnel in the troubleshooting and maintenance of the SCADA System; component replacement with equal or better equipment with the approval of the Contract Administrator when the component is approaching the end of its useful life; and all other activities to ensure continuous optimal functioning of the system.

5. Provider SCADA System Technician shall be an experience programmer with not less than 3 year of experience in the programming and maintenance of PLCs and SCADA systems in a Wastewater or Water Treatment Plant environment. Provider shall submit the resume of the proposed SCADA System Technician to County at least 40 days prior to scheduled maintenance on-site. The County has the sole discretion to accept or reject the SCADA System Technician.

D. **SCADA SYSTEM SOFTWARE UPDATING AND TESTING (OPTIONAL SERVICES – IF ELECTED BY COUNTY)**

1. Provider shall use the County’s testing and development server to perform updating and testing of SCADA Software with updates and patches for Microsoft Software, Allen Bradley software, and all other related third party software necessary for a fully functional and complete SCADA System.
2. Provider shall assist County personnel with all services and staffing to test and go live with the updated SCADA software as required by the County’s Contract Administrator.

3. Provider shall develop a written procedure for the quarterly updating, test, and implementation of ‘Go Live’ of the SCADA Software and submit it to the County for approval 60 days prior to the first ‘Go Live’ event. The procedure shall be updated, and approved by County, as necessary 60 days prior to each subsequent ‘Go Live’ event.

4. Provider shall create and maintain on-site a SCADA System Software Log. Each time the SCADA System is updated or upgraded the Provider will enter the date, technician name, Equipment, old version, new version, reason for the upgrade or update, engineering contact, and the results of the change, into the SCADA System Software Log. Provider shall compile and submit to County, bi-annually, in a mutually acceptable format the up-to-date record of all upgrades and updates.

E. CORRECTIVE AND PREVENTIVE MAINTENANCE OF ALLEN BRADLEY PROGRAMMABLE LOGIC CONTROLLERS (PLCs) (OPTIONAL SERVICES – IF ELECTED BY COUNTY)

1. Provider shall provide a skilled, experienced programmer/technician service Provider of Allen Bradley PLCs located within approximately 50 mile radius of the North Regional Wastewater Treatment Plant. The service Provider programmer/technicians shall have not less than 3 years direct experience programming and modifying Allen Bradley PLCs in a Wastewater or Water Treatment Plant environment. The service Provider shall be on call twenty-four (24) hours per day, seven (7) days per week, 365 days per year to mobilize On-Site and resolve PLC issues for all new PLCs installed under the SCADA Construction Agreement.

2. Provider shall perform all preventive maintenance identified in the Operations Manual for new PLCs installed under the SCADA Construction Agreement.

F. General Service Terms and Conditions

For repair requests, Regular Response Times as indicated herein shall apply unless critical County operations are affected or the County indicates the repair request is an emergency, in which event the Emergency Response Times shall apply. When the equipment cannot be repaired on-site and/or if Provider cannot meet the required response times, a replacement component shall be provided and installed by Provider prior to the start of the next County work day, which replacement component must be of equal or better performance and compatible with County’s existing systems. No substitutions allowed without previous approval of the County’s Contract Administrator. Notwithstanding the response time requirements, Provider shall use its continuing best efforts to correct any issue as expeditiously as it can.

Provider will ensure that it maintains adequate stock levels to assure timely delivery of any components that may require maintenance or repair. Provider agrees that its maintenance personnel shall be suitably trained in the operation of the Equipment and associated software and firmware. If, in the reasonable opinion of County, the personnel provided are not acceptable, Provider agrees to provide suitable replacements.

Hours of Service. Throughout the life of the Agreement, Provider shall furnish support and maintenance service as needed by County (including, to the extent required, on-site at any office or location of a Broward County agency) twenty-four (24) hours a day, seven (7) days a week,
including holidays. Normal business hours are from 7:30 a.m. to 5:30 p.m., Monday – Friday other than County holidays.

Telephone and Email Support. Provider shall provide designated contacts for telephone and email support that will be available during regular County business hours and after hours for specific technical problems and questions.

Corrective Maintenance service includes prompt response and resolution of any repair request within the applicable Response Time, which includes identifying the cause of malfunction or problem; provision of any applicable temporary solutions or workarounds until repair can be completed; permanent repair of the problem; correction, to the extent necessary, of any repercussions of the problem; and thorough inspection of the Equipment post-repair to ensure optimal functioning of the Equipment.

Records and Reports. Provider will maintain records and statistics of all maintenance and repair services provided under this Agreement. This information must include at least the following:
   a) Date, time, and name of contact;
   b) Date and time of telephone response and local arrival;
   c) Equipment being serviced;
   d) All steps and actions taken to maintain the Equipment or repair the problem;
   e) Date and time of maintenance/resolution and County representative notified of maintenance/resolution; and
   f) All equipment and/or labor costs associated with the maintenance or problem resolution.
In addition to the foregoing, Provider shall maintain records and, at the request of County, shall provide monthly reports of the foregoing records and statistics of Provider’s average monthly compliance with the Required Response Time as well as the repeat trouble rate for all Equipment.

Failure to Meet Required Response Times. If Provider fails to maintain the Required Response Time for any repair request, County may offset against any sums due Provider $200 for each hour that Provider’s average response time in the preceding month exceeds the required response times (whether for regular or emergency matters), which the parties agree is a fair and reasonable approximation of County’s negative financial impact caused by the delay in Provider’s response.
Exhibit E – Required Insurance Coverages
Exhibit F – Work Authorization Form

Work Authorization No. __________

Award Authority for Optional Services

This Work Authorization is between Broward County and _______________ as required pursuant to the Agreement, executed on __________________. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

Services to be provided: [DESCRIBE IN DETAIL]

Contract at issue is ___ Lump Sum/ ___ Not-to-Exceed for amount: $___________________

The time period for this Work Authorization will consist of ____ (___) calendar days unless otherwise set forth in an attached quotation.

Fee Determination: Payment for services under this Work Authorization is as follows:

- Professional Services: $___________________
- General Services: $___________________
- Equipment/Hardware: $___________________
- Travel/Reimbursables (not to exceed): $___________________

Total Maximum Cost of this Work Authorization: $___________________

County

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VENDOR

Attest: ________________________________

Signed: ________________________________

Typed Name: ____________________________

Title: _________________________________