REQUEST FOR PROPOSAL

BID TITLE:

ISO 14001 Certification Audit for Environmental Management System

BID NO:

11-008

ISSUE DATE:

November 30, 2010

SUBMIT BID TO:

TWA Purchasing Department
Toho Water Authority
1628 S. John Young Pkwy
Kissimmee, FL 34741

Contact Information

CONTACT PERSON:	Adana Lumsden, CPPO, MBA, FCPM, FCCM Purchasing and Warehouse Manager
EMAIL ADDRESS:	alumsden@tohowater.com
PHONE:	(407) 944-5181
FAX:	(407) 931-4308

Schedule

PRE - PROPOSAL CONFERENCE:	N/A
DEADLINE FOR WRITTEN QUESTIONS:	December 8, 2010 at 2p.m.
PROPOSAL DEADLINE:	December 15, 2010 at 2p.m.

BOARD OF SUPERVISORS :

Bruce R. Van Meter - Chairman
James W. Wells – Vice-Chairman
John E. Moody
Raul S. Banasco
Robert J. Bornstein
Richard L. Hord

MISSION STATEMENT :

Provide reliable, cost effective, and responsive water services to our customers while protecting public health and the environment

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TOHO WATER AUTHORITY

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SECTION 1 SUMMARY INFORMATION

1.0 PURPOSE

The intent of this Request for Proposal (RFP) is to obtain formal sealed proposals from qualified vendors to conduct ISO 14001 certification audit on the Toho Water Authority's environmental management system.

1.1 PARTIES DEFINED

A. The term "Authority" used in the RFP documents refers to Toho Water Authority.
B. The term "Offeror" refers to the firm that elects to submit for this RFP.
C. The term "Successful Offeror" refers to the Offeror to whom the Authority makes an award.

1.2 BACKGROUND

The Authority is the largest provider of water, wastewater, and reclaimed water services in Osceola County. The Authority serves 73,000 water, 71,000 wastewater and 10,000 reclaimed water customers in Kissimmee, Poinciana and unincorporated areas of Osceola County.

The Authority owns and operates twenty (20) water plants and ten (10) wastewater plants while maintaining 1,174 miles of water mains, 980 miles of wastewater mains, 242 miles of reclaimed water mains and 357 wastewater pump stations. With a 165 person workforce, the Authority treats and distributes approximately 35 million gallons of potable water and reclaims 21 million gallons of wastewater each day.

The Authority's Operations Department has implemented an Environmental Management System (EMS) that conforms to the ISO 14001:2004 Environmental Standard and is seeking cost proposals to obtain registration services (re-certification and subsequent surveillance audits) as necessary to attain certification of its EMS to the ISO 14001:2004 standard.

1.3 CLARIFICATION OF REQUIREMENTS

Questions regarding clarification or interpretation of this solicitation should be submitted in writing no later than seven (7) calendar days prior to the RFP deadline to the Purchasing and Warehouse Manager at the address listed above. However, unless modified by a written addendum issued by the Purchasing and Warehouse Manager, the specifications and conditions contained herein stand as stated. Verbal communications are neither authoritative nor binding. Any verbal interpretation in conflict with these specifications as written should immediately be directed in writing to the Purchasing and Warehouse Manager. Any interpretation provided to any Offeror in response to inquiries regarding this solicitation which may affect the outcome of this RFP will be furnished in writing to all Offerors who have received RFP packages.

1.4 EXAMINATION OF PROPOSAL DOCUMENTS

It is the responsibility of each Offeror before submitting a proposal:

- To examine thoroughly the proposal Documents
- To study and carefully correlate the Offeror's knowledge and observations of the proposal Documents and such other related data
- To promptly notify the Authority of all conflicts, errors, ambiguities or discrepancies which the Offeror has discovered in or between the proposal Documents and such other related documents or conditions.

1.5 INSTRUCTIONS FOR SUBMITTING PROPOSALS

A. The deadline for submitting proposals is shown on the cover sheet. **No proposal shall be considered if it arrives after the scheduled deadline.**

B. Each Offeror shall submit one (1) original and three (3) copies of the proposal submittal.

C. All proposals must be submitted in a sealed package(s) and date and time stamped by an Authority representative on or prior to the due date and time specified above. No other form of submission will be accepted (i.e., E-mail, Facsimile, etc.). Proposal packages must be identified on the outside as follows:

RFP 10-045 LIMS
Name of Offeror
Street Address
City, State, Zip Code
Attn: Adana Lumsden, Purchasing and Warehouse Manager

D. Proposals will be available for inspection during normal business hours in the Purchasing and Warehouse Department within ten (10) days of the closing date, by appointment (Florida Statute 119.071(1) (b)).

1.6 REJECTION OF PROPOSALS

The right is reserved by the Authority at its discretion to reject any or all proposals or parts thereof. Proposals may be rejected if they show any omission, alteration of form, additions or deductions not called for, conditional or uninvited alternate proposals, or irregularities of any kind; however, the Authority also reserves the right to waive any informality on proposals.

1.7 SHAM OR COLLUSIVE PROPOSALS

The proposal of any Offeror or Offerors who engage in collusive bidding shall be rejected. Any Offeror who submits more than one proposal in such a manner as to make it appear that the proposals submitted are on a competitive basis from different parties shall be considered a collusive Offeror.

1.8 NOTICE OF AWARD

Public notice of award will be posted in the Purchasing Department's Bid Announcement Binder located at the address shown on the cover sheet. Notice of award will also be posted on Demand Star at www.demandstar.com.

1.9 ADDENDA TO THE RFP

A. The Authority reserves the right to amend this solicitation at any time prior to the deadline for submitting Proposals. If it becomes necessary to revise any part of this RFP, notice of the revision will be posted on Demand Star at www.demandstar.com. If, in the opinion of the Purchasing Agent, the deadline for the submission of proposals does not provide sufficient time for consideration of any Addendum, then such deadline may be extended at the discretion of the Authority.

B. It shall be the responsibility of each Offeror to contact the Purchasing Contact identified on the cover page to this solicitation prior to submission of a proposal hereunder in order to determine whether any Addenda have been issued in connection with this procurement. Notwithstanding any provision to the contrary, the failure of any Offeror to receive any Addenda shall neither constitute grounds for withdrawal of its proposal nor relieve such Offeror from any responsibility for incorporating the provisions of any Addenda in its proposal.

1.10 RECIEPT OF ADDENDA

Receipt of any addenda issued must be acknowledged on the addenda and returned with proposal. **Failure to acknowledge your receipt of any addenda may result in your proposal being considered non-responsive.**

1.11 LATE PROPOSALS

Proposals or unsolicited amendments to proposals arriving after the closing date and time will not be considered. Proposals received after the proposal submission deadline will be returned to the Offeror

unopened providing that sufficient identification information is shown on the outside of the submittal envelope.

1.12 PROPOSAL PRICES

In the event there is a discrepancy between the unit prices and the extended totals, the unit prices shall govern. In the event there is a discrepancy between the prices written in words and written in figures, the prices written in words shall govern. In case of error in the Offeror's extended summation, the computed total of the Authority shall govern.

1.13 CONTRACTUAL AGREEMENT

A Contract shall be issued to the successful Offeror. The Contract shall consist of the RFP, the successful Offeror's proposal together with any negotiated terms and pricing. The Offeror shall inform himself in full of the conditions relating to the performance of the Contract. Failure to do so shall not relieve the successful Offeror of his obligations to furnish services, materials, and other services necessary to carry out the provisions of this RFP and resulting Contract and to complete the Scope of Services outlined therein.

1.14 DISCLOSURE OF PROPOSAL CONTENT

All material submitted becomes the property of the Authority and may be returned only at the Authority's option. The Authority has the right to use any or all ideas presented in any reply to this proposal. Selection or rejection of any proposal does not affect this right.

The Authority is governed by the Public Record Law, Chapter 119, Florida Statutes. Only trade secrets as defined in Section 812.081(1)(c), Florida Statutes or financial statements required by the Authority as defined in 119.071(1)(c), Florida Statutes (hereinafter "Confidential Materials"), may be exempt from disclosure. If an Offeror submits Confidential Materials, the information must be segregated, accompanied by an executed Non-Disclosure Agreement for Confidential Materials (Attachment I) and each pertinent page must be clearly labeled "confidential" or "trade secret'. The Authority will not disclose such Confidential Materials, subject to the conditions detailed within the Agreement, which is attached to this solicitation. When such segregated and labeled materials are received with an executed Agreement, the Authority shall execute the Agreement and send the Offeror a "Receipt for Trade Secret Information".

RETURN THIS FORM ONLY IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE PROPOSAL. PLEASE READ THE SECTION IN THE RFP DOCUMENT TO DETERMINE IF THIS APPLIES.

1.15 POLICY REGARDING CONTACT AFTER SUBMITTAL

After the date and time established for receipt of proposals by the Authority, any contact in regard to the proposal initiated by any Offeror with any Authority official, other than the Purchasing and Warehouse Department is expressly prohibited. **Any unauthorized contact may be deemed grounds for disqualification of any Offeror from further review.**

1.16 INITIAL CONTRACT PERIOD AND OPTION OF RENEWAL

The initial contract period shall be for the period of one (1) year commencing upon date of issuance of purchase order for this award. The contract may be renewed subject to written notice of agreement from the Authority and the Offeror for an additional two (2) one (1) year periods beyond the primary contract period. This option shall be exercised only if all terms and conditions remain the same and the Authority grants approval.

END OF SECTION 1

SECTION 2 RFP SCHEDULE

The **anticipated** schedule for this RFP is as follows:

Release RFP	November 29, 2010
Last Date for Questions	December 8, 2010 at 2p.m.
Proposal Deadline	**December 15, 2010 at 2p.m.**
Evaluation Committee Review	December 20, 2010
Board Approval	January 12, 2010
Commencement of Services	January 14, 2010

END OF SECTION 2

SECTION 3 SCOPE OF WORK

3.0 SCOPE OF WORK

The Authority's Operations Department is comprised of all of the water and wastewater treatment plants – twenty (20) water treatment plants and ten (10) wastewater plants. The department has over 45 employees that are responsible for operating and maintaining these plants. In addition to the plants, the department maintains all of the lift stations within our service area. Due to the size of the department, only four (4) wastewater treatment plants, two (2) water treatment plants and the lift stations building are ready for certification at this time (these are facilities that are within the EMS "fenceline").

The scope of the EMS includes the Authority's owned and operated facilities listed below:

A. Wastewater Treatment Plants

1. South Bermuda Wastewater Treatment Plant
   1616 S. John Young Parkway
   Kissimmee, FL 34741
   Permitted Capacity: 13 million gallons per day (MGD)
   Plant Description: Extended aeration dual Anoxic/Oxic/Anoxic/Oxic (AOAO) treatment trains and an oxidation ditch advanced domestic wastewater treatment facility. The facility consists of pretreatment, aeration, primary clarification, secondary clarification, AOAO treatment, chemical feed facilities, filtration, chlorination, and Class A stabilization (Bioset process) of residuals. This permit allows previously permitted installation of a new packaged biofilter odor control system connected to a flat cover system for each primary clarifier (No. 1 – No. 3) at the existing facility. **This plant has three (3) shifts (covered 24 hours a day) and has ten (10) employees.**

2. Camelot Wastewater Treatment Plant
   5400 Camelot Country Way
   Kissimmee, FL 34746
   Permitted Capacity: 5 MGD
   Plant Description: The existing facility consists of influent screening, grit removal, flow equalization, anoxic tanks, aeration, secondary clarification, chemical feed, filtration, chlorination, a 0.7 million gallon (MG) reclaimed water storage tank and high service pump station, a 5.0 MG on site reject/wet weather storage pond and sludge holding. Phase 1A of the project will include replacement of the screen structure, installation of odor control, a new 1.0 MGD ground storage tank and demolition of the 2.5 MGD steel package plant. Phase 1B will involve the expansion of the 1992 process structures from 2.5 MGD to 5.5 MGD, which will include blower modifications, conversion of the chlorination system to a bulk sodium hypochlorite feed system, and the addition of another clarifier. **This plant has a one (1) day shift and has two (2) employees.**

3. Sandhill Wastewater Treatment Plant
   2200 Sandhill Road
   Kissimmee, FL 34746
   Permitted Capacity: 6 MGD
   Plant Description: An existing aeration domestic wastewater treatment plant consisting of flow equalization, influent screening, grit removal, aeration, secondary clarification, filtration, and ultraviolet (UV) disinfection. Headwork facilities include a self cleaning bar screen (manual back-up bar screen); a grit separator; and a 1000 cfm biological odor control system (as previously permitted); secondary treatment facilities include two (2) parallel treatment trains, with anoxic selector zones, internal recycling pumps and stage baffles, aeration basins with submersible mixers and fine bubble diffusers, clarifiers, and a chemical feed system; high level disinfection facilities include two (2) sand and two (2)

cloth-media filters (with a design capacity of 8.6 mgd) and UV system; a separate sodium hypochlorite system for chlorination at the effluent pump station, filter influent and clarifier launders is provided. **This plant has one (1) day shift and has three (3) employees.**

4. Parkway Wastewater Treatment Plant
   2550 Fortune Road
   Kissimmee, FL 34743
   Permitted Capacity: 1.5 MGD
   Plant Description: Extended aeration oxidation ditch domestic wastewater treatment plant consisting of influent screening, grit removal, aeration, secondary clarification, chemical feed, filtration, chlorination, and aerobic digestion of residuals. Facilities also include electronic sensors and automatic diversion valves, an on-site 1.5 million gallon (MG) reject pond with pump back provisions to the head of the plant for retreatment, an on-site 1.0 MG reclaimed water holding pond with a high service pump station and a standby power generator. Permit also includes previously permitted 7.5 MG reclaimed water covered ground storage tank. **This plant has one (1) day shift and has two (2) employees.**

B. Water Treatment Plants

1. North Bermuda Water Treatment Plant
   2706 N. John Young Parkway
   Kissimmee, FL 34741
   Permitted Capacity: 19.964 MGD
   Plant Description: Largest water treatment plant. Utilizes six (6) high service pumps to distribute potable water. Utilizes hypochlorite for disinfection. **This plant has one (1) day shift and has six (6) employees.**

2. Southwest Water Treatment Plant
   7325 Osceola Polk County Line Road
   Davenport, FL 33896
   Permitted Capacity: 8.640 MGD
   Plant Description: This plant utilizes ozone for disinfection purposes. Ozone and oxygen gas are stored/generated on site. **This plant has one (1) shift and has one (1) employee.**

C. Lift Stations

1. Lift Stations Main Building
   1622 S. John Young Parkway
   Kissimmee, FL 34741
   Plant Description: The Authority operates over 200 lift stations that cover a large part of Osceola County. These lift stations, also commonly known as pump stations, are used in areas where the topography prevents downhill gravity flow. A wet well collects the raw sewage and electrical instrumentation is used to turn the pumps on and off. These stations are not manned. A work crew of thirteen (13) employees is in charge of driving around and troubleshooting/maintaining these stations. The station is generally just an electrical panel that is located aboveground while the rest of the equipment is located underground. **The lift stations are monitored twenty four (24) hours seven (7) days a week by a SCADA system. Lift stations has a work crew of thirteen (13) employees.**

3.1 REGISTRAR

The Authority is seeking a registrar to provide the following:

A. A scope of work to provide registration services to the ISO 14001 standard (certification audit and subsequent surveillance) for the three (3) year period of certification. The Authority is seeking a single certificate of approval for the entire operation, with surveillance audits throughout the

registration period. A proposed audit scheme is required as part of the submittal and should include cost estimates for surveillance audits on a semi-annual and annual basis.

B. The registrar shall provide all labor, transportation, supplies, and any other items necessary to perform all work necessary for and incidental to the performance of audits and specify such costs in their submittals.

C. Audit documents shall be provided in an electronic format.

3.2 MINIMUM REGISTRAR QUALIFICATIONS

A. The registrar must have an Ansi-ASQ National Accreditation Board (ANAB) accredited ISO 14001 audit program.

B. A lead auditor must be assigned to the project, which must be certified as a Lead EMS Auditor by the ANAB.

C. The selected registrar must be prepared to dedicate at least one (1) auditor to the project, which will perform all audit activities within the scope of this specification, unless otherwise requested by the Authority.

3.3 PROJECT MANAGER

A designated project manager must be assigned to this project that will serve as the main point of contact to coordinate the EMS audit and to address the Authority's questions and concerns. The project manager may or may not be the Lead Auditor.

3.4 REFERENCES

Each Offeror must submit with its proposal, three (3) references. References shall be of similar scope of operations as the Authority to whom the Offeror has supplied similar products and services within the past 36 months. References must be able to attest without reservation to the fact that the Offeror provided the contracted goods/services without a significant problem of any kind, and at any time during the contract period.

END OF SECTION 3

SECTION 4 PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

Proposals shall contain the following information in the order listed below.

A. TITLE PAGE – Shall show the RFP's subject, title and proposal number; the firm's name; the name, address, and telephone number of a contact person; and the date of the Proposal.

B. TABLE OF CONTENTS – Shall provide listing of all major topics, their associated section number, and starting page.

C. FIRM QUALIFICATIONS AND EXPERIENCE

- **Overview of firm** - include the location of the office to perform the work; the percentage of direct employees and sub-contracted employees you expect to utilize for the certification audit; number of years your company has been in business under present name and any other names and other or former names under which the organization has operated.
- **Similar Projects** – include a minimum of three (3) references of similar size projects. Include a description of services, size and type of equipment serviced, estimated dollar value and point of contact.
- **Subcontractor** – list any sub-contractors that may be used to accomplish this service and provide a minimum of 3 references.
- **Litigation** – list any past and/or pending litigation or disputes relating to the work described herein that your firm has been involved in within the last five (5) year. This list shall include each project name and the nature of the litigation.
- **Financial Information** – provide an official letter from the proposer's financial institution detailing the financial status of the proposer. The letter shall include a contact name, address, phone and fax number. **The failure to produce financial requirements may be grounds for dismissal of your offer.**
- **Insurance Certifications** – provide a copy of Certificates of Insurance evidencing coverage as required in Section 7.6. **Note:** Policies other than Worker's Compensation shall be issued only by companies authorized to conduct business in the State of Florida, with active certificates of authority issued by the State of Florida, Department of Insurance.
- **EMS Accreditation** – provide proof of EMS accreditation.

D. PROJECT APPROACH

- Briefly state your understanding of the work to be performed.
- Indicate the scope of the proposed approach and techniques to be used to successfully accomplish the requested services.
- Include a narrative of the Registrar's audit strategy in general and a specific plan to audit the Authority's EMS. The description of the audit strategy shall include the surveillance audit program, structure of the certification audits and audit logistics such as number of auditors and audit timeframe.

E. STAFF

- Give a complete list of the number of managers, supervisors and other staff employed by your firm who will supervise the required work.
- Resumes shall be included for each member that will be assigned to this project

F. WORK PLAN AND TIMELINE

- Outline each of the proposed major tasks required to complete the project and estimate the approximate amount of time required for each.
- Indicate the estimated number of professional hours, by person or class, allocated to each major task.
- Indicate the approximate dates that fieldwork will begin and end for both preliminary and final fieldwork. Also indicate estimated dates for delivery of audit reports.

G. REQUIRED DOCUMENTS – Complete and submit the forms contained in the following attachments:

- Attachment A Proposal Form
- Attachment C Drug Free Workplace Form
- Attachment D Substitute W9 Form
- Attachment E Non Collusion Affidavit
- Attachment F Non Disclosure Agreement of Confidential Materials (if applicable)
- Attachment G Hold Harmless Agreement (if applicable)

It is the Offeror's responsibility to clearly identify and to describe the project approach in response to this RFP. Offeror's are cautioned that organization of their response, as well as thoroughness is critical to the Authority's evaluation process.

Proposals should be in 8 ½" x 11" format and should be prepared simply and economically, providing a straight forward, organized, and concise description of the Offeror's ability to meet the requirements of the RFP. The number of pages should be kept to a minimum. Loose leaf binders are acceptable. Emphasis should be on completeness and clarity of content.

Any information thought to be relevant, but not applicable to the enumerated categories should be provided as an appendix to the proposal. If publications are supplied by an Offeror to respond to a requirement, the response should include reference to the document number and page number. This will provide a quick reference for the evaluators. Proposals not providing this reference will be considered to have no reference material included in the additional documents.

The proposal shall be signed by a representative who is authorized to contractually bind the Successful Offeror.

One (1) original marked "ORIGINAL" and three (3) copies of the proposal are due at the Toho Water Authority, 1628 S. John Young Pkwy., Kissimmee, FL 34741 by December 15, 2010 at 2.p.m. Sealed proposals received after the date and time prescribed shall not be considered for contract award and shall be returned to the Offeror.

END OF SECTION 4

SECTION 5 PROPOSAL EVALUATION AND AWARD CRITERIA

An evaluation committee of qualified Authority staff or other persons selected by the Authority will conduct evaluations of proposals. It will be a two step process.

Step One:
The committee will evaluate all responsive proposals based upon the information and references contained in the proposals submitted. The committee will score and rank all responsive proposals and determine a minimum of three (3), if more than three (3) proposals are responsive, to be finalist for further consideration. In the event there are less than three (3) responsive proposals, the committee will give further consideration to all responsive proposal received.

Step Two:
The committee MAY then conduct discussions, for clarification purposes only, with the finalists and re-score and re-rank the finalist's proposals. The first ranked Offeror resulting from this process will be recommended to the Board of Supervisors for award of a contract.

The committee will evaluate, score and rank all responsive proposals using the criteria defined below.

Category	Points
A. Firm's and Staff Qualifications and Experience	40
B. Project Approach	30
C. Proposal Form	30
Total Points	**100**

The Authority reserves the right, before awarding the contract, to require an Offeror to submit any evidence of its qualifications as the Authority may deem necessary and to consider any evidence available of financial, technical and other qualifications and capabilities including performance experience with past and present users.

The Authority reserves the right to request additional clarifying information and request an oral presentation from any and all Offerors prior to determination of award. The Offeror may also be asked to demonstrate the equipment which has been proposed at no cost to the Authority. The purpose of the demonstration is to observe the equipment in an operational environment and to verify its capability, suitability and adaptability in comparison to the performance requirements stipulated in the RFP.

The Authority reserves the right to award the contract to the Offeror or Offerors who will best serve the interest of the Authority based upon its deliberations and in its opinion, to accept or reject any or all proposals. The Authority also reserves the right to waive minor irregularities or variations to the specifications and in the evaluation process.

END OF SECTION 5

SECTION 6 GENERAL TERMS AND CONDITIONS

BIDDER OR OFFEROR: THESE CONDITIONS AND INSTRUCTIONS TO BIDDERS shall be binding on all Bidders or Offerors and, except to the extent otherwise provided, are incorporated by reference in all contracts resulting from any written Request for Quotation (RFQ), Invitation for Bid (IFB) or Request for Proposal (RFP) issued, collectively the ("Request"), to which they are attached and response thereto (Bid) or (Proposal). Use of the term "bid" in these General Terms and Conditions and Instructions to Bidders or Offeror is not intended to be restricted to an IFB and shall also affect written RFQ's or RFP's.

These instructions are standard for all contracts for commodities or services issued through the Tohopekaliga Water Authority (the "Authority") Purchasing and Warehouse Division. The Authority may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the IFB Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement.

PART I CONDITIONS OF BIDDING

1.1 CLARIFICATION OF TERMS: If any Bidder or Offeror has questions about the specifications or other solicitation documents in connection with an RFQ, RFP or IFB, the prospective Bidder or Offeror must contact the buyer whose name appears on the face of the solicitation no later than five (5) business days prior to the date set for the opening of Bid or Proposals or receipt of Proposals. Any revisions to the solicitation will be made only by addendum issued by the buyer. Notifications regarding specifications may not be considered if received in less than five (5) business days of the date set for opening of Bid or Proposals or receipt of Bids or Proposals.

1.2 USE OF AUTHORITY FORM AND TERMS AND CONDITIONS: Failure to submit a solicitation on the official Authority form provided for that purpose or unauthorized modification of or additions to any portion of the solicitation documents may be a cause for rejection of the Bid or Proposal. The Authority reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject any Bid or Proposal which has been modified. The Authority shall not be responsible for any errors or omissions of the Bidder or Offeror.

The solicitation shall be signed by a representative authorized to legally bind the firm submitting the Bid or Proposal. By signing the solicitation, the Bidder or Offeror agrees to the terms and conditions of the solicitation and certifies that it has inspected the job site(s) and shall be deemed to be aware of the conditions under which the work must be accomplished. Claims, as a result of failure to inspect the job site, shall not be considered by the Authority.

1.3 EXCEPTIONS: For purposed of Bid or Proposal evaluation, Bidder or Offeror must indicate any exceptions, no matter how slight, from the General Terms and Conditions, Special Conditions, Specifications or Addenda in the space provided on the Bid or Proposal form. No exceptions by a Bidder or Offeror will be considered or deemed a part of the Bid or Proposal submitted unless such exceptions are listed in the Bid or Proposal and referenced in the space provided on the Bidder or Offeror proposal form. If exceptions are not stated or referenced as required, it will be assumed that the product or service fully complies with the Authority's terms, conditions, and specifications.

By receiving a Bid or Proposal, the Authority does not necessarily accept any exceptions contained in the Bid or Proposal. All exceptions submitted are subject to review and approval by the Authority. If any Bid or Proposal contains material exceptions that, in the Authority's sole opinion, make that Bid or Proposal conditional in nature, the Authority reserves the right to reject the Bid or Proposal in its entirety or that part of the Bid or Proposal which contains material exceptions.

1.4 NO BID RESPONSE: Offerors electing not to submit a Bid or Proposal in response to this solicitation should complete the attached Notice to Bidder's or Offeror's form. Failure to return the form may result in your omission from future Bid lists.

1.5 BID OR PROPOSALS FIRM FOR ACCEPTANCE: Bidder or Offeror warrants, by virtue of bidding, that its Bid or Proposal and the prices quoted in its Bid or Proposal will be firm for acceptance by the Authority for a period of ninety (90) days from the date of Bid or Proposal opening unless otherwise stated in the solicitation.

1.6 LATE BID OR PROPOSAL & MODIFICATION OF BID OR PROPOSAL: Any Bid or Proposal modification received at the office designated in the solicitation after the exact time specified for receipt of the Bid or Proposal or the modification is considered a late Bid or Proposal modification and may not be considered.

The Authority is not responsible for delays in delivery of the mail by the U.S. Postal Service, private carriers or the inter office mail system. It is the sole responsibility of the Bidder or Offeror to ensure its Bid or Proposal reaches the Purchasing Office by the designated date and hour.

a. The official time used in the receipt of Bid or Proposals is that time stamped by the automatic time stamp machine in the Purchasing Office. Date/time stamps marked after the designated time of receipt will be rejected.
b. Late Bid or Proposal modifications will be returned to the Bidder or Offeror UNOPENED, if solicitation number, acceptance date, and Bidder/Offeror return address is shown on the container.
c. If the Authority closed its office due to inclement weather, the time for Bid or Proposals opening or receipt of Bid or Proposals will be extended to the next business day, same time.
d. Offerors may modify their Bid or Proposals prior to the date and time specified for the bid opening. Facsimile modification of Bid or Proposals shall not be accepted unless the solicitation allowed submittal by facsimile.

1.7 WITHDRAWAL OF BID OR PROPOSALS: A Bidder or Offeror for a contract may request withdrawal of his or her Bid/Proposal under the following circumstances:

a. Bid or Proposals may be withdrawn on written requests from the Bidders or Offerors received at the address shown in the solicitation prior to the time of acceptance.
b. Requests for withdrawal of Bid or Proposals after opening of such Bid or Proposals but prior to award shall be transmitted to the Authority's Purchasing and Warehouse Division, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of error. Such documentation may take the form of supplier quotations, Offeror work sheets, etc. If bid bonds were tendered with the Bid/Proposal the Authority may exercise its right of collection.

c. Bid or Proposals shall not be withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in the solicitation or resulting contract or purchase order shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a Bidder/Offeror as a result of the breach or nonperformance of such contract or purchase order.

1.8 ERROR IN BID OR PROPOSALS: When an error is made in extending total prices, the unit bid price will govern. Erasures in Bid or Proposals must be initialed by the Bidder or Offeror. Carelessness in quoting prices or in preparation of bid or otherwise, will not relive the Bidder or Offeror of its responsibilities to provide the good or service. Bidders or Offerors are cautioned to recheck their Bid or Proposal for possible errors. Errors discovered after public opening cannot be corrected and the Bidder or Offeror will be required to perform if his or her Bid or Proposal is accepted.

1.9 IDENTIFICATION OF BID ENVELOPE: The signed Bid or Proposal envelope and requested copies should be returned in a separate envelope or package, sealed and identified with the following information:

IFB No. and Title/Due Date
Name of Bidder or Offeror
Street
City, State, Zip Code

If a Bid or Proposal is not addressed with the information as shown above, the Bidder or Offeror takes the risk that the envelope may be inadvertently opened and the information compromised, which may cause the Bid or Proposal to be disqualified. Bid or Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

1.10 PRICING

a. Bidder or Offeror warrants by virtue of bidding that prices, terms and conditions quoted in its Bid or Proposal will be firm for acceptance for a period of ninety (90) days from the date of Bid or Proposal opening unless otherwise stated by the Authority or Bidder or Offeror.
b. Prices should be stated in units of quantity as specified in the Bid/Proposal form.
c. Life cycle cost analysis may be considered when determining the lowest responsive and responsible Bid or Proposal. This analysis may consider, in addition to purchase price, any proposed upward or downward escalator clauses proposed for the initial contract term and any potential renewal terms; operating and related costs over the life of the item including maintenance, down time, energy costs, salvage value, etc.
d. Bid or Proposal prices shall be for complete installation ready for the Authority's use and shall include all applicable freight and installation charges; extra charges not allowed.
e. When an annual contract is not requested by the Authority and the Bid or Proposal is for products or services to be delivered on a one-time only or staggered basis, only firm pricing shall be given consideration. General terms such as "price in effect at time of delivery" shall not be considered.

1.11 OPENING: At the time fixed for the opening of responses to a Bid or Proposal, all Bid or Proposals will be opened and the names of the Bidders or Offerors and the amount shall be read aloud and made readily available to the public. If a public opening of a Request for Proposal is held, only the names of the Bidders of Offerors will be read publicly.

1.12 TIE BID OR PROPOSALS: A Drug Free Workplace Statement must be completed, signed, and returned prior to award of Bid or Proposal. This form will be used whenever two or more Bid or Proposals that are identical with respect to price, quality, delivery, and service are received; a Bid or Proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process.

1.13 TAX EXEMPTION: The Authority is exempt from Federal excise and State sales taxes. Tax exemption number is 85-8012897680C-2 and is also stipulated on our Purchase Orders.

1.14 NO CONTACT POLICY: No Bidder or Offeror shall initiate or otherwise have contact related to the solicitation (RFQ, IFB or RFP) with an Authority representative, officer or employee, other than with the Purchasing and Warehouse Division, after the date and time established for receipt of Bids or Proposals. Any contact initiated by a Bidder or Offeror with any Authority representative, officer or employee other than through the Purchasing and Warehouse Division, concerning this solicitation is prohibited and may cause the disqualification of the Bidder or Offeror from this procurement process.

1.15 LICENSES, PERMITS, AND FEES: All Bid or Proposals submitted shall have included a list of any business and professional licenses, permits, or fees required by the Authority.

PART II DEFINITIONS/ORDER OF PRECEDENCE

2.1 BIDDING DEFINITIONS: The Authority will use the following definitions in its these CONDITIONS AND INSTRUCTIONS TO BIDDERS OR OFFERORS and in its general conditions, special conditions, technical specifications, instructions to Bidders or Offerors, addenda, and any other document used in the bidding process:

a. INVITATION FOR BID – (IFB) when the Authority is requesting Bids from qualified Bidders.
b. REQUEST FOR PROPOSAL – (RFP) when the Authority is requesting proposals from qualified Offerors.
c. REQUEST FOR QUOTATION – (RFQ) when the Authority is requesting quotes from qualified Bidders or Offerors.
d. BID – a price and terms quote received in response to an IFB.
e. PROPOSAL – a proposal received in response to an RFP or RFQ.
f. BIDDER – person or firm submitting a Bid.
g. OFFEROR – person or firm submitting a Proposal.
h. RESPONSIVE BIDDER – a person whose bid conforms in all material respects to the terms and conditions included in the IFB.
i. RESPONSIBLE BIDDER – a person who has the capability in all respects to perform in full the contract requirements, as stated in the IFB, and the integrity and reliability that will assure good faith performance.
j. SUCCESSFUL OFFEROR – a successful bidder or offeror who is awarded a purchase order, award contract, blanket purchase order agreement, or term contract to provide goods or services to the Authority.
k. CONTRACT – a written agreement for the procurement or disposal of equipment, materials, supplies, or services but not for public construction.
l. PUBLIC ENTITY CRIME and CONVICTED OFFEROR LIST have the meanings set out in Section 287.133, Florida Statutes.

2.2 **SPECIAL CONDITIONS:** Any and all Special Conditions contained in this IFB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions, except as otherwise provided. If no changes or deletions to the General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety

PART III SPECIFICATIONS

3.1 **BRAND NAME OR EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or offeror catalog number with acceptance of APPROVE EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the Authority. In such cases, the Authority will be receptive to any unit that would be considered by qualified Authority personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the Authority, the Bidder or Offeror must state clearly in its bid any exceptions from those specifications. It is the Bidder's or Offeror's responsibility to provide adequate information in its Bid or Proposal, to enable the Authority to ensure that the Bid or Proposal meets the required criteria. If adequate information is not submitted with the Bid or Proposal, it may be rejected. The Authority will be the sole judge in determining if the item Bid or Proposal qualifies as an approved equal.

3.2 **FORMAL SPECIFICATIONS:** When a solicitation contains a specification which states no substitutes, no deviation there from will be permitted and the Bidder or Offeror will be required to furnish articles in conformity with that specification.

3.3 **EQUIPMENT STANDARDS:** Any equipment delivered shall be standard new equipment, latest model, the best quality, and the highest grade work, except as otherwise specifically stated in the Bid or Proposal. Any part of nominal appurtenances which are usually provided in the manufacturer's stock model shall be furnished.

3.4 **ANNUAL CONTRACT USAGE REQUIREMENTS:** Whenever a Bid or Proposal is sought seeking a source of supply for an annual contract for products or services, the quantities or usage shown are estimates only. No guarantee or warranty is given or implied by the Authority as to the total amount that may not be purchased from any resulting contract. These quantities are for Bidder or Offerors information only and will be used for tabulation and presentation of Bid or Proposals

PART IV BIDDING AND AWARD PROCEDURES

4.1 **AWARD OR REJECTION OF BID OR PROPOSALS:** The Authority reserves the right to accept or reject any or all Bid or Proposals and to waive minor irregularities or variations to specifications contained in Bid or Proposals, and minor irregularities in the bidding process. The Authority reserves the right to award the contract on a split order basis; lump sum basis, individual item basis, or such combination as shall best serve the interest of the Authority. The Authority reserves the right to make an award to the responsive and responsible bidder whose product or service meet the terms, conditions, and specifications of the IFB and whose Bid or Proposal is considered to best the Authority's interest. In determining the responsiveness of the offer and the responsibility of the Bidder or Offeror, the following shall be considered:

a. the ability, capacity and skill of the Bidder or Offeror to perform as required
b. whether the Bidder or Offeror can perform promptly, or within the time specified, without delay or interference
c. the character, integrity, reputation, judgment, experience and efficiency of the bidder
d. the quality of past performance by the Bidder or Offeror
e. the previous and existing compliance by the Bidder or Offeror with related laws, ordinances, administrative rules and orders and resolutions and requirements of the Authority.
f. the sufficiency of the Bidder's or Offeror's financial resources
g. the availability, quality and adaptability of the Bidder's or Offeror's supplies or services to the required use
h. the ability of the Bidder or Offeror to provide future maintenance, service or parts
i. the number and scope of conditions attached to the Bid or Proposal.

If the IFB or RFQ provides for a contract trial period, the Authority reserves the right, in the event the selected Bidder or Offerors does not perform satisfactorily, to award for a trial period to the next ranked Bidder or Offeror or to award a contract to the next ranked Bidder or Offeror, if that Bidder or Offeror has successfully provided services to the Authority in the past. This procedure to continue until a Bidder or Offeror is selected or the contract is re-bid, at the sole option of the Authority.

4.2 **QUALIFICATIONS OF BIDDERS OR OFFERORS:** The Authority may make such reasonable investigations as it deems proper and necessary to determine the ability of the Bidder or Offeror to perform the work/furnish the item(s) and the Bidder or Offeror or shall furnish to the Authority all such information and data for this purpose as may be requested. The Authority reserves the right to inspect Bidder's or Offeror's physical facilities prior to award to satisfy questions regarding the Bidder's or Offeror capabilities. The Authority further reserves the right to reject any Bid or Proposal if the evidence submitted by or investigations of such Bidder or Offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated herein.

4.3 **USE OF OTHER GOVERNMENTAL CONTRACTS:** The Authority reserves the right to reject any part of all of any Bid or Proposal received and utilize other available governmental contracts, is such action is in its best interest.

4.4 **PUBLIC ENTITY CRIMES:** "A person or affiliate who has been placed on the convicted Offeror list following a conviction for a public entity crime may not submit a Bid or Proposal on a contract to provide any goods or services to a public entity, may not submit a Bid or Proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit Bid or Proposals on leases of real property to a public entity, may not be awarded or perform works as a successful Offeror, supplier, subsuccessful Offeror, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted Offeror list."

4.5 **PUBLIC RECORDS:** Florida law provides that municipal records shall at all times is open for personal inspection by any person. Section 119.01, F.S., the Public Records Law. Sealed Bid or Proposals received by the Authority in connection with an IFB, RFP or RFQ shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Bidder or Offeror believes any of the information contained in its response

is exempt from the Public Records Law, and then the Bidder or Offeror must in his or her response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the Authority will treat all materials received as non exempt. The Authority's determination of whether an exemption applies shall be final, and the Bidder or Offeror agrees to defend, indemnify and hold harmless the Authority and the Authority's officers, employees and agents, against any loss or damages, including but not limited to attorneys fees, incurred by any person or entity as a result of the Authority's treatment of records as public records.

4.6 **PROHIBITION OF INTEREST:** No member, officer, agent, or employee of the Authority, either for himself or as agent for anyone else or as a stockholder or owner in any other legal entity, shall participate in or benefit directly or indirectly from any sale, purchase, lease, contract or other transaction entered into by the Authority. No contract will be awarded to a bidding firm in violation of the foregoing provision or in violation of Part III of Chapter 112, Florida Statutes. Any firm in which any member of the Board of Supervisors of the Authority or any officer or employee of the Authority or such individual's spouse or child is an officer, partner, director or proprietor or in which any such individual or any combination of them has a material interest as defined in Part III of Chapter 112, Florida Statutes, must disclose such interest and must fully comply with state law, including the Authority's governing act and Part III of Chapter 163, Florida Statutes and may be precluded from obtaining an award.. Bidders or Offerors must disclose any such affiliation or material interest. Failure to disclose any such affiliation or material interest will result in disqualification of the Bidder or Offeror and removal of the Bidder or Offeror from the Authority's Bidder's or Offeror's list and prohibition from engaging in any business with the Authority.

PART V BONDS AND INSURANCE

5.1 **PERFORMANCE BOND/IRRECOVABLE LETTER OF CREDIT:** If a performance bond or irrevocable letter of credit is required in the Special Conditions, the Successful Offeror shall within fifteen (15) working days after notification of award, furnish to the Authority a performance bond or an unconditional irrevocable letter of credit payable to the Toho Water Authority, Florida in the face amount specified in the Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the Authority thirty (30) days prior to the termination date of the existing performance bond. The performance bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent. If a letter of credit is chosen, it must be in a form acceptable to the Authority, drawn on a local bank acceptable to the Authority and issued in favor of the Authority. If the Bidder or Offeror wishes to use a non local bank, he must have prior Authority approval of the requirements to draw against the letter of credit.

5.2 **BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond, postal money order, cashier's check, or irrevocable letter of credit. Bid security will be returned to the unsuccessful Bidders or Offerors as soon as practicable after opening of Bid or Proposals. Bid security will be returned to the successful Bidder or Offeror after acceptance of the performance bond or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in the Special Conditions.

5.3 **LETTERS OF CREDIT:** Generally, the Authority will require that the bank be rated A or better by a major rating agency. If the rating of the bank is downgraded below investment grade or if due to other circumstances, the Authority has concerns about the credit worthiness of an issuing bank, the Bidder or Offeror may be required to replace the letter of credit with a letter of credit issued by a different bank acceptable to the Authority or with a performance bond or, in the case of Bid Security with a letter of credit issued by a different bank acceptable to the Authority or with a bid bond, postal money order, cashier's check.

5.4 **INSURANCE:** If the Successful Offeror is required to go on the Authority property to perform work or services as a result of IFB award, the Successful Offeror shall assume full responsibility and expense to obtain all necessary insurance as required by the Authority or specified in the Special Conditions. The Successful Offeror shall provide to the Authority original certificates and coverage and receive notification of approval of those certificates by the Authority's Risk Manager prior to engaging in any activities under this contract. The Successful Offeror's insurance is subject to the approval of the Authority's Risk Manager. The certificates must list the Authority as ADDITIONAL INSURED and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion the Authority's Risk Manager if circumstances change or adequate protection of the Authority is not presented.

PART VI PURCHASE ORDER AND CONTRACT TERMS

6.1 **CONFIDENTIALITY AND OWNERSHIP OF DATA:** Any reports, information, intellectual property, data, drawings, specifications estimates and summaries given to or prepared or assembled by the Successful Offeror under the Scope of Work of the contract, shall not be made available to any individual or organization by the Successful Offeror without prior written approval of the Authority. All of these items shall become the property of the Authority upon payment of fees as required by the contract.

6.2 **OBLIGATIONS OF THE AUTHORITY AND SUCCESSFUL OFFEROR:** Authority: The Authority shall furnish to the Successful Offeror all available information as listed in the solicitation that may be useful for the contract work. The Authority shall assist the Successful Offeror in obtaining access to enter upon public and private property as required to perform the contract work. The Authority shall designate a representative who shall serve as the principal contact and give direction to the Successful Offeror throughout the duration of the contract. Successful Offeror: The Successful Offeror represents that he has, or shall secure at his expense, all personnel, including subsuccessful Offerors required to perform and complete the Scope of Work.

6.3 **PAYMENT TERMS**: Unless otherwise provided in the solicitation payment will be made thirty (30) days after receipt of a proper invoice with complete supporting documentation, or thirty (30) days after receipt of all goods or acceptance of work, whichever is the latter.

6.4 **SAFETY STANDARDS**: All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).

6.5 **OTHER GOVERNMENTAL ENTITIES**: If the Bidder or Offeror is awarded a contract as a result of this RFP, IFB or RFQ he or she will, if has sufficient capacity or quantities available, provide to other governmental agencies so requesting, the products or services awarded in accordance with the terms and conditions of the RFP, IFB or RFQ and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.

6.6 **VERBAL INSTRUCTIONS PROCEDURE**: No negotiations, decisions, or actions shall be initiated or executed by the Successful Offeror as a result of any discussions with any Authority employee. Only those communications which are in writing from an authorized Authority representative may be considered. Only written communications from Successful Offerors, which are assigned by a person designated as authorized to bind the Successful Offeror, will be recognized by the Authority as duly authorized expressions on behalf of Successful Offerors.

6.7 **INDEPENDENT SUCCESSFUL OFFEROR**: The Successful Offeror is an independent successful Offeror under this Agreement. Personal services provided by the Bidder or Offeror shall be employees of the Successful Offeror and subject to supervision by the Successful Offeror, and not as officers, employees, or agents of the Authority. Personal policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies unless otherwise stated in this IFB and other similar administrative procedures applicable to services rendered under this contract shall be those of the Successful Offeror.

6.8 **INDEMNITY/HOLD HARMLESS AGREEMENT**: The Successful Offeror agrees to protect, defend, indemnify, and hold harmless the Authority and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, litigation, whether in court or before an administrative body, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Successful Offeror under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

6.9 **TERMINATION FOR CAUSE:** If, through any cause, the Successful Offeror shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Successful Offeror shall violate any of the provisions of this Agreement, the Authority may upon written notice to the Successful Offeror terminate the right of the Successful Offeror to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Successful Offeror liable for any damages caused to the Authority by reason of such default and termination. In the event of such termination, any completed services performed by the Successful Offeror under this Agreement shall at the option of the Authority become the Authority's property and the Successful Offeror shall be entitled to receive equitable compensation for any work completed to the satisfaction of the Authority, not to exceed an amount equal to percentage of the contract price representing the percentage of the work completed satisfactorily. The Successful Offeror, however, shall not be relieved of liability to the Authority for damages sustained by the Authority by reason of any breach of the Agreement by the Successful Offeror and the Authority may withhold any payments to the Successful Offeror for the purpose of setoff until such time as the amount of damages due to the Authority from the Successful Offeror can be determined.

6.10 **TERMINATION FOR CONVENIENCE:** The Authority reserves the right, in its best interest as determined by the Authority, to cancel contract by giving written notice to the Successful Offeror thirty (30) days prior to the effective date of such cancellation.

6.11 **CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the Authority for payment to a Successful Offeror is limited to the availability of funds appropriated in a current fiscal period and continuation of the contract into subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

6.12 **RECORDS/AUDIT:** The Successful Offeror shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the Authority's Auditors. The Successful Offeror agrees to make available to the Authority's Auditors during normal business hours all books of account, reports, and records relating to this contract for the duration of the contract and retain them for a minimum period of one (1) year beyond the last day of the contract term.

6.13 **LAWS/ORDINANCES:** The Successful Offeror shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations as well as all resolutions or directives of the Authority that would apply to this contract.

6.14 **NON DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.

6.15 **ELIGIBILITY:** If applicable, the Successful Offeror must first register with the Department of State of the State of Florida in accordance with Florida Statutes, prior to entering into a contract with the Authority.

6.16 **COPYRIGHTS OR PATENT RIGHTS:** The Bidder or Offeror certifies by submission of Bid/Proposal that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the product or services shipped or ordered as a result of this Bid or Proposal. The successful Bidder or Offeror shall, at its own expense defend any and all actions or suits charging such infringement and will save the Authority, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

6.17 **INVOICES:** Invoices for items ordered, delivered and accepted shall be submitted by the Successful Offeror directly to the payment address shown on the purchase order/contract. All invoices shall show the IFB/RFP number and or purchase order number.

6.18 **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Authority after due oral and written notice, may procure them from other sources and hold the Successful Offeror responsible for any resulting additional purchase and administrative costs.

6.19 **DELIVERY:** In the appropriate space, the Bidder or Offeror shall state the time of proposed delivery or project completion in number of calendar days. Unless otherwise specified, calendar days shall be presumed. Unless otherwise specified, quote the earliest delivery possible as this may be considered a factor in making award. Delivery expressed in calendar days may be given preference over such general terms as "stock immediately" and "as soon as possible". As time will be of the essence for any orders placed as a result of this bid, the Authority reserves the right to cancel such orders or any part thereof, without obligation if delivery is not made at the time(s) specified on the bid form.

PART VII DELIVERY PROVISION

7.1 **SHIPPING INSTRUCTIONS-CONSIGNMENT:** Unless otherwise specified in the solicitation of each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Successful Offeror's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of Successful Offeror, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 a.m. – 5:00 p.m. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with designated individual at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays unless previous arrangements have been made. It shall be the responsibility of the Successful Offeror to insure compliance with these instructions for items that are drop shipped.

7.2 **RESPONSIBILITY FOR SUPPLIES TENDERED:** The Successful Offeror shall be responsible for loss or damage to materials or supplies covered by the contract until they are delivered at the designated point, a physical inspection is made by the Authority and the material or supplies are accepted by the Authority. The Successful Offeror shall bear all risk of loss or damage to rejected materials or supplies and for all materials and supplies prior to acceptance by the Authority. Rejected materials or supplies must be removed by and at the expense of the Successful Offeror promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Successful Offeror within ten (10) days after date of notification, the Authority may return the rejected materials or supplies to the Successful Offeror at his or her risk and expense or dispose of them as its own property.

7.3 **TESTING AND INSPECTION:** The Authority reserves the right to conduct any test/inspection it may deem advisable to assure that of supplies and services conform to the specifications. Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the Authority will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the Authority for such materials or supplies as are not in accordance with the specifications.

7.4 **COMPLIANCE:** Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Office when not in conflict with the bid/contract. The decision the Authority as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Successful Offeror. Any request for extension of time of delivery from that specified must be approved by the Purchasing Office, such extension applying only to the particular item or shipment affected. Should the Successful Offeror be delayed by the Authority, there shall be added to the time of completion a time equal to the period of such delay caused by the Authority. However, the Successful Offeror shall not be entitled to claim damages of extra compensation for such delay or suspension.

7.5 **POINT OF DESTINATION:** All materials shipped to the Authority must be shipped F.O.B. DESTINATION unless otherwise stated in the contract. The materials must be delivered to the "Ship To" address indicated on the purchase order.

7.6 **REPLACEMENT:** Materials or components that have been rejected by the Purchasing Office, in accordance with the terms of the contract, shall be replaced by the Successful Offeror at no cost to the Authority.

7.7 **PACKAGING SLIPS OR DELIVERY TICKETS:** All shipments shall be accompanied by packing slips or delivery tickets and shall contain the following information for each item delivered:

a. purchase order number/contract number
b. name of article and stock number
c. quantity ordered
d. quantity shipped
e. quantity back ordered
f. the name of the Successful Offeror

Successful Offerors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

7.8 **SAMPLES:** Evidence in the form of samples may be requested if brand being quoted upon is other than as specified. The Authority reserves the right to request that such samples be furnished at the time of bid opening. The Authority also reserves the right to request samples after the date of bid opening. Requested samples must be furnished free of expense to the Authority and if not used in testing or destroyed, will, upon request, be returned at the Bidder's or Offeror's expense.

PART VIII BIDDER/OFFEROR/SUCCESSFUL OFFEROR REMEDIES

8.1 **PROTEST OF AWARD OR DECISION TO AWARD/EXHAUSTION OF ADMINISTRATIVE PROCEEDING:** Any protest must be made within three (3) days following posting of the bid/proposal award. Protest procedures are available from the Authority Purchasing Department. Notice of decision or intended decision concerning a Bid or Proposal solicitation or award will be given by posting the Bid or Proposal tabulation or recommended award at the location where the Bid or Proposals were opened. The Bidder or Offeror must exhaust this administrative proceeding before bringing suit. Failure to file a protest within the time prescribed herein and to exhaust the remedy provided by the Authority for such bid protest shall constitute a waiver of the right to bring suit.

8.2 **DISPUTES:** In the case of any doubt or differences of opinion as to the items to be furnished hereunder, the decision of the Authority's Purchasing Agent shall be final and binding on both parties.

8.3 **NO CONSEQUENTIAL DAMAGES:** Consequential damages shall not be available to a Successful Offeror for breach of contract by the Authority.

8.4 **NO DAMAGES REMEDY TO OFFEROR OR BIDDER:** An Offeror or Bidder who is unsuccessful shall not have a damages remedy as a result of the rejection of the Bid or Offer but shall be limited to the administrative remedies provided by the Authority and, after exhausting such remedies, the further remedy of declaratory relief or, in a proper case, injunction. Venue shall in all cases be in Osceola County, Florida.

8.5 **PERSONAL PRONOUNS AND TERMINOLOGY.** The personal pronouns, are used interchangeably regardless of sex and regardless of the legal status or identity of the entity or person to which the terms apply.

Revised December 3, 2007

END OF SECTION 6

SECTION 7 SPECIAL TERMS AND CONDITIONS

7.0 PRECEDENCE IN TERMS

In the event of a conflict, the Special Terms and Conditions shall take precedence.

7.1 ALTERNATE PROPOSALS NOT ACCEPTED

If two different proposals are included in a single envelope both will be rejected.

7.2 INCURRED EXPENSES

This RFP does not commit the Authority to award a contract, nor shall the Authority be responsible for any cost or expense which may be incurred by the bidder in preparing and submitting the Submittal called for in this IFB, or any cost or expense incurred by the bidder prior to the execution of a contract agreement.

7.3 RIGHT TO REQUIRE PERFORMANCE

The failure of the Authority at any time to require performance by the bidder of any provision thereof shall in no way affect the right of the Authority thereafter to enforce same, nor shall waiver by the Authority of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

In the event of failure of the bidder to deliver services in accordance with the contract terms and conditions, the Authority, after due written notice, may procure the service from other sources and hold the bidder responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Authority may have.

7.4 BANKRUPTCY/INSOLVENCY

At the time of bid submittal, the bidder shall not be in the process of or engaged in any type of proceedings in insolvency or bankruptcy, either voluntary or involuntary, or receivership proceedings. If the bidder is awarded a contract for six (6) months or longer, and files for bankruptcy, insolvency or receivership, the Authority may, at its option, terminate and cancel said contract, in which event all rights hereunder shall immediately cease and terminate.

7.5 INDEPENDENT SUCCESSFUL OFFEROR STATUS AND COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

The Successful Offeror is and shall remain an independent Successful Offeror and is neither agent, employee, partner, nor joint venture of Authority. Successful Offeror acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324 et. Seq., and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the contract, at the discretion of the Authority.

7.6 INSURANCE

By signing and submitting a bid, the bidder shall have the insurance coverage as outlined below at the time the work commences. Additionally, they must maintain the same coverage during the entire term of the contract. All insurance coverage will be provided by insurance companies authorized to sell insurance in the State of Florida. All limits will be made available which are in excess of the amounts below.

Certificates of Insurance shall be furnished to the Authority within ten (10) working days of the notification of award of the contract. Certificates of Insurance shall provide a minimum of thirty (30) calendar day notice of cancellation to the Authority.

A. Worker's Compensation: The Successful Offeror will provide Worker's Compensation coverage for all employees at the site location and in case any work is subcontracted, will require the subsuccessful Offeror to

provide Worker's Compensation for all his employees. The limits will be statutory for Worker's Compensation and $1,000,000.00 for Employer's Liability.

B. Comprehensive General Liability: The Successful Offeror will provide for all operations including, but not limited to Contractual and Products Completed Operations. The limits will not be less than $1,000,000.00.

C. Comprehensive Automobile Liability: The Successful Offeror will provide coverage for all owned and non-owned vehicles for limits not less than $1,000,000.00.

D. Umbrella Liability: The Successful Offeror will provide an umbrella in excess to the coverage in paragraphs B and C of not less than $1,000,000.00.

Requirements for bidder that qualify for an exemption under the Florida Worker's Compensation law in Chapter 440 Florida Statutes are detailed below:

- Incorporated or unincorporated firms with fewer than four (4) employees shall be required to sign a Hold Harmless Agreement relieving the Authority of liability in the event they and/or their employees are injured while providing goods and/or services to the Authority.
- Incorporated or unincorporated firms with four (4) or more employees shall be required a copy of their "Notice of Election to Exempt" along with valid proof of coverage for non-exempt employees.

The Hold Harmless Agreement mentioned above is included as an attachment to this proposal. Said Agreements shall be returned with this proposal.

The Authority reserves the right to request a copy of the complete insurance policy(ies) and any endorsements for the insurance referenced above. A certificate of insurance indicating that the bidder has coverage in accordance with the requirements herein set forth shall be furnished by the bidder to the Authority prior to the execution of the contract and annually upon renewal thereafter. **The bidder shall either cover any subsuccessful Offerors on its policy or require the subsuccessful Offerors to obtain coverage to meet all requirements for insurance contained herein.**

Bidder agrees that the Authority will make no payments pursuant to the terms of the contract until all required proof or evidence of insurance has been provided to the Authority representative. Bidder agrees that the insurer shall waive its rights of subrogation, if any, against the Authority on Commercial General Liability and Worker's Compensation insurance coverage. The ACORD certificate of Liability Insurance, with endorsements shall be completed by the authorized Resident Agent and returned to the Purchasing Department. This certificate shall be dated and show:

- The name of the insured bidder, the specified job by name, name of insurer, the number of the policy, its effective date and its termination date.
- Statement that the Insurer will mail notice to the Authority at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
- **The Authority shall be named as an additional insured on Commercial General Liability Insurance.**

Loss Deductible Clause: The Authority shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the bidder and/or sub-consultant providing such insurance.

7.7 INVOICE/PAYMENT

Invoices for payment shall be sent to the Toho Water Authority, 951 Martin Luther King Jr. Blvd., Kissimmee, FL 34741.

The Successful Offeror shall submit invoices upon conclusion of project. Invoices shall include, but are not limited to the following:

- Successful Offeror's name
- Successful Offeror's address and phone number

- The Authority's Purchase Order Number and Contract Number
- Date of installation and programming
- Itemized description and pricing for each piece of equipment

The Authority will endeavor to make a payment on a correct invoice within 30 days after receipt of an invoice acceptable to the Authority.

END OF SECTION 7

ATTACHMENT A PROPOSAL FORM

TO: Toho Water Authority DATE: _____, 2010

Purchasing and Warehouse Department

1628 S. John Young Pkwy.

Kissimmee, FL 34741

Item	**Proposal Cost**
Certification Audit	$
Surveillance Audit #1	$
Surveillance Audit #2	$
Total Proposal Cost	$

Option: Renewal of contract:

$_____/year 2 $_____/year 3

All prices quotes are good for a period of 90 days.

☐ We do not take exception to the Scope of Work

☐ We take exception to the Scope of Work as follows:

_____

_____

The Undersigned Agrees:

A. To accept the stipulation of all Terms and Conditions and Specifications including delivery and other provisions.
B. To enter into and execute a Contract if awarded on the basis of this Bid.
C. To accomplish the work in accordance with the Bid documents and Specifications.

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Print Name: _____ Title: _____

Telephone: _____Fax: _____Email: _____

Federal Tax ID: _____

Signature: _____Date: _____

ATTACHMENT B NOTICE TO OFFERORS FORM

If for some reason you are not participating in this solicitation, PLEASE complete the following and return to:

Purchasing Office
Toho Water Authority
101N. Church Street
Kissimmee, FL 34741

DO NOT return the solicitation package. Failure to respond may result in removal of your firm from our current Offeror file.

Company Name: _____
Address: _____
_____
_____
Phone Number: (___) _____
Fax Number: (___) _____

Continue on Offeror List: _____ Yes _____ No
___ Large Business ___ Small Business ___ Minority Owned

Reason for no response to the solicitation:

_____ Cannot supply at this time
_____ Suitable, but engaged in other work
_____ Quantity too small
_____ Cannot meet required minimum
_____ Opening date does not allow sufficient time to complete
_____ Equivalent not presently available
_____ Other reasons or remarks: _____
_____
_____
_____

_____
Signature

ATTACHMENT C DRUG FREE WORKPLACE COMPLIANCE FORM

IDENTICAL TIE BIDS

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied Offerors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.

5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.

6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

_____

Offeror's Signature

ATTACHMENT D SUBSTITUTE W-9

REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION
(To be completed by those receiving payments for services, rents, grants, or prizes and awards)

Federal law requires withholding of 28% federal income tax from payments made to suppliers for which we do not have a tax identification number for. Funds withheld can only be refunded by the IRS.

Name:
Business name (if any):
Complete street address: City, state and ZIP code:
E-mail address (if any):
Remittance address:

Please check the box that reflects your correct status

- ☐ Individual/Sole Proprietor
- ☐ Partnership
- ☐ Corporation / Incorporated
- ☐ Non-Profit Organization
- ☐ Other: _____

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). For sole proprietors, it may be your SSN or your Employer Identifications Number (EIN) if you have one for your business. All other entities must enter an EIN.

Social Security Number:	**or**	Employee Identification Number:

Certification: I certify, under penalties of perjury, that the number above is my correct taxpayer identification number.

Date:	Phone Number:
Print Name:	Title:

Signature: _____

ATTACHMENT E NON-COLLUSION AFFIDAVIT

The undersigned being first duly sworn as provided by law, deposes and says:

1. This Affidavit is made with the knowledge and intent that it is to be filed with the Toho Water Authority, Osceola County, Florida and that it will be relied upon by said County, in any consideration which may give to and any action which it may take with respect to this Bid.

2. The undersigned is authorized to make this Affidavit on behalf of,

_____
(Name of Corporation, Partnership, Individual, etc.)

A _____, formed under the laws of _____

of which he is_____
(Sole Owner, partner, president, etc.)

3. Neither the undersigned nor any other person, firm or corporation named in above Paragraph 2, nor anyone else to the knowledge of the undersigned, have themselves solicited or employed anyone else to solicit favorable action for this Bid by the Authority, also that no head of any department or employee therein, or any officer of the Authority, is directly interested therein.

4. This Bid is genuine and not collusive or a sham; the person, firm or corporation named above in Paragraph 2 has not colluded, conspired, connived or agreed directly or indirectly with any bidder or person, firm or corporation, to put in a sham Bid, or that such other person, firm or corporation, shall refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, firm or corporation, to fix the prices of said proposal or proposals of any other bidder; and all statements contained in the proposal or proposals described above are true; and further, neither the undersigned, nor the person, firm or corporation named above in Paragraph 3, has directly or indirectly submitted said proposal or the contents thereof, or divulged information or data relative thereto, to any association or to any member or agent thereof.

_____
(AFFIANT)

TAKEN, SWORN AND SUBSCRIBED TO BEFORE ME this ___ day of _____, 20__.

_____
Notary Public

_____
(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification: _____

ATTACHMENT F NON-DISCLOSURE AGREEMENT FOR CONFIDENTIAL MATERIALS

RETURN THIS FORM *ONLY* IF CONFIDENTIAL MATERIALS ARE BEING INCLUDED IN THE SUBMITTAL. PLEASE READ THE SECTION IN THE RFP DOCUMENT TO DETERMINE IF THIS APPLIES. THE CONFIDENTIAL MATERIALS WILL ONLY BE HANDED OUT TO THE SELECTION COMMITTEE ON THE DAY OF THE EVALUATION, THEREFORE, THE EVALUATION OF THIS MATERIAL WILL BE LIMITED TO THAT TIME ONLY.

Offeror:
Address:

This Agreement is entered into as of the date of the last signature set forth below between the Toho Water Authority, a political subdivision of the State of Florida (the "Authority"), and the above named Offeror (hereinafter the "Offeror"). The Toho Water Authority and the Offeror are collectively referred to as the "Parties" and may be referred to individually as a Party.

RECITALS

WHEREAS, the Offeror possesses certain confidential trade secret materials that it wishes to disclose to the Authority for the purpose of responding to a request for proposal or otherwise conducting business with the Authority; and

WHEREAS, the Authority desires to review such materials in order to evaluate the Authority's interest in negotiating and concluding an agreement for the purchase of certain products and services, or otherwise conducting business with the Offeror.

NOW THEREFORE, in consideration of the mutual promises and premises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Offeror agree as follows:

1. Confidential Materials. The Offeror warrants and represents to the Authority that the materials described in the attached Exhibit A (the "Confidential Materials") constitute trade secrets as defined by Section 812.081(1)(c), Florida Statutes, or financial statements required by the Authority for projects as defined in 119.071(1)(c), Florida Statutes. Subject to the terms and conditions of this Agreement, the Authority agrees not to disclose such Confidential Materials to third parties.

2. Additional Materials. During the course of the negotiations or the business relationship with the Authority, the Offeror may disclose additional confidential or trade secret information to the Authority in which case the restrictions and obligations on the use and disclosure of the Confidential Materials imposed by this Agreement shall also apply to such additional information to the extent permitted by Florida law. Any such additional confidential or trade secret information shall be duly marked and stamped "confidential" or "trade secret" prior to delivery to the Authority, and shall be subject to this Agreement and Section 812.081(2), Florida Statutes, only if written receipt is provided by the Authority acknowledging receipt of such materials.

3. Exclusions. For purposes of this Agreement, the term "Confidential Materials" does not include the following:

(a) Information already known or independently developed by the Authority;
(b) Information in the public domain through no wrongful act of the Authority;
(c) Information received by the Authority from a third party who was legally free to disclose it;
(d) Information disclosed by the Offeror to a third party without restriction on disclosure;
(e) Information disclosed by requirement of law or judicial order, including without limitation Chapter 119 Florida Statutes; or
(f) Information that is disclosed with the prior written consent of the Offeror, but only to the extent permitted by such consent.

4. Non Disclosure by Offeror. In the event that the Authority discloses confidential or trade secret information to Offeror, the Offeror agrees to not disclose such information to any third party or copy such information or use it for any purpose not explicitly set forth herein without the Authority's prior written consent. Further, upon conclusion of

discussions or business transactions between the Authority and the Offeror, or at any time upon request of the Authority, Offeror agrees to return such information (including any copies) to the Authority.

5. Duty of Care. Each Party agrees to treat the other Party's confidential or trade secret information with the same degree of care, but not less than reasonable care, as the receiving Party normally takes to preserve and protect its own similar confidential information and to inform its employees of the confidential nature of the disclosing Party's information and of the requirement of nondisclosure. In the event either Party has actual knowledge of a breach of the nondisclosure requirements set forth in this Agreement, the Party acquiring such knowledge shall promptly inform the other Party and assist that Party in curing the disclosure, where possible, and preventing future disclosures.

6. Limitations of Florida Law. Offeror understands and agrees that its assertion that any item is confidential or a trade secret does not, in and of itself, render such material exempt from the Florida Public Records Law, Chapter 119 of the Florida Statutes, and that the Authority's ability to prevent disclosure of confidential and trade secret information may be subject to determination by a Florida court that such materials qualify for trade secret protection under Florida law. In the event a third party makes a public records request for the Confidential Materials or other materials deemed by Offeror to be confidential or a trade secret, the Authority may submit the materials to the court for inspection in camera as set forth in Section 119.07(1)(e) Florida Statutes. Offeror further understands that the Authority may be required to disclose such information if directed by a court of competent jurisdiction.

7. Indemnification by Offeror. In the event of any litigation instituted by a third party to compel the Authority to disclose such materials, Offeror shall, at its sole cost and expense, provide assistance to the Authority in defending the denial of the records request, and shall hold the Authority harmless from any claim for statutory costs and attorneys fees arising from the Authority's refusal to disclose such materials.

8. No Additional Obligations. This Agreement shall not be construed in any manner to be an obligation for either Party to enter into any subsequent contract or agreement.

9. Sovereign Immunity. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the Authority beyond any statutory limited waiver of immunity or limits of liability, which has been or which may be adopted by the Florida Legislature, regardless of the nature of any claim which may arise, including but not limited to a claim sounding in tort, equity or contract. In no event shall the Authority be liable for any claim or claims for breach of contract, including without limitation the wrongful disclosure of confidential or trade secret information for an amount which exceeds, individually and collectively, the then current statutory limits of liability for tort claims. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the Authority, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

10. Notice. Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Offeror designates the address set forth above as its place for receiving notice, and the Authority designates the following address for such notice:

The Toho Water Authority
Purchasing and Warehouse Manager
101N. Church St.
Kissimmee, Florida 34741

11. Governing Law. This Agreement shall be governed by the laws of the State of Florida, and venue for any action arising out of or relating to the subject matter of this Agreement shall be exclusively in Osceola County, Florida, or the Federal District Court for the Middle District of Florida, Orlando Division.

12. Offeror and the Authority hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to this Agreement for any litigation limited solely to the parties of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year as set forth below.

The Toho Water Authority
BY: _____
NAME: Brian Wheeler
TITLE: Executive Director
DATE: _____

Offeror
BY: _____
NAME: _____
TITLE: _____
DATE: _____

ATTEST:
BY: _____
NAME: _____
TITLE: _____
DATE: _____

ATTACHMENT G HOLD HARMLESS AGREEMENT

Return this page ONLY if claiming exemption from the Worker's Compensation Insurance Requirement

I _____ am the owner of _____, an incorporated/unincorporated business operating in the State of Florida. As such, I am bound by all laws of the state of Florida, including but not limited to those regarding the workers' compensation law.

I hereby affirm that the above named business employs fewer than four employees, including myself, and therefore, the business is exempt from the statutory requirement for workers' compensation insurance for its employees.

On behalf of the business, and its employees, I hereby agree to indemnify, keep and hold harmless the Toho Water Authority, Florida, its agents, officials and employees, against all injuries, deaths, losses, damages, claims, liabilities, judgments, costs and expenses, direct, indirect or consequential (including, but not limited to, fees and charges of attorneys and other professionals) arising out of our contract with the Toho Water Authority, whether or not it shall be alleged or determined that the act was caused by intention or through negligence or omission of the Toho Water Authority or their employees, or of their subsuccessful Offerors or their employees. The named business shall pay all charges of attorneys and all costs and other expenses incurred in connection with the indemnity provided herein, and if any judgment shall be rendered against the Toho Water Authority in any action indemnified hereby, the named business shall, at its own expense, satisfy and discharge the same. The foregoing is not intended nor should it be construed as, a waiver of sovereign immunity of the TOHO WATER AUTHORITY under Section 768.28, Florida Statutes.

_____ _____

Signature Printed Name

_____ _____

Firm Name Date

STATE OF _____

COUNTY OF _____

Sworn to and subscribed before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification.

_____

NOTARY PUBLIC – STATE OF _____

Type or print name:

_____

Commission No.: _____

*(Seal)Commission Expires*_____