

AGREEMENT

SERVICES AGREEMENT

THIS SERVICES AGREEMENT is made as of the 25th day of April, 2023 (effective date), by and between Pinellas County, a political subdivision of the State of Florida ("County"), and Brenntag Mid-South Inc., located in Henderson, Kentucky ("Contractor"), (individually, "Party," collectively, "Parties").

WITNESSETH:

WHEREAS, the County requested proposals pursuant to Contract No. 23-0212-ITB ("ITB") for Ammonium Sulfate (40%) - A Tampa Bay Area Cooperative Contract (Re-Bid) services; and

WHEREAS, based upon the County's assessment of Contractor's proposal, the County selected the Contractor to provide the Services as defined herein; and

WHEREAS, Contractor represents that it has the experience and expertise to perform the Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

1. Definitions.

- A. **"Agreement"** means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.
- B. **"County Confidential Information"** means any County information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, including, but not limited to data or information referenced in this Goods and Services Agreement, and any other information designated in writing by the County as County Confidential Information.
- C. **"Contractor Confidential Information"** means any Contractor information that is designated as confidential and/or exempt by Florida's public records law, including information that constitutes a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information that: (i) becomes public other than as a result of a disclosure by the County in breach of the Agreement; (ii) becomes available to the County on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (iii) is known by the County prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (iv) is developed by the County independently of any disclosures made by Contractor.
- D. **"Contractor Personnel"** means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.
- E. **"Services"** means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as described throughout this Agreement and as specifically described in the Statement of Work Exhibit attached hereto and incorporated herein by reference. As used in this Agreement, Services shall include any component task, subtask, service, or function inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone charges, copier usage, fax charges, travel, lodging, and per diem and all other costs required to perform Services except as otherwise specifically provided in this Agreement.

2. Execution of Agreement

The execution of this Agreement is expressly limited by the Terms and Conditions hereon. County and the Contractor are not bound by additional provisions or provisions at variance herewith that may appear in the Contractor's quotation, estimate, scope of work, or any other such related documents, acknowledgement in force, or any other communication from Contractor to or from County unless such provision is expressly set forth herein.

AGREEMENT**3. Conditions Precedent**

This Agreement, and the Parties' rights and obligations herein, are contingent upon and subject to the Contractor securing and/or providing the performance security, if required, and the insurance coverage(s) required, within 10 days of the Effective Date. No Services shall be performed by the Contractor and the County shall not incur any obligations of any type until Contractor satisfies these conditions. Unless waived in writing by the County, in the event the Contractor fails to satisfy the conditions precedent within the time required herein, the Agreement shall be deemed not to have been entered into and shall be null and void.

4. Services

- A. **Services** - The County retains Contractor, and Contractor agrees to provide the Services. All Services shall be performed to the satisfaction of the County and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.
- B. **Services Requiring Prior Approval** - Contractor shall not commence work on any Services requiring prior written authorization in the Statement of Work without approval from the Pinellas County Water Supply Manager.
- C. **Additional Services** - From the Effective Date and for the duration of the project, the County may elect to have Contractor perform Services that are not specifically described in the Statement of Work attached hereto but are related to the Services ("Additional Services"), in which event Contractor shall perform such Additional Services for the compensation specified in the Statement of Work attached hereto. Contractor shall commence performing the applicable Additional Services promptly upon receipt of written approval as provided herein.
- D. **De-scoping of Services** - The County reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the County. Upon issuance and receipt of the notification, the Contractor and the County shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.
- E. **Independent Contractor Status and Compliance with the Immigration Reform and Control Act** - Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venturer of County. Contractor 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 of the Agreement.
- F. **Non-Exclusive Services** - Award of this Agreement imposes no obligation on the County to utilize the Contractor for all goods and/or services of this type, which may develop during the agreement period. This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the County reserves the right to contract for another provider for similar goods and/or services as it determines necessary in its sole discretion.
- G. **Project Monitoring** - During the term of the Agreement, Contractor shall cooperate with the County, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

5. Term of Agreement

- A. **Initial Term** - The term of this Agreement shall commence on:
The Effective Date and shall remain in full force and for twelve (12) months, or until termination of the Agreement, whichever occurs first.

- B. **Term Extension**

The Parties may extend the term of this Agreement for two (2) additional twelve (12) month period(s) pursuant to the same terms, conditions, and pricing set forth in the Agreement by mutually executing an amendment to this Agreement, as provided herein.

6. Compensation and Method of Payment

- A. **Services Fee** - As total compensation for the Services, the County shall pay the Contractor the sums as provided in this Section ("Services Fee"), pursuant to the terms and conditions as provided in this Agreement. It is acknowledged and agreed by Contractor that this compensation constitutes a limitation upon County's obligation to compensate Contractor for such Services required by this Agreement but does not constitute a limitation upon Contractor's obligation to perform all of the Services required by this Agreement. In no event will the Services Fee

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paid exceed the not-to-exceed sums set out in subsections below, unless the Parties agree to increase this sum by written amendment as authorized in the Amendment Section of this Agreement.

- B. Spending Cap and Payment Structure** - The County agrees to pay the Contractor the total annual not-to-exceed sum of \$174,000.00, for Services completed and accepted herein if applicable, payable on a fixed-fee basis for the deliverables as set out in Exhibit C, upon submittal of an invoice as required herein.

C. Price Adjustment

Unit prices are adjustable at six (6) months after the effective date, in an amount not to exceed the average of the Producer Price Index (PPI) or 5%, whichever is less, for all Urban Consumers, Series Id: PCU325 for Chemical MFG, Not Seasonally Adjusted, Area: U.S. city average, Item: All items, Base Period: 1982-84=100 for the twelve months prior.

It is the Contractor's responsibility to request any pricing adjustment under this provision. For the adjustment to commence, the Contractor's request for adjustment must be submitted 90 days prior to the contract anniversary date, utilizing the available index at the time of request. The Contractor's adjustment request shall not be in excess of the relevant pricing index change. If no adjustment request is received from the Contractor, the County will assume the Contractor has agreed to continue without a pricing adjustment. Any adjustment request received outside of the 90 day period above shall not be considered.

D. Term Extension Price Adjustment

Upon extension of the contract term, extension(s) will allow for a price adjustment (Decrease/Increase) in an amount not to exceed the average of the Producer Price Index (PPI) or 5%, whichever is less, for all Urban Consumers, Series Id: PCU325 for Chemical MFG, Not Seasonally Adjusted, Area: U.S. city average, Item: All items, Base Period: 1982-84=100 for the twelve months prior to extension. The extension shall be exercised only if all terms and conditions remain the same and the County Administrator or Director of Purchasing grants approval.

It is the Contractor's responsibility to request any pricing adjustment under this provision. For any adjustment to commence on the first day of any exercised extension period, the Contractor's request for adjustment should be submitted at time of the extension request from the County, utilizing the available index at the time of request. The Contractor adjustment request should not be in excess of the relevant pricing index change. If no adjustment request is received from the Contractor, the County will assume the Contractor has agreed that the extension term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new extension period may not be considered.

C. Travel Expenses

The Services Fee includes all travel, lodging and per diem expenses incurred by Contractor in performing the Services.

- D. Taxes** - Contractor acknowledges that the County is not subject to any state or federal sales, use, transportation and certain excise taxes.
- E. Payments and Invoicing** - Contractor shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by County. Invoices shall be submitted to:

The designated person as set out in the Notices Section herein.

For time and materials Services, all Contractor Personnel shall maintain logs of time worked, and each invoice shall state the date and number of hours worked for Services authorized to be billed on a time and materials basis. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act." The County may dispute any payments invoiced by Contractor in accordance with the County's Invoice Payments Dispute Resolution Process established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

7. Personnel

- A. E-Verify** - The contractor and their subcontractor(s) must register with and use the E-verify system in accordance with Florida Statute 448.095. A contractor and subcontractor may not enter into a contract with the County unless each party registers with and uses the E-verify system. If a contractor enters a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the Subcontractor does not employ,

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contract with, or subcontract with unauthorized aliens. The contractor must maintain a copy of the affidavit for the duration of the contract. If the County, Contractor, or Subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly violated Florida Statute 448.09(1) they shall immediately terminate the contract with the person or entity. If the County has a good faith belief that a Subcontractor knowingly violated this provision, but the Contractor otherwise complied with this provision, the County will notify the Contractor and order that the Contractor immediately terminate the contract with the Subcontractor. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged to Section 448.095(2)(d), Florida Statute. Contractor acknowledges upon termination of this agreement by the County for violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor acknowledges that Contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section. Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in this section, requiring the subcontracts to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any Subcontractor or Lower Tier Subcontractor with the clause set for in this section.

- B. **Qualified Personnel** - Contractor agrees that each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.
- C. **Approval and Replacement of Personnel** - The County shall have the right to approve all Contractor Personnel assigned to provide the Services, which approval shall not be unreasonably withheld. Prior to commencing the Services, the Contractor shall provide at least ten (10) days written notice of the names and qualifications of the Contractor Personnel assigned to perform Services pursuant to the Agreement. Thereafter, during the term of this Agreement, the Contractor shall promptly and as required by the County provide written notice of the names and qualifications of any additional Contractor Personnel assigned to perform Services. The County, on a reasonable basis, shall have the right to require the removal and replacement of any of the Contractor Personnel performing Services, at any time during the term of the Agreement. The County will notify Contractor in writing in the event the County requires such action. Contractor shall accomplish any such removal within forty-eight (48) hours after receipt of notice from the County and shall promptly replace such person with another person, acceptable to the County, with sufficient knowledge and expertise to perform the Services assigned to such individual in accordance with this Agreement. In situations where individual Contractor Personnel are prohibited by applicable law from providing Services, removal and replacement of such Contractor Personnel shall be immediate and not subject to such forty-eight (48) hour replacement timeframe and the provisions of the Termination Section of this Agreement shall apply if minimum required staffing is not maintained.

8. Termination

A. **Contractor Default Provisions and Remedies of County**

1. **Events of Default** - Any of the following shall constitute a "Contractor Event of Default" hereunder:
 - i. Contractor fails to maintain the staffing necessary to perform the Services as required in the Agreement, fails to perform the Services as specified in the Agreement, or fails to complete the Services within the completion dates as specified in the Agreement;
 - ii. Contractor breaches Confidential Information Section of this Agreement;
 - iii. Contractor fails to gain acceptance of goods and/or services deliverable, for 2 consecutive iterations; or
 - iv. Contractor fails to perform or observe any of the other material provisions of this Agreement.
2. **Cure Provisions** - Upon the occurrence of a Contractor Event of Default as set out above, the County shall provide written notice of such Contractor Event of Default to Contractor ("Notice to Cure"), and Contractor shall have 30 calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the Contractor Event of Default described in the written notice.
3. **Termination for Cause by the County** - In the event that Contractor fails to cure a Contractor Event of Default as authorized herein, or upon the occurrence of a Contractor Event of Default as specified in Termination – Contractor Default Provisions and Remedies of County – Events of Default Section of this Agreement, the County may terminate this Agreement in whole or in part, effective upon receipt by Contractor of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the County.

AGREEMENT**B. County Default Provisions and Remedies of Contractor**

1. **Events of Default** - Any of the following shall constitute a "County Event of Default" hereunder:
 - i. the County fails to make timely undisputed payments as described in this Agreement;
 - ii. the County breaches Confidential Information Section of this Agreement; or the County fails to perform any of the other material provisions of this Agreement.
2. **Cure Provisions** - Upon the occurrence of a County Event of Default as set out above, Contractor shall provide written notice of such County Event of Default to the County ("Notice to Cure"), and the County shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the County Event of Default described in the written notice.
3. **Termination for Cause by the Contractor** - In the event the County fails to cure a County Event of Default as authorized herein, Contractor may terminate this Agreement in whole or in part effective on receipt by the County of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the Contractor.

C. Termination for Convenience

1. Notwithstanding any other provision herein, the County may terminate this Agreement, without cause, by giving 30 days advance written notice to the Contractor of its election to terminate this Agreement pursuant to this provision.

9. Time is of the Essence

Time is of the essence with respect to all provisions of this Agreement that specify a time for performance, including the Services as described in the Exhibits attached hereto; provided, however, that the foregoing shall not be construed to limit a Party's cure period allowed in the Agreement.

10. Confidential Information and Public Records

- A. **County Confidential Information** - Contractor shall not disclose to any third party County Confidential Information that Contractor, through its Contractor Personnel, has access to or has received from the County pursuant to its performance of Services pursuant to the Agreement, unless approved in writing by the County Contract Manager. All such County Confidential Information will be held in trust and confidence from the date of disclosure by the County, and discussions involving such County Confidential Information shall be limited to Contractor Personnel as is necessary to complete the Services.
- B. **Contractor Confidential Information** - All Contractor Confidential Information received by the County from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the County's staff and the County's subcontractors who require such information in the performance of this Agreement. The County acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the County, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges that the County is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and that any of the County's obligations under this Section may be superseded by its obligations under any requirements of said laws.
- C. **Public Records** - Contractor acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Contractor agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Contractor agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.

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If the contractor has questions regarding the application of Chapter 119, Florida Statutes, to the contractor's duty to provide public records relating to this agreement, the contractor shall contact:

Pinellas County Board of County Commissioners

Purchasing and Risk Management Division

400 S. Ft. Harrison Ave, 6th Floor,

Clearwater, FL 33756

Public Records Liaison

Phone: 727-464-3237

Email: mcchartier@pinellas.gov

11. Audit

Contractor shall retain all records relating to this Agreement for a period of at least 5 years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, County reserves the right to examine and/or audit such records.

12. Compliance with Laws

Contractor shall comply with all applicable federal, state, county and local laws, ordinances, rules and regulations in the performance of its obligations under this Agreement, including the procurement of permits and certificates where required, and including but not limited to laws related to Workers Compensation, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Minority Business Enterprise (MBE), occupational safety and health and the environment, equal employment opportunity, privacy of medical records and information, as applicable. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

13. Digital Accessibility

Contractor acknowledges and warrants that all digital content and services provided under this contract conforms and shall continue to conform during the Term of this Agreement to the W3C Web Content Accessibility Guidelines, version 2.0 ("WCAG 2.0") at conformance Level A and AA. If all digital content and services does not fully conform to WCAG 2.0 A and AA, Contractor shall advise Pinellas County in writing of the nonconformance prior to execution of this Agreement and shall provide Pinellas County a plan to achieve conformance to WCAG 2.0 A and AA, including but not limited to, an intended timeline for conformance. Failure to achieve conformance, as determined in Pinellas County's sole discretion, on its intended timeline shall be considered a material breach of this Agreement and grounds for termination by Pinellas County.

If during the Term of this Agreement, Contractor fails to maintain compliance with WCAG 2.0 A and AA or Pinellas County otherwise identifies an issue related to accessibility of the product (the "Accessibility Issue") that renders the product inaccessible, then Pinellas County shall notify Contractor of non-compliance. Within 30 days of Contractor's receipt of a non-compliance notice ("Notice"), Contractor and Pinellas County shall meet and mutually agree upon an appropriate timeline for resolution of the Accessibility Issue(s) ("Initial Meeting").

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Should Contractor:

- i. fail to acknowledge receipt of the notice within 30 days of receipt of the Notice;
- ii. unreasonably and solely withhold agreement regarding a timeline for resolution for more than 30 days following the Initial Meeting; or
- iii. fail to materially resolve the Accessibility Issue(s) within the agreed-upon timeline,

Failure to comply with the requirements of this section shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement by Pinellas County and subject Contractor to the Liability and Insurance – Indemnification Section of this Agreement, “Indemnification.”

14. Public Entities Crimes

Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, as well as Florida Statute 287.135 regarding Scrutinized Companies, and represents to County that Contractor is qualified to transact business with public entities in Florida, and to enter into and fully perform this Agreement subject to the provisions stated therein. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

15. Liability and Insurance

- A. **Insurance** - Contractor shall comply with the insurance requirements set out in the Insurance Exhibit, attached hereto and incorporated herein by reference.
- B. **Indemnification** - Contractor agrees to indemnify, pay the cost of defense, including attorney’s fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney’s fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers’ Compensation Law; or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the “ADA”) except when such injury, damage, or violation was caused by the sole negligence of the County.
- C. **Liability** - Neither the County nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the County nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The County shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by Contractor of its business, whether caused by Contractor’s negligence or willful action or failure to act.
- D. **Contractor’s Taxes** - The County will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers’ compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor’s assets, or upon the County in connection with Services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.

AGREEMENT**16. County's Funding**

The Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the County.

17. Orders

Within the term of this Agreement, County may place one or more orders for goods and/or services at the prices listed on the Price Schedule Exhibit attached hereto, and which is incorporated by reference hereto.

18. Name Changes

The Contractor is responsible for immediately notifying the County of any company name change, which would cause invoicing to change from the name used at the time of the original Agreement.

19. Acceptance of Services

For all Services deliverables that require County acceptance as provided in the Statement of Work, the County, through the Pinellas County Water Supply Manager or designee, will have 10 calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to Brenntag Mid-South Inc. If a deliverable is rejected, the written notice from the County will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have 7 calendar days to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the County, who will then have 7 calendar days to review and approve, or reject the deliverable(s); provided however, that Contractor shall not be responsible for any delays in the overall project schedule that result from the County's failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the County will accept the deliverable(s) in writing.

20. Subcontracting/Assignment

A. **Subcontracting** - Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the County, without the prior written consent of the County, which shall be determined by the County in its sole discretion.

B. **Assignment**

This Agreement, and all rights or obligations hereunder, shall not be assigned, transferred, or delegated in whole or in part, including by acquisition of assets, merger, consolidation, dissolution, operation of law, change in effective control of the Contractor, or any other assignment, transfer, or delegation of rights or obligations, without the prior written consent of the County. The Contractor shall provide written notice to the County within fifteen (15) calendar days of any action or occurrence assigning the Agreement or any rights or obligations hereunder as described in this section. In the event the County does not consent to the assignment, as determined in its sole discretion, the purported assignment in violation of this section shall be null and void, and the County may elect to terminate this Agreement by providing written notice of its election to terminate pursuant to this provision upon fifteen (15) days notice to Contractor.

21. Survival

The provisions of this Agreement shall survive the expiration or termination of this Agreement.

22. Notices

All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (3) sent via email

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and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

For County:

Attn: Royce Rarick

Pinellas County Water Supply Manager

Pinellas County Utilities

3655 Keller Circle

Tarpon Springs, FL 34688

rrarick@pinellas.gov

with a copy to:

Attn: Merry Celeste,

Purchasing and Risk Management Division Director

Pinellas County Purchasing Department

400 South Fort Harrison Avenue

Clearwater, FL 33756

mceleste@pinellas.gov

For Contractor:

Attn: Ray Sibbitt

Director of Mini-bulk/Municipal Development

Brenntag Mid-South Inc

1405 Highway 136 West

Henderson, KY 42420

rsibbitt@brenntag.com

23. Conflict of Interest

- A. The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Services required hereunder, and that no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- B. The Contractor shall promptly notify the County in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contractor may identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered into by the Contractor. The County agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

AGREEMENT**24. Right to Ownership**

All work created, originated and/or prepared by Contractor in performing Services pursuant to the Agreement, to the extent that such work, products, documentation, materials, or information described in or required by the Services (collectively, the "Work Product") shall be County's property when completed and accepted, if acceptance is required in this Agreement, and the County has made payment of the sums due therefore. The ideas, concepts, know-how or techniques developed during the course of this Agreement by the Contractor or jointly by Contractor and the County may be used by the County without obligation of notice or accounting to the Contractor. Any data, information or other materials furnished by the County for use by Contractor under this Agreement shall remain the sole property of the County.

25. Amendment

This Agreement may be amended by mutual written agreement of the Parties hereto.

26. Severability

The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

27. Applicable Law and Venue

This Agreement and any and all purchases made hereunder shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Pinellas County, Florida. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this section. Each Party waives any right it may have to assert the doctrine of forum non-conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.

28. Waiver

No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.

29. Due Authority

Each Party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

30. No Third-Party Beneficiary

The Parties hereto acknowledge and agree that there are no third-party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third-party beneficiaries hereto.

31. Force Majeure

"Force Majeure Event" means any act or event that (i) prevents a Party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other Party's (the "Performing Party") obligations under this Agreement, (ii) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (iii) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. Force Majeure Event(s) do not include economic hardship, changes in market conditions or insufficiency of funds. If a Force Majeure Event occurs,

AGREEMENT

the Nonperforming Party is excused from the performance and thereby prevented from satisfying any conditions precedent to the Performing Party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. The Nonperforming Party must promptly notify the Performing Party upon the occurrence of a Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the Performing Party's obligations, the Nonperforming Party will resume performance under this Agreement without undue delay. Each Party will use commercially reasonable efforts to mitigate the effect of a Force Majeure Event.

32. Order of Precedence

All Exhibits attached and listed below are incorporated in their entirety into, and form part of this Agreement and will have priority in the order listed:

- A. Pinellas County Goods and Services Agreement
- B. Exhibit A - Statement of Work
- C. Exhibit B - Insurance Requirements
- D. Exhibit C - Payment Schedule
- E. Exhibit D - Payment/Invoices
- F. Exhibit E - Dispute Resolution for Pinellas County Board of County Commissioners In Matters of Invoice Payments.

In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement will prevail.

33. Entirety

This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

(Signature Page Follows)

AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

PINELLAS COUNTY, a political subdivision of the State of Florida **PINELLAS COUNTY** acting by and through the

Board of County Commissioners

Brenntag Mid-South Inc

By: *Janet C. Long*
Signature

By: *Ray Sibbitt*
Signature

Janet C. Long
Print Name

Ray Sibbitt
Print Name

Chair
Title

Director of Municipal Development
Title

April 25, 2023
Date

3/20/23
Date

ATTEST: KEN BURKE, CLERK

By: *Ken Burke*



APPROVED AS TO FORM

By: Keiah Townsend
Office of the County Attorney

AGREEMENT

EXHIBIT A - STATEMENT OF WORK

1. OBJECTIVE

This cooperative solicitation seeks to establish a contract for the purchase and delivery of liquid ammonium sulfate (40%) utilized by Pinellas County Utilities for the treatment of drinking water to maintain compliance with the standards and regulations set by the Environmental Protection Agency (EPA).

2. SITE LOCATIONS

Delivery shall be made to the following locations:

| Pinellas County Locations | | | | | | |
|---------------------------|-----------------------------------------------------|-----------------------|-------------------|-------------------|--------------------|---------------------------------------------|
| Site Name | Street Address | Hours Staffed | Phone Contact 1st | Phone Contact 2nd | Bulk Tank Capacity | Typical Daily gal/Day/Year |
| S. K. Keller Water Plant | 3655 Keller Circle Tarpon Springs, FL. 34688 | 7:30 am – 3:30 pm M-F | 727-580-3784 | 727-453-6980 | 12,000 gallons | 137 gallons a day / 50,000 gallons annually |
| Keller RTF Facility | 3575 Old Keystone Road Tarpon Springs, FL. 34688 | 7:30 am – 3:30 pm M-F | 727-580-3784 | 727-453-6980 | 16,000 gallons | Zero (0) Emergency only |

3. REQUIREMENTS

1. Contractor Qualifications: The Contractor shall submit a sample of their liquid ammonium sulfate (40%) product, representative of the manufacturing process, from the contractor's facility to a testing laboratory approved by the Florida Department of Health (FDOH). The laboratory shall ascertain whether the Contractor's product complies with this specification (Exhibit A – Statement of Work, section 3. Requirements, subsection 2. Product Requirements). Contractor shall bear the cost of the analysis.
2. Product Requirements: The product shall be liquid, forty (40%) percent ammonium sulfate, destination/freight included (FOB) in accordance with the latest edition of the American National Standards Institute / American Water Works Association (ANSI/AWWA) ANSI/NSF 60 and Standard B-302-16 for Liquid 40% Ammonium Sulfate, except as modified or supplemented herein.

Liquid 40% Ammonium Sulfate – Chemical and Physical Properties:

- a) Liquid 40% Ammonium Sulfate supplied under this specification shall contain:
 - Percentage (%) Ammonium Sulfate (NH₄)₂SO₄: 39% minimum (wt % dry salt)
 - Percentage (%) NH₃: 9.8 – 10.3
 - pH: 4.0 – 7.0
 - Specific Gravity: 1.20 – 1.23
 - Appearance: clear to pale yellow liquid with no visible cloudiness or impurities
 - Odor: none
- b) The liquid 40% ammonium sulfate supplied shall contain no soluble materials or organic substances in quantities capable of producing deleterious or injurious effects on the health of those consuming water treated with the product. The manufacturer shall furnish an affidavit attesting that the supplied liquid 40% ammonium sulfate complies with all applicable specifications referenced herein.
3. Quality Assurance, Safety, Training, and Certification:
 - a) It will be the Contractor's responsibility to inform the Cooperative that NSF certification has been revoked or lapsed within twenty-four (24) hours of the Contractor receiving verbal or written notification. Loss of

AGREEMENT

certification shall constitute sufficient grounds for immediate termination of the contract between the Cooperative and the Contractor.

- b) Sampling and testing shall be in accordance with Environmental Protection Agency (EPA) and ANSI/AWWA B-302-16 standards, as modified or supplemented.
 - c) At the sole discretion of the Cooperative, the Contractor's delivery personnel (driver) may be requested to collect a sample of the product before the shipment is unloaded. In this case, the Cooperative will supply the sample container, and the driver shall collect the sample from the tank truck, provide a chain of custody and submit it to the Cooperative for analysis. The sample shall be considered representative of the lot.
 - d) Cooperative reserves the right to subject samples of the ammonium sulfate (40%) – liquid to quick analysis to ensure it meets basic conditions of the specification with respect to specific gravity, percent weight of ammonium sulfate, NH₃, pH, and suspended solids. Any lot tested by the Cooperative that fails to comply with the specifications shall constitute grounds for rejection of that lot. No payment will be made for the product that is rejected. The Contractor or its subcontractors shall allow forty-five (45) minutes for this testing to be completed. If testing cannot be completed within the forty-five (45) minute period, the Cooperative will allow the Contractor to unload the shipment. Failure to comply with any specification over three (3) consecutive events or five (5) events during the contract's lifetime shall constitute sufficient grounds for termination of the contract between the Cooperative and Contractor.
 - e) Cooperative reserves the right to subject samples of the liquid ammonium sulfate (40%) to complete analysis to ensure it meets EPA specifications, ANSI/AWWA B-302-16 specifications, and the supplemental specifications included herein.
4. Quarterly Reports:
At the start of the contract and every ninety (90) days thereafter, the Contractor (at their expense) is to utilize an outside testing agency acceptable to both the Cooperative and Contractor, to analyze a sample of the liquid ammonium sulfate (40%) delivered to the Cooperative to ensure the product complies with specification as contained herein. The testing laboratory must be certified under the NELAP by the FDOH. The Contractor shall supply the sample container, and the driver shall collect the sample from the tank truck. The sample will be given to the Cooperative and to the acceptable testing agency at the time of sampling. The Contractor shall obtain a certified testing agency report including:
- a) Date and Time of Manufacture
 - b) The percent by Weight: Ammonium Sulfate
 - c) The percent by Weight: NH₃
 - d) Specific Gravity
 - e) pH
 - f) Suspended Solids Quality Test Time

Any failure to comply with the specifications may constitute sufficient grounds for termination of the contract between the Cooperative and Contractor. Cost for the manufacturer's certified report and all quarterly reports by outside testing agencies shall be rolled into and included within the Contractor's price schedule.

5. Safety Data Sheets (SDS):
In compliance with Chapter 442 Florida Statutes, any chemical delivered from the Contractor must be accompanied by a Safety Data Sheet (SDS). The SDS must be maintained by the user agency and must include the following information:
- a) Chemical name and common name of the toxic substances
 - b) Hazards or other risks in the use of the toxic substance, including:
 - Potential for fire, explosion, corrosively, and reactivity
 - Known acute and chronic health effects of risks from exposure, including medical conditions, which are generally recognized as being aggravated by exposure to the toxic substance
 - Primary routes of entry and symptoms of overexposure

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- Proper precautions, handling practices, necessary personnel protective equipment, and other safety precautions in the use of, or exposure to, the toxic substances, including appropriate emergency treatment in the case of overexposure
- Emergency procedure for spills, fire, disposal, and first aid
- A description, in lay terms, of the specific potential health risks posed by the toxic substance intended to alert any person reading this information
- Year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

Any questions regarding this requirement shall be directed to:

Department of Labor and Employment Security

Bureau of Industrial Safety and Health

Toxic Waste Information Center

2551 Executive Center Circle West

Tallahassee, Florida 32301-5014

Phone: 800-367-4378

6. Emergency Plan of Action and Safety Training:

At the pre-commencement meeting, The Contractor must provide, in writing, an emergency contingency plan for each location with appropriate telephone contacts for the Cooperative to follow in case of an emergency spill of liquid ammonium sulfate (40%). The Contractor will include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24-hour contact numbers).

The Contractor is responsible for any spills resulting from the failure of its or its subcontractor's delivery equipment or from the failure of attendant delivery personnel in the proper performance of their duties. Proper performance requires attendant delivery personnel's constant inspection and observation of unloading operations and knowledgeable response to problems or emergencies. Cooperative reserves the right to refuse all deliveries made with poorly maintained equipment or leaking products. The Contractor shall not store any equipment or items on the County Property. Nor shall the Contractor use any County equipment, tools, or delivery equipment at any time during the course of this agreement.

In the event of a spill, the Contractor must supply the proper spill response notification procedure and any forms required by local, state, or federal regulatory agencies. This section, in no way, relieves the Contractor of the responsibility to notify the appropriate regulatory agencies of a spill incident. In the event of a spill or leak, the Contractor must supply the necessary personnel to respond to such an event, work with the local Hazardous Materials Response Team and manage and oversee "after-event" cleanup efforts. Should a spill or leak occur caused by the Contractor's personnel, equipment, or method of delivery, the Contractor must immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.S. 11001, et. Seq. (SARA) and the Florida Hazardous Emergency Response and Community Right-to-Know Act of 1988, Ch. 252, Part II, Florida Statutes. The responsibility for compliance with federal and state rules and regulations regarding Contractor-caused spills or releases shall be the sole responsibility of the Contractor. The Contractor holds the Cooperative harmless for failing to properly report and comply with this provision.

7. Safe Handling Training:

At the pre-commencement meeting, the Contractor must provide a schedule for appropriate safe handling training courses for liquid ammonium sulfate (40%) to each current Cooperative operation sites personnel and will be available to conduct "refresher" courses or courses for new employees who have not received training at six (6) month intervals thereafter for the duration of the contract term.

8. Technical Assistance:

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Contractor will provide technical assistance, at no charge, regarding the application of the product and disposal and handling of the residues and sludge produced by the application of the product in the water treatment process, as requested.

9. Carrier Tanker/Delivery Requirements:

- a) Liquid ammonium sulfate (40%) solution shall be shipped in properly-cleaned chemical tank trucks and equipment in lots of approximately 4000 gallons or less, as ordered. Carrier will be able to transfer contents using the self-contained transfer system of the tanker truck. The truck must also carry a minimum of two (2) properly-cleaned sections of 2" transfer hose for hook-up to 2" fill-line with male cam-lock fittings. Tanker trucks must comply with applicable U.S. Department of Transportation (DOT) specifications.
- b) Driver must have personal protective equipment, including chemical goggles, transparent face shield, hard hat, rubber gloves, rubber boots, and rubber or plastic-coated fabric apron or slicker suit. Driver must wear, at minimum, chemical goggles and protective gloves when handling the hose and valves. Driver must follow all OSHA requirements.
- c) Driver must remain within safe proximity while the transfer is in progress and continuously monitor for leaking hoses, connections, or other problems. Driver must ensure a Cooperative operator is present prior to unloading the product. It is the responsibility of the driver to have the proper equipment to contain leaks and report all spills.
- d) Split deliveries to multiple delivery locations will be coordinated and accepted by the Cooperative to encourage economical delivery of products via bulk tankers, dependent upon storage capacities at the time of delivery. All deliveries of 4500 gallons or more, regardless of being split, shall be considered a bulk or tanker load. All deliveries of less than 4000 gallons shall be considered less than a tanker load.

10. Delivery Storage and Handling:

- a) Bulk delivery of liquid ammonium sulfate (40%) shall be made by carrier tank truck to (but not limited to) the locations identified within this Agreement. Bulk delivery shall be in lots of 4,000 gallons. Delivery sites and quantities are subject to deletions or additions necessary to meet the water production demands. Less than tanker loads (LTL) may be made to the locations identified in Exhibit A, section 2 ("Site Locations"). Future sites may require delivery in smaller truck sizes (ex: 2,750 gallons) to accommodate access to the site.
- b) Delivery must not exceed seventy-two (72) hours from the time of manufacture of the product.
- c) The Contractor is responsible for transferring liquid ammonium sulfate (40%) into storage tanks and must provide all necessary, properly cleaned, and maintained hoses, fittings, pumps, etc., required to efficiently "off-load" the product into designated storage tanks. If the Contractor cannot unload a complete bulk delivery due to the Contractor's fault, the unit price will remain at the bulk delivery rate. The Contractor is responsible for ascertaining the correct storage tanks and fill point locations to prevent accidental discharge of product into the wrong storage tank(s).
- d) The Contractor is responsible for injuries, cost of cleanup, repair of facilities, and replacement of the chemical product in the event of accidental discharge of product into the wrong storage tank(s). If a third-party shipper is used, the Contractor assumes this responsibility on their behalf.
- e) Packaging and shipment of liquid ammonium sulfate (40%) must conform to all current regulations under the State of Florida, the United States Department of Transportation, or other applicable regulatory agencies.
- f) If bulk delivery is made using a third party, a wash ticket must be provided with each shipment showing that the tanker was thoroughly cleaned, as well as a notification of the materials the carrier transported in the vehicle immediately prior to transporting the chemical to the facility.

11. Pinellas County Delivery Schedule and Special Conditions:

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- a) All deliveries of liquid ammonium sulfate (40%) must be made to the County within two (2) days after receipt of the order.
- b) Delivery time of day shall be arranged upon placement of the order and set between the hours of 7:30 a.m. and 3:30 p.m. EST (S. K. Keller Water Plant and Keller RTF Facility). A request to deviate from the schedule must be confirmed with the County at least twenty-four (24) hours prior to the scheduled delivery and must conform to delivery conditions as set forth in this Agreement. Deliveries made to unstaffed facilities must be coordinated with the County so the driver can access the facility.
- c) The Contractor must make "emergency" deliveries within twenty-four (24) hours after receipt of the order. Emergency delivery is defined as a delivery necessary to prevent the Cooperative from running out of product in less than twenty-four hours. Split deliveries may be allowed at the Cooperative and the Contractor's discretion to ensure business continuity. The Cooperative shall endeavor to minimize the number of "emergency" deliveries.
- d) The Cooperative reserves the right to change quantities and delivery dates at their discretion with a twenty-four (24) hour notice.
- e) Delivery shipments will be rejected if they fail to meet any contract specifications included within this Agreement. In the event a delivery shipment is rejected by County, upon notification to the Contractor that the shipment is rejected, the Contractor is required to ship a replacement delivery to the affected location within six (6) hours from the time of notification. Failure to comply by providing replacement product within the specified times three (3) times while the contract term is active may constitute sufficient grounds for termination of the contract between the County and Contractor.

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EXHIBIT B - INSURANCE REQUIREMENTS**1. INSURANCE**

The Contractor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to recommendation for award.

The Contractor shall obtain and maintain, and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth. For projects with a Completed Operations exposure, Contractor shall maintain coverage and provide evidence of insurance for two (2) years beyond final acceptance. All insurance policies shall be from responsible companies duly authorized to do business in the State of Florida and have an AM Best rating of A- VIII or better.

2. INDEMNIFICATION:

Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law; or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; or for any violation of requirements of the Americans with Disabilities Act of 1990, as may be amended, and all rules and regulations issued pursuant thereto (collectively the "ADA") except when such injury, damage, or violation was caused by the sole negligence of the County.

A. Submittals should include the Contractor's current Certificate(s) of Insurance. If Contractor does not currently meet insurance requirements, Contractor shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

Upon selection of Contractor for award, the selected Contractor shall email certificate that is compliant with the insurance requirements. If the certificate received is compliant, no further action may be necessary. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **The Certificate holder section shall indicate Pinellas County, a Political Subdivision of the State of Florida, 400 S Fort Harrison Ave, Clearwater, FL 33756. Pinellas County shall be named as an Additional Insured for General Liability. A Waiver of Subrogation for Workers Compensation shall be provided if Workers Compensation coverage is a requirement.**

B. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. The County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the Quote and/or contract period.

C. If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the work you will be notified by CTrax, the authorized Contractor of Pinellas County. Upon notification, renewal certificate(s) of Insurance and endorsement(s) should be furnished to Pinellas County Risk Management at InsuranceCerts@pinellas.gov and to CTrax c/o JDi Data at PinellasSupport@jdidata.com by the Contractor or their agent prior to the expiration date.

1) The Contractor shall also notify the County within twenty-four (72) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Contractor from its insurer. Notice shall be given by email to Pinellas County Risk Management at InsuranceCerts@pinellas.gov. Nothing contained herein shall absolve Contractor of this requirement to provide notice.

2) Should the Contractor, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement.

D. If subcontracting is allowed under this Quote, the Primary Contractor shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; but in no event will the insurance limits be

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less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.

All subcontracts between the Contractor and its subcontractor shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall:

- 1) Require each subcontractor to be bound to the Contractor to the same extent the Contractor is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor.
- 2) Provide for the assignment of the subcontracts from the Contractor to the County at the election of Owner upon termination of the Contract.
- 3) Provide that County will be an additional indemnified party of the subcontract.
- 4) Provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability.
- 5) Provide a waiver of subrogation in favor of the County and other Insurance terms and/or conditions as outlined below.
- 6) Assign all warranties directly to the County; and
- 7) Identify the County as an intended third-party beneficiary of the subcontract. The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

E. Each insurance policy and/or certificate shall include the following terms and/or conditions:

- 1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County.
- 2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Contractor.
- 3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
- 4) All policies shall be written on a primary, non-contributory basis.

The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

1) Workers' Compensation Insurance Worker's Compensation Insurance is required if required pursuant to Florida law. If, pursuant to Florida law, Worker's Compensation Insurance is required, employer's liability, also known as Worker's Compensation Part B, is also required in the amounts set forth herein.

Limits

| | |
|-----------------------------|-------------------|
| Employers' Liability Limits | Florida Statutory |
| Per Employee | \$ 500,000 |
| Per Employee Disease | \$ 500,000 |
| Policy Limit Disease | \$ 500,000 |

| |
|------------------|
| AGREEMENT |
|------------------|

If Contractor/Contractor is not required by Florida law, to carry Workers Compensation Insurance in order to perform the requirements of this Agreement, County Waiver Form for workers compensation must be executed, submitted, and accepted by Risk Management. Failure to obtain required Worker's Compensation Insurance without submitting and receiving a waiver from Risk Management constitutes a material breach of this Agreement.

- 2) **Commercial General Liability Insurance** including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits

| | |
|-----------------------------------------|--------------|
| Combined Single Limit Per Occurrence | \$ 1,000,000 |
| Products/Completed Operations Aggregate | \$ 2,000,000 |
| Personal Injury and Advertising Injury | \$ 1,000,000 |
| General Aggregate | \$ 2,000,000 |

- 3) **Business Automobile or Trucker's/Garage Liability Insurance** covering owned, hired, and non-owned vehicles. If the Consultant does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Consultant can show that this coverage exists under the Commercial General Liability policy.

Limit

| | |
|------------------------------------|--------------|
| Combined Single Limit Per Accident | \$ 1,000,000 |
|------------------------------------|--------------|

- 4) **Property Insurance** Contractor will be responsible for all damage to its own property, equipment and/or materials.

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EXHIBIT C - PAYMENT SCHEDULE

| PINELLAS COUNTY GOVERNMENT, FLORIDA PAYMENT SCHEDULE CONTRACT TITLE: Ammonium Sulfate (40%) - A Tampa Bay Area Cooperative Contract - (Re-Bid) CONTRACT NUMBER: 23-0212-ITB | | | | Brenntag Mid-South Inc | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------------------------------------------------|---------|-------------------------------|-------------------|
| ITEM NO | DESCRIPTION | PINELLAS COUNTY WASTE TO ENERGY WATER TREATMENT FACILITY ESTIMATED ANNUAL USAGE | UOM | UNIT PRICE | EXTENDED PRICE |
| 1 | Ammonium Sulfate 40% Fee full tanker 4,500 gallons | 50,000 | Gallons | \$ 3.48 | \$ 174,000.00 |
| 12-MONTH LUMP SUM TOTAL: | | | | \$ | 174,000.00 |

AGREEMENT

EXHIBIT D - PAYMENT/INVOICES**PAYMENT/INVOICES:**

CONTRACTOR shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 et. seq, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable
Pinellas County Board of County Commissioners
P. O. Box 2438
Clearwater, FL 33757

Each invoice shall include, at a minimum, the Contractor's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Contractor also include the information shown in below. The County may dispute any payments invoiced by CONTRACTOR in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

INVOICE INFORMATION:

Contractor Information Company name, mailing address, phone number, contact name and email address as provided on the PO

Remit To Billing address to which you are requesting payment be sent

Invoice Date Creation date of the invoice

Invoice Number Company tracking number

Shipping Address Address where goods and/or services were delivered

Ordering Department Name of ordering department, including name and phone number of contact person

PO Number Standard purchase order number

Ship Date Date the goods/services were sent/provided

Quantity Quantity of goods or services billed

Description Description of services or goods delivered

Unit Price Unit price for the quantity of goods/services delivered

Line Total Amount due by line item

Invoice Total Sum of all of the line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge Contractors to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at www.pinellascounty.org/purchase.

AGREEMENT**EXHIBIT E - DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS:**

Payment of invoices for work performed for Pinellas County Board of County Commissioners (County) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. Pinellas County shall notify a Contractor in writing within 10 days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the Contractor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by the Contractor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the Contractor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
 1. Requesting department for this purpose is defined as the County department for whom the work is performed.
 2. Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- B. Should a dispute result between the Contractor and the County about payment of a payment request or an invoice then the Contractor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than 45 days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond 60 days after the date on which the payment request or invoice was received by Pinellas County.
- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to Pinellas County's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the 60 days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.
- E. Pinellas County Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the County's favor interest charges begin to accrue 15 days after the final decision made by the County. Should the dispute be resolved in the Contractor's favor the County shall pay interest as of the original date the payment was due.
- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.