

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20060892

1. ACTION REQUESTED/PURPOSE: Approve project # PB060546, the utilization (piggyback) of the South Florida Water Management District (SFWMD) RFQ # OT040865, which has gone through their competitive bidding process, for the procurement of Ground Application Services for Exotic Plant Control, to be utilized by the Lee County Parks and Recreation Department. The awarded vendor is Aquatic Vegetation Control Inc. The current term of the contract runs for three years, from 10/1/05 to 9/30/08. Request authority to continue to utilize this contract if renewed by the SFWMD at the end of the three-year period, if it is in the best interest of Lee County at that time. For general information, the Parks and Recreation Department estimates spending approximately \$300,000 during the next twelve months. The majority of the expenditures for this service will be covered by grant funds.

2. WHAT ACTION ACCOMPLISHES: Provides an annual contract for ground application services for exotic plant control that can be ordered as needed by the Parks and Recreation Department.

3. MANAGEMENT RECOMMENDATION: Staff recommends approval.

4. Departmental Category: CIIA		5. Meeting Date: 08.15.06
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	Statute _____	
	Ordinance _____	
	<input checked="" type="checkbox"/> Admin. Code AC-4-1	
	Other _____	
		8. Request Initiated: Commissioner _____ Department Parks & Recreation Division _____ By: John Yarbrough <i>John Yarbrough</i>

9. Background: Section 10.1 of the Lee County Purchasing and Payment Procedures Manual allows Lee County to utilize the quotes/proposals of other governmental entities as long as the procurement has gone through their competitive quoting/bidding process. Funding will come from the individual department's budget and they will be responsible for monitoring their own expenditures.
Account Strings: KH5722030105.503490 and KH5722000100.503490

ATTACHMENTS:

- (1) SFWMD Specifications
- (2) Award Notice, Price Page, and Signature Pages
- (3) Permission to piggyback as stated in SFWMD specifications
- (4) Permission to piggyback from awarded vendor

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>CCM</i>	<i>Janet P. Becken</i>			<i>Wanda A. ...</i>	<i>Admin 7/26</i>				
<i>JH</i>	<i>E. Pfanner</i>			<i>Analyst</i>	<i>Risk</i>	<i>Grants</i>	<i>Mgr.</i>		
<i>Byccin</i>				<i>7/25/06</i>	<i>7/25/06</i>	<i>7/25/06</i>	<i>7/25/06</i>	<i>[Signature]</i>	

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *[Signature]*
7/25/06 10:50 AM
COUNTY ADMIN FORWARDED TO: *[Signature]*
7/25/06 2:20 PM

Rec. by CoAtty
Date: *7/24/06*
Time: *3:55 PM*
Forwarded To: *County Admin 7/25/06 9:45 AM*

EXHIBIT "A" SPECIAL PROVISIONS

The purpose of this Exhibit "A" is to delineate any and all changes, deletions and/or additions to the Exhibit "B" General Terms & Conditions. In the event of any conflict between this Exhibit "A" and any other provision specified in this CONTRACT, this Exhibit "A" shall take precedence.

1. Article 1.1.1 is hereby deleted and restated as follows: "The actual services required and not-to-exceed consideration for providing such services shall be detailed in individual Work Order(s) to this CONTRACT issued by the DISTRICT, a sample of which is attached as Exhibit "I", and made a part of this CONTRACT. The mutually agreed upon not-to-exceed amount for each authorized Work Order issued hereunder shall be the only basis for consideration by the DISTRICT. Payment may not exceed the authorized amount in the event the CONTRACTOR's work exceeds the dollar amount authorized. Work Order not-to-exceed amounts shall incorporate established rates specified in Exhibit "L", attached hereto and made an integral part of this CONTRACT. No work shall commence prior to receipt of an authorized Work Order. The DISTRICT does not guarantee or represent that any minimum number of Work Orders for any dollar amount will be issued as a result of this CONTRACT."

"Multiple Contracts have been awarded for ground application services for exotic plant control, stated on the cover page as the Project Title, to be provided under this CONTRACT. The DISTRICT does not guarantee or represent that any minimum number of Work Orders for any dollar amount will be issued as a result of this CONTRACT. The amount stated on page one of this CONTRACT represents funding that may be used among the multiple CONTRACTS awarded by the DISTRICT's Governing Board and in no way represents the amount to be paid under any single CONTRACT issued herein."

2. The following is hereby added as Article 1.6: "The CONTRACTOR hereby agrees to extend the unit rates specified in Exhibit "L" to other governmental entities. Nothing contained herein shall be construed to prevent other governmental entities from "piggybacking" this CONTRACT."
3. The following is hereby added as Article 1.7: "The CONTRACTOR agrees to comply with the applicable flowdown provisions of the DISTRICT's agreements with the Florida Department of Environmental Protection (Department) for services performed in conjunction with Exhibit "C" Statement of Work. The flowdown provisions are set forth under amended Agreements No. C-12562 and C-13664 executed between the DISTRICT and the Florida Department of Environmental Protection. Applicable provisions of these agreements are as follows:

1.7.1 C-12562 - 13. and C-13664. - 1. "The CONTRACTOR (DISTRICT) shall maintain books, records and documents directly pertinent to performance under this CONTRACT in accordance with generally accepted accounting principles consistently applied. The Department, the State, or their authorized representative shall have access to such records for audit purposes during the term of this CONTRACT and for three years following contract completion. In the event any work is subcontracted, the CONTRACTOR (DISTRICT) shall similarly require each subcontractor to maintain and allow access to such records for audit purposes."

1.7.2 C-12562 - 28. and C-13664 - 26 "The CONTRACTOR (DISTRICT) shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this CONTRACT. The CONTRACTOR (DISTRICT) acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulation. The CONTRACTOR (DISTRICT) further agrees to include this provision in all subcontracts issued as a result of this CONTRACT."

4. The following is hereby added as Article 1.8: "The ground supervisor shall be responsible for data collection, herbicide application and inventory, herbicide safety procedures, and crew supervision.

The ground crew supervisor must also have required navigation equipment such as a hand-held Global Positioning System (GPS) unit, to mark areas treated and future treatment areas, and a cellular telephone.

5. Article 3.1 is hereby deleted and restated as follows: "The **CONTRACTOR's** invoices shall reference the **DISTRICT's** Contract Number and Work Order Number and shall be sent to the **DISTRICT's** address specified on Page 1 of this **CONTRACT**. The **CONTRACTOR** shall not submit invoices to any other address at the **DISTRICT**."
6. Article 3.2 is hereby deleted and restated as follows: "Invoices shall be submitted in accordance with the Payment Schedule specified in each Work Order. All invoices shall be substantiated by adequate supporting documentation to justify hours expended and expenses incurred within the not-to-exceed budget, including but not limited to, copies of approved timesheets, reports, receipts and subcontractor invoices."
7. The following is hereby added as Article 12.13: "The **CONTRACTOR** shall strictly adhere to all herbicide label application instructions, precautionary and safety statements, and shall be familiar with and adhere to the **DISTRICT's** safety requirements. The **CONTRACTOR** shall also adhere to all federal, state, and local regulations governing the application, transportation, storage, use, and disposal of products utilized in the performance of this **CONTRACT**. These regulations include, at a minimum, Federal Insecticide Fungicide and Rodenticide Act, 29 CFR 1910, OSHA General Industry Standards, and Chapter 487, Florida Statutes. The **CONTRACTOR** shall properly dispose of all herbicide and adjuvant containers.

All herbicides and adjuvants while on the job site must be kept with the Supervisor/applicator at the treatment site or in a secured, ventilated and locked truck, trailer, or shed as close to the treatment site as practicable at all times, in accordance with Chapter 403.161, 403.413, 403.708 F.S. and Chapter 487.031 F.S. The **CONTRACTOR** is responsible for keeping all empty containers in the secured, ventilated and locked truck, trailer or shed. The **CONTRACTOR** is also responsible for any leaks, spills, environmental damage, or theft of materials from the job site.

8. The following is hereby added as Article 12.14: "The **CONTRACTOR** shall be required to have a minimum of three (3) Ground Crew Supervisors for this **CONTRACT**. Each ground crew supervisor shall possess the following qualifications: knowledge and at least one(1) year of substantial experience in plant identification and current control technologies for invasive exotic plants common to Florida including all species on the 2003 Florida Exotic Pest Plant Council's list of invasive species; current Florida Department of Agriculture and Consumer Services certification in the Aquatics and Natural Areas categories; knowledge of data and records keeping; knowledge of GPS data collection and/or mapping techniques; ability to work under adverse physical and weather conditions, including high humidity and temperatures; knowledge of poisonous plants and reptiles, biting insects, and hostile terrain; ability to operate and conduct field maintenance of vehicles, spray and other equipment; and to recognize and avoid hazards associated with operating the equipment.
9. The following is hereby added as Article 12.15: "The **CONTRACTOR** shall have and maintain the following minimum equipment: 2 Watercraft including airboat(s) for crew transport, each capable of carrying at least 5 passengers plus required equipment in canals and marsh areas; 3 Watercraft including airboat(s) for spraying, used for aquatic treatments in canals and marsh areas; 3 Pick-up trucks/SUVs/vans; 2 ATVs or similar vehicle; 1 buggy; 5 GPS units; and 5 cellular phones.

SFWMD OFFICE OF COUNSEL APPROVED

By: _____

Date: 9/29/04

SFWMD PROCUREMENT APPROVED

By: _____

Date: 09/24/04



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

EXHIBIT "B"

GENERAL TERMS AND CONDITIONS

ARTICLE 1 - STATEMENT OF WORK

1.1 The **CONTRACTOR** shall, to the satisfaction of the **DISTRICT**, fully and timely provide the services as may be required by the **DISTRICT**. A general Statement of Work is attached hereto as Exhibit "C," and made a part of this **CONTRACT**.

1.1.1 The actual services required and not-to-exceed consideration for providing such services shall be detailed in individual Work Order(s) to this **CONTRACT**, a sample of which is attached as Exhibit "I", and made a part of this **CONTRACT**. As actual services are identified by the **DISTRICT**, the **CONTRACTOR** shall be required to prepare a detailed technical and cost proposal for submission to the **DISTRICT**. Cost proposals shall include a detailed breakdown adequate to substantiate all **CONTRACTOR** costs, including labor and expenses. However, the mutually agreed upon not-to-exceed amount for each authorized Work Order issued hereunder shall be the only basis for consideration by the **DISTRICT**. Cost proposals shall also incorporate any established rates specified in Exhibit "L", attached hereto and made an integral part of this **CONTRACT**. The **DISTRICT** shall evaluate the technical merit and cost of each proposal submitted and conduct negotiations with the **CONTRACTOR** to achieve technical and cost objectives. No work shall commence prior to receipt of an authorized Work Order. The **DISTRICT** does not guarantee or represent that any minimum number of Work Orders for any dollar amount will be issued as a result of this **CONTRACT**.

1.1.2 In addition to the foregoing, award of Work Orders under this **CONTRACT** shall be subject to the following:

(a) Negotiation of a Statement of Work and not-to-exceed price most advantageous to the **DISTRICT**.

(b) Availability of qualified personnel within the required time frames; and

(c) Satisfactory performance by the **CONTRACTOR** under any previous Work Order(s) issued by the **DISTRICT**.

1.2 As part of the services to be provided by the **CONTRACTOR** under this **CONTRACT**, the **CONTRACTOR** shall substantiate, in whatever forum reasonably requested by the **DISTRICT**, the methodology, lab analytical examinations, scientific theories, data, reference materials, and research notes. The **CONTRACTOR** shall also be required to substantiate any and all work completed, including but not limited to, work completed by subcontractors, assistants, models, concepts, analytical theories, computer programs and conclusions utilized as the basis for the final work product required by the **CONTRACT**. This paragraph shall survive the expiration or termination of this **CONTRACT**.

1.3 The parties agree that time is of the essence in the performance of each and every obligation under this **CONTRACT**.

1.4 Should the services provided by the **CONTRACTOR** fail to meet the expectations of the **DISTRICT's** Project Manager, the **CONTRACTOR** shall have a period of ten (10) working days from the date notice is given to the **CONTRACTOR** by the **DISTRICT**, to correct all deficiencies in the **CONTRACTOR's** services under the Work Order. All corrections shall be made to the satisfaction of the **DISTRICT** Project Manager. Inability to correct all deficiencies within the specified ten days shall be good and sufficient cause to immediately terminate the Work Order without the **DISTRICT** being liable for any and all future obligations under the Work Order as determined by the **DISTRICT** at its sole discretion. The **DISTRICT**, in its judgment, may elect to compensate the **CONTRACTOR** for any accepted work product through the date of termination of an authorized Work Order, provided it is in a form that is sufficiently documented and organized to provide for subsequent utilization in completion of the work product.

1.5 In the event **CONTRACTOR** employees or hired workers are authorized by Exhibit "C" to perform services on-site at **DISTRICT** facilities, the **CONTRACTOR** hereby agrees to be bound by all applicable **DISTRICT** policies and standards of conduct listed in Attachment I, "Contractor Policy Code Acknowledgement" to Exhibit "C" and shall



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require each individual performing such on-site work to execute the Attachment 1 form. It is the CONTRACTOR's responsibility to advise its employees or hired workers of the nature of the project, as described in Exhibit "C". The CONTRACTOR shall determine the method, details and means of performing the services, within the parameters established by Exhibit "C". The DISTRICT shall provide additional guidance and instructions to CONTRACTOR's employees or hired workers where necessary or appropriate as determined by the DISTRICT.

ARTICLE 2 - COMPENSATION/ CONSIDERATION

2.1 The total consideration for all work required by the DISTRICT pursuant to this CONTRACT shall not exceed the amount as indicated on the cover/signature page of this CONTRACT. Such amount includes all expenses which the CONTRACTOR may incur and therefore no additional consideration shall be authorized.

2.2 Notwithstanding the foregoing, the amount expended under this CONTRACT shall be paid in accordance with, and subject to the multi-year funding allocations for each DISTRICT fiscal year indicated on the cover/signature page of this CONTRACT. Funding for each applicable fiscal year of this CONTRACT is subject to DISTRICT Governing Board budgetary appropriation. In the event the DISTRICT does not approve funding for any subsequent fiscal year, this CONTRACT shall terminate upon expenditure of the current funding, notwithstanding other provisions in this CONTRACT to the contrary. The DISTRICT will notify the CONTRACTOR in writing after the adoption of the final DISTRICT budget for each subsequent fiscal year if funding is not approved for this CONTRACT.

2.3 The CONTRACTOR, by executing this CONTRACT, certifies to truth-in-negotiation, specifically, that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. The CONTRACTOR agrees that the DISTRICT may adjust the consideration for this CONTRACT to

exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. The DISTRICT shall make any such adjustment within one (1) year following the expiration or termination of this CONTRACT.

2.4 Travel expenses are not anticipated. However, in the event any travel is required by members of the CONTRACTOR's staff to fulfill its performance of the terms and conditions of this CONTRACT, such travel shall require prior written authorization by the DISTRICT. The DISTRICT shall only reimburse the CONTRACTOR for travel expenses, including transportation, lodging, food, and incidental expense to the extent provided under Chapter 112, Florida Statutes. A completed "Travel Expense Voucher", attached hereto as Exhibit "J", or similar form, together with copies of receipts to support travel expenses must accompany all requests for travel reimbursement.

ARTICLE 3 - INVOICING AND PROMPT PAYMENT

3.1 *The CONTRACTOR's invoices shall reference the DISTRICT's Contract Number and shall be sent to the DISTRICT's address specified on the cover/signature page of this CONTRACT.* The CONTRACTOR shall not submit invoices to any other address at the DISTRICT.

3.2 Invoices shall be submitted not more frequently than monthly in accordance with the Payment Schedule specified in each Work Order. All invoices shall be substantiated by adequate supporting documentation to justify hours expended and expenses incurred within the not-to-exceed budget, including but not limited to, copies of approved timesheets, payment vouchers, expense reports (including approved travel costs, if applicable), receipts and subcontractor invoices. Any authorized travel shall be reimbursed in accordance with Chapter 112, Florida Statutes.

3.3 It is the policy of the DISTRICT that payment for all goods and services shall be made in a timely manner and that interest payments are made on late



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payments. In accordance with Florida Statutes, Section 218.70, Florida Prompt Payment Act, a "proper" invoice is defined as an invoice that conforms to all statutory requirements and all **DISTRICT** requirements as specified in the **CONTRACT** for invoice submission. The time at which payment shall be due from the **DISTRICT** shall be forty-five (45) days from receipt of a proper invoice and acceptance of services and/or deliverables, based on compliance with the statutory requirements set forth in Section 218.70, F.S. and upon satisfaction of the **DISTRICT** conditions as detailed in the **CONTRACT** document.

Failure of the **CONTRACTOR** to follow the instructions set forth in the **CONTRACT** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **DISTRICT**. All payments due from the **DISTRICT** for a proper invoice and acceptable services and/or deliverables and not made within the time specified in this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. The **CONTRACTOR** shall invoice the **DISTRICT** for payment of any accrued unpaid interest.

Any disputes regarding invoice payments which cannot be resolved by the appropriate department of the **DISTRICT** shall be concluded by final written decision of the **DISTRICT** Leadership Team not later than sixty (60) days after the date on which the proper invoice was received by the **DISTRICT**.

3.4 The **DISTRICT** shall not pay for any obligation or expenditure made by the **CONTRACTOR** prior to the commencement date of this **CONTRACT** or prior to receipt of authorized Work Order(s), unless the **DISTRICT** authorizes such payment in writing.

3.5 Any early payment discount offered by the **CONTRACTOR** shall be clearly indicated on the invoice, including the percentage of the discount and the time period for which the discount is valid. The **DISTRICT** reserves the option to accept such early payment discounts.

ARTICLE 4 - PROJECT MANAGEMENT/ NOTICE

4.1 The parties shall direct all technical matters arising in connection with the performance of this **CONTRACT**, other than invoices and notices, to the attention of the respective Project Managers specified on the cover/signature page of the **CONTRACT** for attempted resolution or action. The Project Managers shall be responsible for overall coordination and oversight relating to the performance of this **CONTRACT**. The **CONTRACTOR** shall direct all administrative matters, including invoices and notices, to the attention of the **DISTRICT's** Contract Specialist specified on the cover/signature page of the **CONTRACT**.

All formal notices between the parties under this **CONTRACT** shall be in writing and shall be deemed received if sent by certified mail, return receipt requested, to the respective addresses specified on the cover/signature page of the **CONTRACT**. The **CONTRACTOR** shall also provide a copy of all notices to the **DISTRICT's** Project Manager. All notices required by this **CONTRACT** shall be considered delivered *upon receipt*. Should either party change its address, written notice of such new address shall promptly be sent to the other party.

All correspondence to the **DISTRICT** under this **CONTRACT** shall reference the **DISTRICT's** Contract Number specified on the cover/signature page of the **CONTRACT**.

4.2 The **CONTRACTOR** agrees that the individual(s) listed in Exhibit "G", attached hereto and made a part of this **CONTRACT** shall provide services under this **CONTRACT**. The services of the individual(s) listed herein are a substantial inducement and material consideration for this **CONTRACT**. In the event such individual(s) can no longer provide the services required by this **CONTRACT**, the **CONTRACTOR** shall immediately notify the **DISTRICT** in writing and the **DISTRICT** may elect to terminate this **CONTRACT**, for this reason, without any liability whatsoever to the **CONTRACTOR**, including but not limited to liability for unfinished work product.



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The **CONTRACTOR** may propose a replacement for the individual(s), subject to the optional approval of the **DISTRICT**. The **DISTRICT**, in its judgment, may elect to compensate the **CONTRACTOR** for any unfinished work product, provided it is in a form that is sufficiently documented and organized to provide for subsequent utilization in completion of the work product.

ARTICLE 5 - INDEMNIFICATION & INSURANCE

5.1 For value received, which is hereby acknowledged, the **CONTRACTOR** shall defend, indemnify, save, and hold the **DISTRICT**, its officers, directors, board members, agents, assigns, and employees harmless from liabilities, damages, losses and costs, including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the **CONTRACTOR** and other persons employed or utilized by the **CONTRACTOR** in the performance of the **CONTRACT**. The **DISTRICT** shall have the right to approve counsel selected by the **CONTRACTOR** to defend the **DISTRICT** in the event the **DISTRICT** is named in any legal action.

The **CONTRACTOR** further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this **CONTRACT**. This paragraph shall survive the expiration or termination of this **CONTRACT**.

5.2 The **CONTRACTOR** shall procure and maintain, through the term of this **CONTRACT**, insurance coverage reflecting, at a minimum, the limits and coverage conditions identified on the **DISTRICT**'s Insurance Requirements, attached as Exhibit "H" and made a part of this **CONTRACT**. The coverage required shall extend to all employees and subcontractors of the **CONTRACTOR**. Prior to the execution of this **CONTRACT**, the **CONTRACTOR** shall provide a Certificate of Insurance for such coverage to the **DISTRICT** for approval, indicating the producer, insured, carrier's name, and BEST rating, policy numbers and effective and expiration dates of each type of coverage required. The Certificate of

Insurance shall be signed by the insurance carrier's authorized representative and shall identify the **DISTRICT** as added insured as required.

5.3 All insurers must be qualified to lawfully conduct business in the State of Florida. Failure of the **DISTRICT** to notify the **CONTRACTOR** that the certificate of insurance does not meet the **CONTRACT** requirements shall not constitute a waiver of the **CONTRACTOR**'s responsibility to meet the stated requirement. In addition, receipt and acceptance of the certificate of insurance by the **DISTRICT** shall not relieve the **CONTRACTOR** from responsibility for adhering to the insurance limits and conditions of insurance required within this **CONTRACT**. Misrepresentation of any material fact, whether intentional or not, regarding the **CONTRACTOR**'s insurance coverage, policies or capabilities, may be grounds for termination of the **CONTRACT** as determined solely by the **DISTRICT**.

ARTICLE 6 - TERMINATION/REMEDIES

6.1 It is the policy of the **DISTRICT** to encourage good business practices by requiring contractors to materially perform in accordance with the terms and conditions of the **DISTRICT CONTRACT**. In accordance with **DISTRICT** Rule 40E-7, Part II, F.A.C., "material breach" is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the **CONTRACT**.

If the **CONTRACTOR** materially fails to fulfill its obligations under this **CONTRACT**, the **DISTRICT** will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The **CONTRACTOR** shall have thirty (30) days to cure the breach. If the **CONTRACTOR** fails to cure the breach within the thirty (30) day period, the **DISTRICT** shall issue a Termination for Default Notice. Once the **DISTRICT** has notified the **CONTRACTOR** that it has materially breached its **CONTRACT** with the **DISTRICT**, by sending a Termination for Default Notice, the **DISTRICT**'s Governing Board shall



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determine whether the **CONTRACTOR** should be suspended from doing future work with the **DISTRICT**, and if so, for what period of time. The **DISTRICT's** Governing Board will consider the factors detailed in Rule 40E-7, Part II, F.A.C. in making a determination as to whether a **CONTRACTOR** should be suspended, and if so, for what period of time. Should the **DISTRICT** terminate for default in accordance with this provision, the **DISTRICT** shall be entitled to recover recprocurement costs in addition to all other remedies under law and/or equity.

6.2 The **DISTRICT** may terminate this **CONTRACT**, with or without cause, at any time for convenience upon thirty (30) calendar days prior written notice to the **CONTRACTOR**. The performance of work under this **CONTRACT** may be terminated by the **DISTRICT** in accordance with this clause in whole, or from time to time in part, whenever the **DISTRICT** shall determine that such termination is in the best interest of the **DISTRICT**. Any such termination shall be effected by delivery to the **CONTRACTOR** of a Notice of Termination specifying the extent to which performance of work under the **CONTRACT** is terminated, and the date upon which such termination becomes effective.

In the event of termination for convenience, the **DISTRICT** shall compensate the **CONTRACTOR** for all authorized and accepted deliverables completed through the date of termination in accordance with Work Orders issued hereunder. The **DISTRICT** shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this **CONTRACT**. The **DISTRICT** may withhold all payments to the **CONTRACTOR** for such work until such time as the **DISTRICT** determines the exact amount due to the **CONTRACTOR**.

6.3 In the event a dispute arises which the project managers cannot resolve between themselves, the parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the parties, and the cost of the mediation shall be borne equally by the parties. The mediation process shall be confidential to the

extent permitted by law.

6.4 The **DISTRICT** may order that all or part of the work stop if circumstances dictate that this action is in the **DISTRICT's** best interest. Such circumstances may include, but are not limited to, unexpected technical developments, direction given by the **DISTRICT's** Governing Board, a condition of immediate danger to **DISTRICT** employees, or the possibility of damage to equipment or property. This provision shall not shift responsibility for loss or damage, including but not limited to, lost profits or consequential damages sustained as a result of such delay, from the **CONTRACTOR** to the **DISTRICT**. If this provision is invoked, the **DISTRICT** shall notify the **CONTRACTOR** in writing to stop work as of a certain date and specify the reasons for the action, which shall not be arbitrary or capricious. The **CONTRACTOR** shall then be obligated to suspend all work efforts as of the effective date of the notice and until further written direction from the **DISTRICT** is received. Upon resumption of work, if deemed appropriate by the **DISTRICT**, the **DISTRICT** may amend this **CONTRACT** and/or any Work Order to reflect any changes to Exhibit "C", Statement of Work and/or the project schedule.

ARTICLE 7 - RECORDS RETENTION/ OWNERSHIP

7.1 The **CONTRACTOR** shall maintain records and the **DISTRICT** shall have inspection and audit rights as follows:

A. Maintenance of Records: The **CONTRACTOR** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **CONTRACT** including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five years from completing performance and receiving final payment under this **CONTRACT**.

B. Examination of Records: The **DISTRICT** or its designated agent shall have the right to examine in accordance with generally accepted governmental



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auditing standards all records directly or indirectly related to this CONTRACT. Such examination may be made only within five years from the date of final payment under this CONTRACT and upon reasonable notice, time and place.

C. Extended Availability of Records for Legal Disputes: In the event that the DISTRICT should become involved in a legal dispute with a third party arising from performance under this CONTRACT, the CONTRACTOR shall extend the period of maintenance for all records relating to the CONTRACT until the final disposition of the legal dispute, and all such records shall be made readily available to the DISTRICT.

D. Audit Findings: In the event the DISTRICT exercises its right hereunder to audit the CONTRACTOR's financial and accounting records within a period of one (1) year following the completion or termination date of this CONTRACT and such audit results in the proper disallowance of costs based on the auditor's finding(s), the CONTRACTOR shall be obligated to refund the DISTRICT for such disallowance(s) upon demand. At its option, the DISTRICT shall also have the right to reduce payments due to the CONTRACTOR under this CONTRACT by the amount of any disallowance resulting from audits conducted under this CONTRACT.

E. Applicability to Authorized Agents: In the event that any of the Work is delegated by the CONTRACTOR, the CONTRACTOR hereby agrees to include in any such contract a provision requiring such vendor, consultant, agent and/or subcontractor to agree to the same requirement for records retention, inspection and audit rights as set forth in this Article 7.

7.2 The DISTRICT shall retain exclusive title, copyright and other proprietary rights in all work items, including but not limited to, all documents, technical reports, research notes, scientific data, computer programs, including the source and object code, which are developed, created or otherwise originated hereunder by the CONTRACTOR, its subcontractor(s), assign(s), agent(s) and/or

successor(s) as required by the Exhibit "C", Statement of Work and any specified Work Order issued hereunder (the "Work"). In consideration for the DISTRICT entering into this CONTRACT, and other good and valuable consideration the sufficiency and receipt in full of which is hereby acknowledged by the CONTRACTOR, the CONTRACTOR hereby assigns, transfers, sells and otherwise grants to the DISTRICT any and all rights it now has or may have in the Work (the "Grant"). This Grant shall be self-operative upon execution by the parties hereto, however the CONTRACTOR agrees to execute and deliver to the DISTRICT any further assignments or other instruments necessary to evidence the Grant, without the payment of any additional consideration by the DISTRICT. The CONTRACTOR may not disclose, use, license or sell any work developed, created, or otherwise originated hereunder to any third party whatsoever. This paragraph shall survive the termination or expiration of this CONTRACT.

7.3 The CONTRACTOR represents and warrants that proprietary software, if any, to be provided to the DISTRICT by the CONTRACTOR hereunder, as specifically identified in Exhibit "C", Statement of Work shall have been developed solely by or for the CONTRACTOR, or lawfully acquired under license from a third party, including the right to sublicense such software. The CONTRACTOR shall include copyright or proprietary legends in the software and on the label of the medium used to transmit the software. The CONTRACTOR shall grant to the DISTRICT a perpetual, non-transferable, non-exclusive right to use the identified software without an additional fee. The DISTRICT acknowledges that title to the software identified in Exhibit "C" shall remain with the Licensor.

7.4 Any equipment purchased by the CONTRACTOR with District funding under this CONTRACT shall be returned and title transferred from the CONTRACTOR to the DISTRICT immediately upon termination or expiration of this CONTRACT upon the written request of the DISTRICT not less than thirty (30) days prior to CONTRACT expiration or termination. Equipment is hereby defined as any non-consumable items purchased by the DISTRICT with a value equal to or



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greater than \$500.00 and with a normal expected life of one (1) year or more. The **CONTRACTOR** will maintain any such equipment in good working condition while in its possession and will return the equipment to the **DISTRICT** in good condition, less normal wear and tear. The **CONTRACTOR** will use its best efforts to safeguard the equipment throughout the period of performance of this **CONTRACT**. However the **DISTRICT** will not hold the **CONTRACTOR** liable for loss or damage due to causes beyond the **CONTRACTOR's** reasonable control. In the event of loss or damage, the **CONTRACTOR** shall notify the **DISTRICT** in writing within five (5) working days of such occurrence.

7.5 The **DISTRICT** has acquired the right to use certain software under license from third parties. For purposes of this **CONTRACT**, the **DISTRICT** may permit the **CONTRACTOR** access to certain third party owned software on **DISTRICT** computer systems. The **CONTRACTOR** acknowledges the proprietary nature of such software and agrees not to reproduce, distribute or disclose such software to any third party. Use of or access to such software shall be restricted to designated **DISTRICT** owned systems or equipment. Removal of any copy of licensed software is prohibited.

ARTICLE 8 - STANDARDS OF COMPLIANCE

8.1 The **CONTRACTOR**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this **CONTRACT**. The **DISTRICT** undertakes no duty to ensure such compliance, but will attempt to advise the **CONTRACTOR**, upon request, as to any such laws of which it has present knowledge.

8.2 The **CONTRACTOR** hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this **CONTRACT**. The **CONTRACTOR** shall take all measures necessary to effectuate these assurances.

8.3 The laws of the State of Florida shall govern all aspects of this **CONTRACT**. In the event it is necessary for either party to initiate legal action regarding this **CONTRACT**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justiciable in federal court.

8.4 The **CONTRACTOR**, by its execution of this **CONTRACT**, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, or **CONTRACTORS** who shall perform work which is intended to benefit the **DISTRICT** is a convicted vendor or has been placed on the discriminatory vendor list. If the **CONTRACTOR** or any affiliate of the **CONTRACTOR** has been convicted of a public entity crime or has been placed on the discriminatory vendor list, a period longer than 36 months has passed since that person was placed on the convicted vendor or discriminatory vendor list. The **CONTRACTOR** further understands and accepts that this **CONTRACT** shall be either void by the **DISTRICT** or subject to immediate termination by the **DISTRICT**, in the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133 or Section 287.134, respectively, Florida Statutes. The **DISTRICT**, in the event of such termination, shall not incur any liability to the **CONTRACTOR** for any work or materials furnished.

8.5 The **CONTRACTOR**, by its execution of this **CONTRACT**, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, or consultants who shall perform work which is intended to benefit the **DISTRICT** is included on the list of Specially Designated Nationals and Blocked Persons (SDN List) which is administered by the U.S. Department of Treasury, Office of Foreign Assets Control. The **CONTRACTOR** further understands and accepts that this **CONTRACT** shall be either void by the **DISTRICT** or subject to immediate termination by the **DISTRICT**, in the event there is any misrepresentation. The **DISTRICT**, in the event of such termination, shall not incur any liability to the **CONTRACTOR** for any work or materials furnished.

8.6 The **CONTRACTOR** shall not utilize the **DISTRICT's** exemption certificate number issued



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pursuant to Sales and Use Tax Law, Chapter 212, Florida Statutes, when purchasing materials used to fulfill its contractual obligations with the **DISTRICT**. The **CONTRACTOR** shall be responsible and liable for the payment of all applicable FICA/Social Security and other taxes resulting from this **CONTRACT**.

8.7 The **CONTRACTOR** warrants that it has not employed or retained any person, other than a bona fide employee working solely for the **CONTRACTOR**, to solicit or secure this **CONTRACT**. Further the **CONTRACTOR** warrants that it has not paid or agreed to pay any person, other than a bona fide employee working solely for the **CONTRACTOR**, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this **CONTRACT**. For breach of this provision, the **DISTRICT** may terminate this **CONTRACT** without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

8.8 The **CONTRACTOR** shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the **CONTRACTOR** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **CONTRACTOR**.

8.8.1 Pursuant to Sections 119.07(3)(o), and 1004.22 Florida Statutes, data processing software obtained by an agency under a license agreement which prohibits its disclosure and which software is a trade secret, as defined in Sections 812.081(c), Florida Statutes is exempt from the disclosure provisions of the Public Records law. However, the parties hereto agree that if a request is made of the **DISTRICT**, pursuant to Chapter 119, Florida Statute, for public disclosure of proprietary property being licensed to the **CONTRACTOR** (Licensee) hereunder, the **DISTRICT** shall advise the **CONTRACTOR** (Licensee) of such request and, as between the **DISTRICT** and the **CONTRACTOR** (Licensee), it shall be the **CONTRACTOR's** (Licensee's) sole burden and responsibility to immediately seek and obtain such injunctive or other

relief from the Courts and to immediately serve notice of the same upon the Licensor to protect the Licensor's claimed exemption under the Statute.

8.9 The **CONTRACTOR** shall make reasonable efforts to obtain any necessary federal, state, local, and other governmental approvals, as well as all necessary private authorizations and permits, prior to the commencement of performance of this **CONTRACT**. A delay in obtaining permits shall not give rise to a claim by the **CONTRACTOR** for additional compensation. If the **CONTRACTOR** is unable to obtain all necessary permits in a timely manner, either party may elect to terminate this **CONTRACT**, each party to bear its own costs, notwithstanding other provisions of this **CONTRACT** to the contrary.

8.10 Pursuant to Section 216.347, F.S., the **CONTRACTOR** is prohibited from the expenditure of any funds under this **CONTRACT** to lobby the Legislature, the judicial branch or another state agency.

8.11 The **DISTRICT** is a governmental entity responsible for performing a public service and therefore has a legitimate interest in promoting the goals and objectives of the agency. The work under this **CONTRACT** involves a project consistent with these goals and objectives. Consequently, the **DISTRICT** is desirous of satisfactorily completing and successfully promoting this project with the cooperation of its **CONTRACTOR**. Therefore, as the **DISTRICT'S CONTRACTOR** for this project, the **CONTRACTOR** assures the **DISTRICT** that the **CONTRACTOR**, its employees, subcontractors and assigns will refrain from acting adverse to the **DISTRICT'S** legitimate interest in promoting the goals and objectives of this project. The **CONTRACTOR** agrees to take all reasonable measures necessary to effectuate these assurances. In the event the **CONTRACTOR** determines it is unable to meet or promote the goals and objectives of the project, it shall have the duty to immediately notify the **DISTRICT**. Upon such notification the **DISTRICT**, in its discretion, may terminate this **CONTRACT**.



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ARTICLE 9 - RELATIONSHIP BETWEEN THE PARTIES

9.1 The **CONTRACTOR** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **CONTRACT** shall be interpreted to establish any relationship other than that of independent contractor between the parties and their respective employees, agents, subcontractors, or assigns during or after the performance on this **CONTRACT**. Both parties are free to enter into contracts with other parties for similar services.

9.2 In the event that the **CONTRACTOR** is providing staff who will be working on-site at **DISTRICT** facilities, it is further understood that the **CONTRACTOR** shall be the employer of the staff provided pursuant to the **CONTRACT** for all purposes under state and federal law and that the **CONTRACTOR's** staff shall not be eligible for any benefit programs the **DISTRICT** offers to its employees. All benefits available to the **CONTRACTOR's** staff shall be exclusively provided by the **CONTRACTOR** or by the **CONTRACTOR's** employee.

The **CONTRACTOR** is solely responsible for compliance with all labor and tax laws pertaining to officers, agents and **CONTRACTOR** employees and shall indemnify and hold the **DISTRICT** harmless from any failure by the **CONTRACTOR** to comply with such laws. The **CONTRACTOR's** duties with respect to such personnel shall include, but are not limited to, the following:

9.2.1 Billing, collection, payroll services and tax withholding, and any other related services

9.2.2 Providing insurance coverage pursuant to Article 5 of this **CONTRACT**.

9.2.3 Providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits and disability insurance.

9.2.4 Complying with the Fair Labor Standards

Act, 29 U.S.C. 201, et.seq., including payment of overtime in accordance with the Act.

9.2.5 Providing employee training for all activities necessary for job performance, except those functions that are unique to the **DISTRICT**, in which event, the **DISTRICT**, in its sole judgment and discretion, may provide training.

9.3 It is the intent and understanding of the Parties that this **CONTRACT** is solely for the benefit of the **CONTRACTOR** and the **DISTRICT**. No person or entity other than the **CONTRACTOR** or the **DISTRICT** shall have any rights or privileges under this **CONTRACT** in any capacity whatsoever, either as third-party beneficiary or otherwise.

9.4 The **CONTRACTOR** shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this **CONTRACT** without the prior written consent of the **DISTRICT**. Any attempted assignment in violation of this provision shall be void.

9.5 The **CONTRACTOR** shall not pledge the **DISTRICT's** credit or make the **DISTRICT** a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

9.6 The **DISTRICT** assumes no duty with regard to the supervision of the **CONTRACTOR** and the **CONTRACTOR** shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property at the site of **CONTRACT** performance.

ARTICLE 10 - MBE UTILIZATION

10.1 MBE Utilization. The **DISTRICT** actively encourages the participation of Minority Business Enterprises (MBE's) in the **DISTRICT's** procurement and contracting activity in accordance with **DISTRICT** Rule 40E-7, Part VI, F.A.C. ("MBE Rule").

As consideration for being awarded this **CONTRACT**, **CONTRACTOR** agrees to maintain the level of MBE participation agreed upon and as indicated on the cover/signature page of this



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The **CONTRACTOR** should take all necessary and reasonable steps to achieve and maintain its MBE utilization commitment. At any time during the term of this **CONTRACT**, the **DISTRICT** may request information on the MBE utilization under this **CONTRACT** and may request the **CONTRACTOR** to increase its efforts and volume of awards to certified MBE firms relative to the agreed upon commitment.

At any time during the term of this **CONTRACT**, the **DISTRICT** may request information on the MBE status of the **CONTRACTOR** and/or any and all of its subcontractor(s). The **CONTRACTOR** shall notify the **DISTRICT** immediately of any change in business ownership, management, or control of the **CONTRACTOR** or any of its subcontractor(s), that could affect the **CONTRACTOR's** MBE status or the **CONTRACTOR's** ability to comply with the MBE requirements of this **CONTRACT**.

10.2 MBE Utilization Plan. The **CONTRACTOR** shall identify all MBE firms which will be utilized as subcontractors or joint venture partners. The **CONTRACTOR** should provide proof that each firm to be utilized as an MBE prime or subcontractor is certified with the **DISTRICT**. Each subcontractor and prime shall be listed in the Utilization Plan and submitted to the **DISTRICT**. The listing of the MBE's in the Utilization Plan shall constitute the **CONTRACTOR's** representation to the **DISTRICT** that the MBE firms are technically and financially qualified and available to perform the assigned work.

The Utilization Plan shall consist of the following **DISTRICT** forms and information as submitted by the **CONTRACTOR** in its proposal as part of the *Compliance Disclosure Form*:

1. *Team Composition & Diversity Plan*
2. *Statement of Intent to Perform as a District Certified MBE Contractor form*
3. *Joint Venture Agreement (if applicable)*
4. Proof of **DISTRICT** certification
5. Organization Chart

Items (1) through (5) above are hereinafter collectively referred to as the "MBE Plan".

10.3 Subcontractor Substitution. The **CONTRACTOR** must receive written approval from the **DISTRICT's** Minority Business Enterprise Section prior to substituting an MBE subcontractor for any reason, or otherwise modifying the MBE Plan as defined above. The **CONTRACTOR** must submit to the **DISTRICT** an amended version of the following:

1. *Team Composition & Diversity Plan*
2. *Statement of Intent to Perform as a District Certified MBE Contractor for each substitute firm.*

10.4 Invoicing. The **CONTRACTOR** agrees to submit with each invoice, a completed MBE Utilization Report form, attached hereto as Exhibit "E" and made a part of this **CONTRACT**. The **CONTRACTOR** understands that each MBE utilized for the **CONTRACT** must be certified by the **DISTRICT**. The **CONTRACTOR** shall submit a completed Final MBE Utilization Report form, attached hereto as Exhibit "F" and made a part of this **CONTRACT**, with the final invoice.

10.5 Compliance. The **DISTRICT** shall monitor and evaluate compliance with the provisions of the MBE Rule. During the term of the **CONTRACT**, the **CONTRACTOR** shall comply with the MBE Utilization Plan which can only be amended with the prior written approval from the **DISTRICT's** Minority Business Enterprise Section. Compliance for use of MBE's shall include tasks and proportionate dollar amounts throughout the term of the **CONTRACT**, including amendments, change orders, and work orders. The **CONTRACTOR** shall maintain the level of MBE utilization as established in the **CONTRACTOR's** MBE Plan. Failure to comply with the MBE requirements of this **CONTRACT** will be considered a material breach of **CONTRACT** and may further result in suspension or debarment of firms for activity contrary to the **DISTRICT's** MBE Rule.

MBE certification suspension or debarment of firms



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for activity contrary to the Program, as defined in **DISTRICT** Rule 40E-7.621 (11), F.A.C. and the appeal process, shall be carried out pursuant to Article 6, Termination/Remedies of this Exhibit "B", General Terms and Conditions.

To ensure that all MBE requirements under this **CONTRACT** are met, the **CONTRACTOR's** MBE efforts throughout the performance of the **CONTRACT** shall be reviewed by the **DISTRICT**. The **CONTRACTOR** shall advise the **DISTRICT** of any situation in which regularly scheduled payments are not made to any MBE subcontractor(s).

10.6 Prohibition of Not-To-Compete Agreements. The **CONTRACTOR** is prohibited from entering into any agreements with an MBE subcontractor in which the MBE subcontractor has agreed not to provide subcontracting quotations to other respondents or potential respondents.

10.7 Records. The **CONTRACTOR** shall maintain records, and information necessary to document compliance with **CONTRACT** requirements and the **DISTRICT** shall have the right to inspect such records.

ARTICLE 11 - GENERAL PROVISIONS

11.1 Notwithstanding any provisions of this **CONTRACT** to the contrary, the parties shall not be held liable for any failure or delay in the performance of this **CONTRACT** that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this **CONTRACT** shall otherwise remain in effect. This provision shall not apply if the "Statement of Work" of this **CONTRACT** specifies that performance by **CONTRACTOR** is specifically required during the occurrence of any of the events herein mentioned.

11.2 Any inconsistency in this **CONTRACT** shall be

resolved by giving precedence in the following order:

- (a) Exhibit "A" Special Provisions, if applicable
- (b) Exhibit "B" General Terms and Conditions
- (c) Exhibit "C" Statement of Work
- (d) all other exhibits, attachments and documents specifically incorporated herein by reference

11.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **CONTRACT** by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this **CONTRACT**. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this **CONTRACT** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

11.4 Should any term or provision of this **CONTRACT** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **CONTRACT**, to the extent that the **CONTRACT** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

11.5 This **CONTRACT** may be amended only with the written approval of the parties hereto.

11.6 This **CONTRACT** states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this **CONTRACT**. The **CONTRACTOR** recognizes that any representations, statements or negotiations made by **DISTRICT** staff do not suffice to legally bind the **DISTRICT** in a contractual relationship unless they have been reduced to writing and signed by an authorized **DISTRICT**



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representative. This CONTRACT shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

ARTICLE 12 – SAFETY REQUIREMENTS

12.1 The CONTRACTOR shall require appropriate personal protective equipment in all operations where there is exposure to hazardous conditions.

12.2 The CONTRACTOR shall instruct employees required to handle or use toxic materials or other harmful substances regarding their safe handling and use, including instruction on the potential hazards, personal hygiene and required personal protective measures. A Material Safety Data Sheet (MSDS) shall be provided by the CONTRACTOR to the DISTRICT on each chemical product used.

12.3 The CONTRACTOR shall comply with the standards and regulations set forth by the Occupational Safety and Health Administration (OSHA), the Florida Department of Labor and Employment Security and all other appropriate federal, state, local or DISTRICT safety and health standards.

12.4 It is the CONTRACTOR'S sole duty to provide safe and healthful working conditions to its employees and those of the DISTRICT on and about the site of CONTRACT performance.

12.5 The CONTRACTOR shall initiate and maintain an accident prevention program which shall include, but shall not be limited to, establishing and supervising programs for the education and training of employees in the recognition, avoidance, and prevention of unsafe conditions and acts.

12.6 The CONTRACTOR shall erect and maintain, as required by existing conditions and performance of the CONTRACT, reasonable safeguards for safety and protection, including posting of danger signs and other warnings, against hazards.

12.7 The CONTRACTOR shall take reasonable

precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

12.7.1 employees on the work and other persons who may be affected thereby; including pedestrians, visitors, or traveling public;

12.7.2 the work, materials, and equipment to be incorporated therein; whether in storage on or off the site, under care, custody or control of the CONTRACTOR, or the CONTRACTOR's subcontractors; and

12.7.3 other properties at the site or adjacent thereto; such as trees, shrubs, lawns, walks, utilities, pavement, roadways, structures, building, vehicles, and equipment not designated for removal, relocation or replacement in the course of work.

12.8 The CONTRACTOR shall provide first aid services and medical care to its employees.

12.9 The CONTRACTOR shall develop and maintain an effective fire protection and prevention procedures and good housekeeping practices on the work site throughout the CONTRACT.

12.10 *Emergencies:* In emergency affecting safety of persons or property on or about the site or as a result of the work; the CONTRACTOR shall act, timely and with due diligence, to prevent threatened damage, injury, or loss.

12.11 *Environmental:* When the CONTRACTOR, CONTRACTOR's subcontractors, or subcontractors, use petroleum products, hazardous chemicals, or any other chemicals used on or about the site, the CONTRACTOR shall be responsible for handling these chemical constituents in accordance with federal, state and local regulations during the terms of the CONTRACT. For accidental discharges or releases onto the floor, air, ground, surface waters, ground waters, it shall be the CONTRACTOR's sole responsibility to respond immediately to clean the site, at his expense, to the complete satisfaction of federal, state, local regulatory agencies and to the DISTRICT requirements.



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12.12 The **DISTRICT** may order the **CONTRACTOR** to halt operations under the **CONTRACT**, at the **CONTRACTOR's** expense, if a condition of immediate danger to the public and/or **DISTRICT** employees, equipment, or property exist. This provision shall not shift the responsibility or risk of loss for injuries or damage sustained from the **CONTRACTOR** to the **DISTRICT**; and the **CONTRACTOR** shall remain solely responsible for compliance with all federal, state and local safety requirements, provisions of this section, and safety of all persons and property on or about the site.

EXHIBIT "C"

STATEMENT OF WORK GROUND-BASED APPLICATION CONTRACTS

4.1 INTRODUCTION

The DISTRICT manages numerous invasive, exotic plant species in aquatic, wetland, upland and right-of-way areas within its boundaries. The DISTRICT is charged with operating and maintaining existing infrastructure and restoring and preserving natural areas. Species that interfere with these goals include, but are not limited to, Waterhyacinth, Waterlettuce, Hydrilla, Hygrophila, Cattail, Melaleuca, Australian pine, Brazilian pepper, Java plum, Old World climbing fern, Torpedograss, Lead tree and Earleaf acacia. These species are well adapted to grow in the subtropical climate of South Florida and have no known natural control organisms to keep them in check.

At the present time, herbicides are the primary tool used by the DISTRICT to control these species. The methods of herbicide application include, but are not limited to, foliar spray, frill and girdle, basal bark, broadcast (liquid and granular), and aerial applications. Seedlings in mixed upland plant communities are currently hand-pulled in an effort to minimize the impact of herbicides on non-target vegetation. Pulled seedlings are left hanging on the native vegetation or in a pile to reduce the possibility of regrowth. Broadcast application of certain herbicides may control these exotics and may be used in instances of dense monocultures.

4.2 SCOPE OF WORK

The CONTRACTOR will be responsible for providing crews, equipment and supplies for treating aquatic and terrestrial vegetation, exotic nuisance trees and other species using ground application methods within (1) natural areas, particularly the Water Conservation Areas, Lake Okeechobee and District-owned conservation lands, (2) the canals, levees and structures of the Central and Southern Florida Flood Control Project, as well as the interconnecting Kissimmee and Alligator chain-of-lakes, (3) the Kissimmee River and (4) the Stormwater Treatment Areas (STAs) and Detention Areas.

For wetland and upland natural areas ground crews may be transported by trucks, ATVs, buggies, airboats, or helicopter. Truck, ATV, buggy, and airboat transportation shall be the responsibility of the CONTRACTOR. If helicopter transportation is required to access the worksite, the DISTRICT, under a separate contract, will provide this service. Each ground crew shall consist of one supervisor and a crew of applicators/laborers up to fifteen (15) depending on Work Order and work location. Ideally, all target plants must be treated and treatment sites recorded at each designated location before proceeding further. Vegetation treatments shall

be performed in accordance with DISTRICT standards or guidelines established for each site as specified below. The CONTRACTOR shall perform the specified services on a Work Order basis. Each Work Order will be for a minimum of 40 hours.

4.3 INSPECTION

The DISTRICT reserves the right to inspect, at any time, the CONTRACTOR'S procedures, spray system, spray solution, and other ancillary equipment, and to approve operating personnel.

The DISTRICT reserves the right to require the CONTRACTOR to replace any operating personnel or equipment used in the performance of this Contract if the personnel or equipment are violating, or have violated, any state or federal laws; or are unsafe; or for any other valid reason. In this event, the CONTRACTOR shall immediately, upon written or verbal notice (to be later reduced to writing) from the DISTRICT, provide replacements satisfactory to the DISTRICT at no additional cost.

4.4 MATERIALS AND SPECIFICATIONS

4.4.1a. For most wetland and upland sites, herbicides shall be purchased by the CONTRACTOR as recommended by DISTRICT staff and invoiced with no additional markup. In some cases, the DISTRICT may also furnish herbicides, adjuvants, and application rates. These materials may be picked up at the applicable DISTRICT field station on an "as-needed" basis. The CONTRACTOR will have the right to examine and sample the spray materials. The DISTRICT will consider alternative products or application rates recommended by the CONTRACTOR and determine the best approach.

4.4.1b. For most aquatic and Right-Of-Way sites the DISTRICT will furnish herbicides, adjuvants and application rates. The materials may be picked up at the applicable DISTRICT field station on an "as-needed" basis. The CONTRACTOR will have the right to examine and test the spray materials. The DISTRICT will consider alternative products or application rates and determine the best approach. The DISTRICT may require the CONTRACTOR to provide herbicides and adjuvants at cost to the DISTRICT with no additional markup.

4.4.2. Minimum acceptable performance is defined as 90% control of targeted vegetation within the timeframe of the manufacturers recommended period for control to occur.

4.4.3. The CONTRACTOR shall have full responsibility for systematically treating the areas indicated in the District's sole discretion. If minimum acceptable performance is not achieved for any area of the project within a reasonable time frame following project completion (time frame dependent upon species targeted, mode of action of treatment, site and weather conditions), additional thorough treatment of the target plant(s) shall be the responsibility of the CONTRACTOR at

no cost to the DISTRICT. Areas not treated or not responding to treatment may be required to be retreated at the CONTRACTOR'S expense, if it is determined that the CONTRACTOR provided faulty treatment measures or products. Vegetation treatments will be determined in terms of "surface acres," i.e., 43,560 square feet equal one surface acre.

4.4.4. Upon completion of the treatments the CONTRACTOR shall verify the data on the daily application records supplied by the DISTRICT and signed by the CONTRACTOR. A copy of this verification shall be submitted with the CONTRACTOR'S invoice.

4.4.5. The CONTRACTOR shall be familiar with and adhere to the DISTRICT'S Vegetation Management Safety Standards pertaining to aquatic weed control operations, a copy of which is attached and made a part of this Statement of Work.

4.4.6. The DISTRICT will be responsible for notifying affected property owners and the public of any use restrictions listed on the labels of the products used.

4.4.7. The CONTRACTOR shall be responsible for immediate clean-up operations associated with any fish-kill occurring within five days of application, providing the dissolved oxygen (DO) levels were 3.0 ppm or above at the time of treatment. If the DO levels were below 3.0 ppm at the time of treatment, and the District's authorized treatment, then the DISTRICT will be responsible for said clean-up operations.

4.4.8. The CONTRACTOR shall be responsible for providing applicators with all supplies and equipment, including backpack sprayers and blowers, machetes, spray bottles, safety equipment, etc.

4.4.9. The CONTRACTOR shall supply airboats, all-terrain vehicles and buggies to transport crews and supplies to and from treatment sites.

4.4.10. The CONTRACTOR shall supply communication equipment and will include beepers, and cellular telephones.

4.4.11. The CONTRACTOR shall assign a licensed ground crew supervisor(s) to each project Work Order and shall be on-site at all times during control operations until project completion. The ground crew supervisor should be able to communicate with all crew members in a common language and shall be responsible for: 1) all control activities and safety on project sites; 2) assuring that all contract crews are knowledgeable of, and remain within property and treatment boundaries; 3) coordination with DISTRICT program site manager on a daily/weekly basis; 4) assuring availability and compliance with all appropriate herbicide labels, Material Safety Data Sheets (MSDS), permit conditions and 5) making every effort to avoid damage to native vegetation and wildlife.

4.4.12. The CONTRACTOR shall be responsible, to the satisfaction of the DISTRICT, for the restoration or replacement of all native vegetation and property damaged as a result of any activity by the CONTRACTOR.

4.5 TREATMENT PROCEDURES

4.5.1. Applications must be performed in such a manner as to protect non-target organisms, the environment, and the public. This includes taking into consideration and employing whatever means necessary to reduce drift in accordance with DISTRICT/DEP Herbicide Use Guidelines, observing DISTRICT practices regarding dissolved oxygen (DO) levels, and adequately measuring and recording wind velocities.

4.5.2. The CONTRACTOR shall maintain aquatic/exotic vegetation at the lowest possible level to provide access, prevent accumulation at structures, and prevent public complaints and health hazards. Vegetation management will be measured using DISTRICT maintenance standards. Ditchbank and other exotic vegetation (includes melaleuca, Brazilian pepper, Australian pine, torpedograss, lygodium, Java plum, and cogongrass) will be measured. The District will provide treatment objectives based on local knowledge of the specific treatment site or any restrictions that may be applicable prior to the commencement of work.

4.5.3. Exotic vegetation to be treated includes, but is not limited to, melaleuca, Brazilian pepper, Australian pine, Java plum, earleaf acacia, Old World climbing fern, and torpedograss. The DISTRICT will provide any local knowledge or other restrictions that may be applicable to the specific project location prior to the commencement of work.

a. - Melaleuca

Each individual mature tree shall be completely girdled and the exposed cambium sprayed with herbicide. The cut should angle downward and the tree bark must not be removed in order to create a pocket to protect the herbicide in rain events. Small trees can be completely cut off and the herbicide applied directly on the stump. However, larger trees, 3" diameter at breast height (DBH) and up, must be left standing to avoid navigation hazards to airboat traffic. The herbicide should be sprayed into the exposed cambium until thoroughly wet; however, runoff of herbicide to the ground must not occur. The site of the cut in both girdle and cut stump treatments must be at least one foot above the expected water level.

b. - Brazilian pepper, Australian pine and other woody exotic plants

These trees shall be treated with the basal bark method. The herbicide is applied in an oil-soluble formulation, commonly with a backpack sprayer, directly to the bark around the circumference of each stem/tree up to 15 inches

above the ground. The band of spray must be at least 12" wide. In certain instances Brazilian pepper trees may also be sprayed foliarly using a "lacing" technique. This "lacing" treatment is used when solutions of Arsenal in water are recommended; and is accomplished by spraying a stream of herbicide mix across the face of the trees in a zig-zag pattern.

4.5.4. Seedlings and Saplings

Seedlings and saplings shall be hand-pulled and left hanging on other vegetation or put in a pile to reduce the possibility of re-sprouting. When conditions dictate, seedlings and saplings may be treated with herbicide using a backpack sprayer or other broadcast techniques.

4.5.5. Grasses, vines and other non-woody plants

Species within this category shall be treated by broadcast application of herbicides. Treatment methods for these species will be determined by the DISTRICT's project manager, on a case by case basis.

The CONTRACTOR may use other herbicides and methods of treatment with prior approval from the DISTRICT's project manager only.

4.6 DATA COLLECTION

The ground crew Supervisor shall be responsible for collecting the following data: treatment date, weather condition, treatment location including longitude and latitude, number of trees and seedlings treated, acres treated, herbicide amount used, number of applicators, hours worked, total hours of operating time, total hours of down time, total hours of adverse weather, lost time, wind measurement as applicable, and any other information as may be required by the DISTRICT. This data shall be recorded on the "Daily Supervisor's Activity Report" form. The Project Manager will provide a copy of this form to the Contractor.

Upon completion of the treatments the CONTRACTOR shall verify the data and sign the forms. The original copy of this verification shall be submitted to the Project Manager on the Monday following the week of work.

4.7 DELIVERABLES

4.7.1. Data collection identified in section 4.6 shall be submitted weekly to the Project Manager on a 3.5" computer disk (preferably Microsoft EXCEL format), along with the "Daily Supervisor's Activity Report" form. This data shall be submitted to the Project Manager on the Monday following the week of work. The original data sheet must be submitted to the Project Manager, and the CONTRACTOR must keep a copy on file.

4.7.2. Invoices are to be submitted to the DISTRICT monthly and within ten (10) calendar days after the end of the month of work. Invoices shall include a summary of all data collected and completed DISTRICT forms for the billing period.

4.8 TIME SCHEDULE AND TIME FRAMES

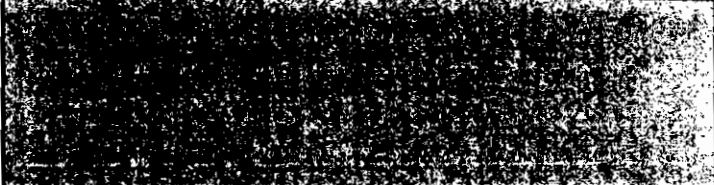
4.8.1 The CONTRACTOR shall preferably work four 10-hour days per week for a total of 40 hours per week. Any other combination of hours and days must have prior approval of the DISTRICT. No overtime is allowed. Weather and site conditions may interfere with the time schedule.

4.8.2 Eligible crew operating time is the time the crew spends during the workday, performing exotic plant control operations in accordance with this solicitation. Eligible crew operating time includes travel from the designated project location to the treatment sites and includes herbicide spray operations and travel time from spray site to spray site. Eligible operating time does not include travel from CONTRACTOR's office or place of lodging to project location, crew time for lunch and break periods, down time for equipment repair or other crew time delays.

ORIGINAL



SOUTH FLORIDA WATER MANAGEMENT DISTRICT CONTRACT

THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (hereinafter referred to as DISTRICT) HEREBY ENTERS INTO THIS CONTRACT WITH: Name: AQUATIC VEGETATION CONTROL, INC. Address: P.O. Box 10845 Rivera Beach, FL 33419 Project Manager: Jim Burney Telephone No: (561) 845-5525 Fax No: (561) 845- 5374 Hereinafter referred to as: CONTRACTOR	This number must appear on all Invoices and Correspondence <h3>OT040865</h3>
	M/WBE Goal: 15% 

PROJECT TITLE: GROUND APPLICATION SERVICES FOR EXOTIC PLANT CONTROL

The following Exhibits are attached hereto and made a part of this CONTRACT:

Exhibit "A" - Special Provisions	Exhibit "H" - Insurance Requirements
Exhibit "B" - General Terms and Conditions	Exhibit "I" - Work Order Form
Exhibit "C" - Statement of Work	Exhibit "J" - Not Applicable
Exhibit "D" - Not Applicable	Exhibit "K" - Not Applicable
Exhibit "E" - M/WBE Utilization Report	Exhibit "L" - Rate Schedule
Exhibit "F" - Final M/WBE Utilization Report	Exhibit "M" - Not Applicable
Exhibit "G" - Not Applicable	

TOTAL CONTRACT AMOUNT: \$18,000,000.00 Multi-Year Funding (If Applicable) Fiscal Year: October 1, 2005-September 30, 2006 \$6,000,000.00 Fiscal Year: October 1, 2006-September 30, 2007 \$6,000,000.00* Fiscal Year: October 1, 2008-September 30, 2008 \$6,000,000.00* *Subject to District Governing Board Annual Budget Approval	CONTRACT TYPE: Work Order Fiscal Year: Fiscal Year: Fiscal Year:
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CONTRACT TERM: Three (3) Year District Project Manager: Francois Laroche Telephone No: (561) 682-6193 Fax No. (561) 681-6232	EFFECTIVE DATE: Last Date of Execution by the Parties District Contract Specialist: Don Hill Telephone No: (561) 682-2045 Fax No.: (561) 682-5301
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SUBMIT INVOICES AND NOTICES TO THE DISTRICT AT: South Florida Water Management District 3301 Gun Club Road West Palm Beach, Florida 33406 Attention: Procurement Division	SUBMIT NOTICES TO THE CONTRACTOR AT: AQUATIC VEGETATION CONTROL, INC. P.O. Box 10845 Rivera Beach, FL 33419 Attention: Jim Burney
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IN WITNESS WHEREOF, the authorized representative hereby executes this CONTRACT on this date, and accepts all Terms and Conditions under which it is issued.

AQUATIC VEGETATION CONTROL, INC. Accepted By: <u><i>Jim Burney</i></u> Signature of Authorized Representative Title: <u>President</u> Date: <u>10/05/04</u>	SOUTH FLORIDA WATER MANAGEMENT DISTRICT BY ITS GOVERNING BOARD Accepted By: <u><i>Frank Hayden</i></u> Frank Hayden, Procurement Director Date: <u>10/17/04</u> SFWMD OFFICE OF COUNSEL APPROVED By: <u><i>[Signature]</i></u> Date: <u>9/29/04</u> SFWMD PROCUREMENT APPROVED By: <u><i>[Signature]</i></u> Date: <u>09/24/04</u>
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**REVISED EXHIBIT "L-1"
RATE SCHEDULE**

FUEL PRICE ADJUSTMENT CLAUSE

The billing rate for the Licensed Applicator/Supervisor stated below shall be adjusted (escalated or deescalated) on an annual basis at the beginning of the **DISTRICT's** fiscal year. The **DISTRICT** will use the cumulative annual percentage (increase or decrease) for the previous twelve months for fuel as outlined in the Fuel & Bituminous Price Index (F&BPI) published by the Florida Department of Transportation to determine the new rate for services for all other remaining contract years. This adjustment shall be calculated only on the fuel component of the total rate. The **DISTRICT** has determined the fuel component of the overall rate for this adjustment at 20%. This adjustment shall be effective automatically on October 1 of each year of the contract and the **CONTRACTOR** shall not have the option of accepting or rejecting the adjustment. The execution date of this amendment shall be the effective date for the new billable rate for the Licensed Applicator/Supervisor stated below.

<u>Positions</u>	<u>Hourly Labor Rate</u>
Licensed Applicator/Supervisor	\$ 47.00
Laborer	\$ 18.00

Hourly rates shall include: average pay rate, benefit costs, insurance, equipment (transport trucks, airboats, ATV, spray and communication equipment, back packs, machetes, spray bottle, and all other safety equipment) and all other components of the hourly rates. Herbicides and adjuvants will be provided at cost by the Contractor. The Contractor must supply copies of materials' invoices to receive reimbursement from the district. There will be no markup allowed for materials reimbursement. All pricing shall exclude sales and use taxes at both the State and Federal levels since the District is exempt from payment of such taxes.

There will be a two hour charge for lost time due to inclement weather which causes the cancellation of a planned work day, in the event the Contractor's crew travels to the work site prior to cancellation. On days when the Contractor has initiated work and continues for more than two hours, the two-hour lost time charge does not apply. The Contractor shall charge the District only for hours worked on that day. No overtime is allowed unless specifically authorized by work order. On days when the workers are working, there will be no minimum availability rates. Billing for labor shall begin upon the commencement of work (boat ramp); travel time shall not be billed.



ORIGINAL

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
AMENDMENT**

OT040865-A03

AMENDMENT NO. 03

TO CONTRACT NO. OT040865

BETWEEN THE

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

AND

AQUATIC VEGETATION CONTROL, INC.

This **AMENDMENT NO. 03**, entered into on FEB 15 2006, 2006 to that **CONTRACT** dated October 7, 2004 as amended on January 5, 2005 and August 19, 2005, between "the Parties," the South Florida Water Management District (**DISTRICT**), and Aquatic Vegetation Control, Inc. (**CONTRACTOR**).

WITNESSETH THAT:

WHEREAS, the **CONTRACT** may be amended with the prior written approval of the parties; and

WHEREAS, the parties wish to amend the **CONTRACT** in order to amend the Rate Schedule of the **CONTRACT**;

NOW THEREFORE, the **DISTRICT** and the **CONTRACTOR**, in consideration of the mutual benefits flowing from each to the other, do hereby agree as follows:

1. The Rate Schedule, Exhibit "L" of the **CONTRACT**, is hereby deleted and replaced with the attached Revised Rate Schedule, Exhibit "L-1", attached hereto and made a part of this **AMENDMENT NO. 03**.
2. This **AMENDMENT NO. 03** shall be effective upon the date of execution by the parties.
3. All other terms and conditions of the **CONTRACT** remain unchanged.



SOUTH FLORIDA WATER MANAGEMENT DISTRICT AMENDMENT

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this AMENDMENT NO. 03 on the date first written above.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By: Carrie Hill 2/15/06
~~Frank Hayden, Procurement Director~~
Carrie Hill, Interim " " " *SMC*

SFWMD OFFICE OF COUNSEL

BY: [Signature]
DATE: 1/26/06

SFWMD PROCUREMENT APPROVED

BY: [Signature]
DATE: 01/20/06
SMC

AQUATIC VEGETATION CONTROL, INC.

By: [Signature]
Title: CFO

EXHIBIT "A" SPECIAL PROVISIONS

The purpose of this Exhibit "A" is to delineate any and all changes, deletions and/or additions to the Exhibit "B" General Terms & Conditions. In the event of any conflict between this Exhibit "A" and any other provision specified in this CONTRACT, this Exhibit "A" shall take precedence.

1. Article 1.1.1 is hereby deleted and restated as follows: "The actual services required and not-to-exceed consideration for providing such services shall be detailed in individual Work Order(s) to this CONTRACT issued by the DISTRICT, a sample of which is attached as Exhibit "I", and made a part of this CONTRACT. The mutually agreed upon not-to-exceed amount for each authorized Work Order issued hereunder shall be the only basis for consideration by the DISTRICT. Payment may not exceed the authorized amount in the event the CONTRACTOR's work exceeds the dollar amount authorized. Work Order not-to-exceed amounts shall incorporate established rates specified in Exhibit "L", attached hereto and made an integral part of this CONTRACT. No work shall commence prior to receipt of an authorized Work Order. The DISTRICT does not guarantee or represent that any minimum number of Work Orders for any dollar amount will be issued as a result of this CONTRACT."

"Multiple Contracts have been awarded for ground application services for exotic plant control, stated on the cover page as the Project Title, to be provided under this CONTRACT. The DISTRICT does not guarantee or represent that any minimum number of Work Orders for any dollar amount will be issued as a result of this CONTRACT. The amount stated on page one of this CONTRACT represents funding that may be used among the multiple CONTRACTS awarded by the DISTRICT's Governing Board and in no way represents the amount to be paid under any single CONTRACT issued herein."

2. The following is hereby added as Article 1.6: "The CONTRACTOR hereby agrees to extend the unit rates specified in Exhibit "L" to other governmental entities. Nothing contained herein shall be construed to prevent other governmental entities from "piggybacking" this CONTRACT."
3. The following is hereby added as Article 1.7: "The CONTRACTOR agrees to comply with the applicable flowdown provisions of the DISTRICT's agreements with the Florida Department of Environmental Protection (Department) for services performed in conjunction with Exhibit "C" Statement of Work. The flowdown provisions are set forth under amended Agreements No. C-12562 and C-13664 executed between the DISTRICT and the Florida Department of Environmental Protection. Applicable provisions of these agreements are as follows:
 - 1.7.1 C-12562 - 13. and C-13664. - 1. "The CONTRACTOR (DISTRICT) shall maintain books, records and documents directly pertinent to performance under this CONTRACT in accordance with generally accepted accounting principles consistently applied. The Department, the State, or their authorized representative shall have access to such records for audit purposes during the term of this CONTRACT and for three years following contract completion. In the event any work is subcontracted, the CONTRACTOR (DISTRICT) shall similarly require each subcontractor to maintain and allow access to such records for audit purposes."
 - 1.7.2 C-12562 - 28. and C-13664 - 26 "The CONTRACTOR (DISTRICT) shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this CONTRACT. The CONTRACTOR (DISTRICT) acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulation. The CONTRACTOR (DISTRICT) further agrees to include this provision in all subcontracts issued as a result of this CONTRACT."
4. The following is hereby added as Article 1.8: "The ground supervisor shall be responsible for data collection, herbicide application and inventory, herbicide safety procedures, and crew supervision.



AQUATIC VEGETATION CONTROL INC.

6753 Garden Road, Suite 109, Riviera Beach, Florida 33404
Mailing Address: P.O. Box 10845, Riviera Beach, FL 33419-0845
(561) 845-5525 • (800) 327-8745 • FAX (561) 845-5374

May 22, 2006

Roger S. Clark, Land Stewardship Manager
Lee County Parks and Recreation
3410 Palm Beach Blvd.
Fort Myers, FL 33916

Dear Roger,

Per our conversation, I have enclosed copies of the amendment to the SFWMD contract allowing us extend the unit prices to other government agencies. We at Aquatic Vegetation Control, Inc. will honor the terms and conditions of the above referenced contract for work in Lee County Florida.

Please feel free to contact me if you have any questions, or to survey a potential treatment area.

Sincerely,

Todd J. Olson, Chief Marketing Officer
Aquatic Vegetation Control, Inc.