

RESOLUTION NO. 2012 - 17

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AWARD BID NO. 12-16 AND TO EXECUTE AN AGREEMENT FOR THE SUPPLY OF WATER & WASTEWATER TREATMENT CHEMICALS.

RECITALS

WHEREAS, the County desires to enter into a contract with the following five (5) firms: Airgas Specialty Products, Allied Universal Corporation, Brenntag Mid-South, Inc, Thatcher Chemical of Florida, and The Dumont Company to supply water and wastewater treatment chemicals to the SJC Utility Department on an as needed basis; and

WHEREAS, the scope of the project shall consist of supplying and delivering purchased anhydrous ammonia, sodium hydroxide, calcium hypochlorite, muriatic acid, bisulfite liquid, chlorine gas, and anti-scalant to the SJC Utility Department at designated locations in St. Johns County; and

WHEREAS, through the County's formal bid process, the above referenced five (5) firms were selected as the lowest, responsive, responsible bidders for the respective chemicals to enter into a contract with the County to perform the work referenced above; and

WHEREAS, the contract is being funded by the SJC Utility Department; and

WHEREAS, the County has reviewed the terms, provisions, conditions and requirements of the Contract (attached hereto, an incorporated herein) and finds that entering into the Contract serves a public purpose.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to award Bid No. 12-16 to Airgas Specialty Products "Airgas", Allied Universal Corporation "Allied", Brenntag Mid-South, Inc "Brenntag", Thatcher Chemical of Florida "Thatcher", and The Dumont Company "Dumont"

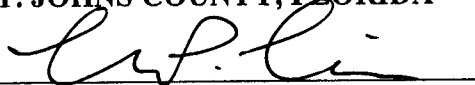
Section 3. The County Administrator, or designee, is further authorized to execute the attached Contract with the five (5) low bidders: Airgas, Allied, Brenntag,

Thatcher and Dumont on behalf of the County for the supply of water and wastewater treatment chemicals as specifically provided in Bid No 12-16.

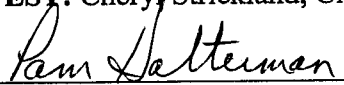
Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 17th day of January, 2012.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: 
Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 1/19/12





CONTRACT AGREEMENT
Bid No: 12-16; Supply of Water & Wastewater Treatment
Chemicals to SJC Utility Department
Master Contract #: _____

This Contract Agreement is made as of this _____ day of _____, 2012, by and between **St. Johns County, FL**, 500 San Sebastian View, St. Augustine, FL 32084, hereinafter referred to as the "COUNTY", and **Airgas Specialty Products, Inc** authorized to do business in the State of Florida, hereinafter referred to as the "CONTRACTOR", whose address is 2530 Sever Road, Suite 300, Lawrenceville, GA 30043 Phone: (770) 717-2210 and Fax: (770) 717-2222.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 – DURATION and EXTENSION

The duration of this Contract Agreement runs from February 1, 2012, through and until 11:59 p.m., Eastern Standard Time, on January 31, 2012, and may be extended for up to a maximum of four (4) one (1) year periods, upon satisfactory performance by the CONTRACTOR, mutual agreement by both parties, and the availability of funds. While this Contract Agreement may be renewed as stated in this Article, it is expressly noted that the COUNTY is under no obligation to extend this Contract Agreement. It is further expressly understood that the option of extension is exercisable only by the COUNTY, and only upon the COUNTY's determination that the CONTRACTOR satisfactorily performed the Services noted in the Contract Documents.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all Bid Documents and any addenda/exhibits thereto; all Specifications; this Contract Agreement and any duly executed amendments, addenda, and/or exhibits hereto; and any and all Change Orders.

ARTICLE 3 - SERVICES

The CONTRACTOR's responsibility under this Contract Agreement is to provide all labor, materials, and equipment necessary to supply the SJC Utility Department with **Anhydrous Ammonia** in accordance with Bid No: 12-16 and as otherwise provided in the Contract Documents.

Services provided by the CONTRACTOR shall be under the general direction of David Parker, Wastewater Superintendent, and Barry Stewart, Water Operations Superintendent, SJC Utility Department, or authorized COUNTY designee, who shall act as the COUNTY'S representative during the performance of this Contract Agreement.

ARTICLE 4 – SCHEDULE

The CONTRACTOR shall perform the required Services as needed by the SJC Utility Department. A schedule for the delivery of products and supporting services to be performed shall be coordinated with the SJC Utility Department. No changes to said schedule shall be made without prior written authorization from the COUNTY's representative.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

- A. The COUNTY shall compensate the CONTRACTOR based upon the unit price per gallon of **sixty nine cents (\$0.69) per pound** as submitted in the Bid Proposal. The maximum amount available as compensation to CONTRACTOR under this Contract Agreement shall not exceed the annual amount budgeted by SJC Utility Department for Services satisfactorily performed in accordance with the Contract Documents.
- B. It is strictly understood that CONTRACTOR is not entitled to the above-referenced amount of compensation. Rather, CONTRACTOR's compensation is based upon CONTRACTOR's adhering to the Scope of Services,

detailed in this Contract Agreement. As such, the CONTRACTOR's compensation is dependent upon satisfactory completion and delivery of all work product and deliverables noted in the Scope of Services, and detailed in this Contract Agreement.

- C. The CONTRACTOR shall bill the COUNTY at the end of each month, for Services satisfactorily performed, and materials satisfactorily delivered.
- D. Though there is no billing form or format pre-approved by either the COUNTY, or the CONTRACTOR, bills/invoices submitted by the CONTRACTOR shall include a detailed written report of the Work accomplished in connection with the Scope of Services. The COUNTY may return a bill/invoice from the CONTRACTOR, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- E. Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Utility Department
ATTN: Frank Kenton, Administrative Manager
1205 State Road 16
St. Augustine, FL 32084
- F. **FINAL INVOICE:** In order for the COUNTY and the CONTRACTOR to reconcile/close their books and records, the CONTRACTOR shall clearly indicate "final invoice" on the CONTRACTOR's final bill/invoice to the COUNTY. Such indication establishes that all Services have been satisfactorily performed and that all charges and costs have been invoiced to the COUNTY and that there is no further Work to be performed under this Contract Agreement.

ARTICLE 6 – TERMINATION

This Contract Agreement may be terminated without cause upon either the COUNTY, or the CONTRACTOR providing at least thirty (30) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the COUNTY or the CONTRACTOR intends to terminate this Contract Agreement thirty (30) days from the date of notification (unless a date greater than thirty (30) days is specified).

This Contract Agreement may be terminated with cause by the COUNTY upon failure by the CONTRACTOR to comply with any portion of the responsibilities under this Contract Agreement. The COUNTY shall provide written notification of any and all issues of non-compliance, which the CONTRACTOR shall then have fourteen (14) consecutive calendar days to correct. If correction is not made, or acceptable corrective action has not been taken within the provided fourteen (14) day period, the Contract Agreement may be terminated by the COUNTY for cause upon giving at least fourteen (14) days advance written notice to the CONTRACTOR.

In addition to the above, failure on the part of the CONTRACTOR to comply with the requirements of the Contract Documents three (3) separate times throughout the duration of the Contract Agreement, shall constitute sufficient grounds for termination of the contract by the COUNTY for cause.

Consistent with other provisions of this Contract Agreement, CONTRACTOR shall be compensated for any services and/or expenses that are both authorized under this Contract Agreement and that are performed and/or accrue up to the termination of this Contract Agreement.

ARTICLE 7 – PERSONNEL

The CONTRACTOR represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted in the Contract Documents. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the COUNTY.

All of the Services required hereunder shall be performed by the CONTRACTOR, or under its supervision. All personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

Any changes or substitutions in the CONTRACTOR's key personnel must be made known to the COUNTY's representative and written approval granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 8 – SUBCONTRACTING

The COUNTY reserves the right to approve the use of any subcontractor, or to reject the selection of a particular subcontractor, and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform the Work described in the Contract Documents. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to satisfactorily perform in accordance with the Contract Documents, and it is necessary to replace the subcontractor to complete the Work in a timely fashion, the CONTRACTOR shall promptly do so, subject to approval by the COUNTY.

The COUNTY reserves the right to disqualify any subcontractor, vendor, or material supplier based upon prior unsatisfactory performance.

ARTICLE 9 – FEDERAL AND STATE TAX

In accordance with Local, State, and Federal law, the COUNTY is exempt from the payment of Sales and Use Taxes. The COUNTY shall execute a tax exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempt from the payment of all applicable taxes in its performance under this Contract Agreement. It is expressly understood by the COUNTY and by the CONTRACTOR that the CONTRACTOR shall not be authorized to use the COUNTY's Tax Exemption status in any manner.

The CONTRACTOR shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from CONTRACTOR's performance under this Contract Agreement.

ARTICLE 10 – AVAILABILITY OF FUNDS

The COUNTY's obligations under this Contract Agreement are subject to the availability of lawfully appropriated funds. While the COUNTY will make all reasonable efforts, in order to provide funds needed to perform under this Contract Agreement, the COUNTY makes no express commitment to provide such funds in any given COUNTY Fiscal Year. Moreover, it is expressly noted that the CONTRACTOR cannot demand that the COUNTY provide any such funds in any given COUNTY Fiscal Year.

ARTICLE 11 - INSURANCE

The CONTRACTOR shall acquire and provide proof of the insurance coverage described below prior to the execution of this Contract Agreement. Such coverage shall be maintained by the CONTRACTOR for the duration of this Contract Agreement. CONTRACTOR shall provide the COUNTY no less than thirty (30) days prior notice of any changes to or cancellation of insurance coverage. Failure by CONTRACTOR to provide such notice shall constitute cause for automatic termination of this Contract Agreement without further notice or action required on the part of the COUNTY.

Insurance Requirements:

- a) Workers' compensation – to meet statutory limits in compliance with the Workers Compensation Law of Florida. This policy must include Employer Liability with a limit of \$100,000 for each accident, \$500,000 disease policy limit and \$100,000 disease each employee limit.
- b) Commercial general liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 Aggregate, for bodily injury, advertising injury and property damage. This shall include coverage for:
 - 1. Premises/operations
 - 2. Products/complete operations
 - 3. Contractual liability
 - 4. Independent contractors
 - 5. Participant Legal Liability
 - 6. Medical Expenses
- c) Business auto liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:
 - 1. Owned autos
 - 2. Hired autos
 - 3. Non-owed autos
- d) Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

Special Requirements:

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
 - 1. St. Johns County will be named as additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies.
 - 2. **Bid No: 12-16; Supply of Water/Wastewater Treatment Chemicals to St. Johns County Utility Department** shall be specified in the notes area of the Certificate of Insurance.
 - 3. St. Johns County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance.
- b) It is the responsibility of the CONTRACTOR to insure that all subcontractors comply with all insurance requirements.
- c) It should be remembered that these are minimum requirements which are subject to modification in response to high hazard operations.

In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

ARTICLE 11 - INDEMNIFICATION

The CONTRACTOR shall indemnify and hold harmless the COUNTY, and its officers, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, intentional/unintentional conduct or omission of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 13 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY, whether such 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 by certified mail within 30 days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract Agreement.

ARTICLE 15 - NO THIRD PARTY BENEFICIARIES

Both the COUNTY and the CONTRACTOR explicitly agree, and this Contract Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 16 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any delay in performance if such delay arises out of causes reasonably beyond the CONTRACTOR'S control and without its fault or negligence. Such cases may include, but are not limited to: acts of God; the COUNTY'S ommissive and commissive failures; natural or public health emergencies; freight embargoes; and severe weather conditions.

If delay is caused by the failure of the CONTRACTOR'S subcontractor(s) to perform or make progress, and if such delay arises out of causes reasonably beyond the control of the CONTRACTOR and its subcontractor(s) and is without the fault or negligence of either of them, the CONTRACTOR shall not be deemed to be in default.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any delay in performing the work and, if the CONTRACTOR'S failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Contract Agreement shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all of the Work at any time.

ARTICLE 17 - ARREARS

The CONTRACTOR shall not pledge the COUNTY'S credit, or make it a guarantor of payment, or surety for any

contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract Agreement.

ARTICLE 18 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the COUNTY, or at its expense, shall be kept confidential by the CONTRACTOR and shall not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Contract Agreement, or at the COUNTY'S expense, shall be and remains the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract Agreement, an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract Agreement shall at all times and in all places be subject to the CONTRACTOR'S sole direction, supervision, and control.

The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this agreement.

ARTICLE 20 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

ARTICLE 21 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Contract Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the COUNTY'S cost, upon five (5) days written notice.

ARTICLE 22 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the COUNTY, and the CONTRACTOR.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties.

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall: (1) if requested by the COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY in writing if the contemplated change shall effect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract Agreement. If the COUNTY instructs in writing, the CONTRACTOR shall suspend work on that portion of the project, pending the COUNTY'S decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall issue a Change Order for changes, or a contract change order, if the original contract is be changed or amended the CONTRACTOR shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

ARTICLE 28 - FLORIDA LAW & VENUE

This Contract Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in St. Johns County, Florida.

ARTICLE 29 - ARBITRATION

The Owner shall not be obligated to arbitrate or permit any arbitration binding on the Owner under any of the Contract Documents or in connection with the project in any manner whatsoever.

ARTICLE 31 - NOTICES

All notices required in this Contract Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

St. Johns COUNTY Purchasing Department
Attn: Joe Burch, Purchasing Director
2446 Dobbs Road
St. Augustine, FL 32084

and if sent to the CONTRACTOR shall be mailed to:

Airgas Specialty Products, Inc
Attn: Mr. Martin J. Wehner, President
2530 Sever Road, Suite 300
Lawrenceville, GA 30043

ARTICLE 32 - HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Contract Agreement, or affect its meaning, construction or effect.

ARTICLE 33 – ACCESS TO RECORDS

The access to, disclosure, non-disclosure, or exemption of records, data, documents, correspondence, and/or materials associated with this Contract Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE 35 – USE OF COUNTY LOGO

Pursuant to, and consistent with, COUNTY Ordinance 92-2 and COUNTY Administrative Policy 101.3, the CONTRACTOR may not manufacture, use, display, or otherwise use any facsimile or reproduction of the COUNTY Seal/Logo without express written approval of the Board of COUNTY Commissioners of St. Johns COUNTY, Florida.

ARTICLE 36 – SURVIVAL

It is explicitly noted that the following provisions of this Contract Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Contract Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; (6) Enforcement Costs; and (7) Access to Records.

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

ST. JOHNS COUNTY, FL:

Joe Burch, Purchasing Director

Date

ATTEST:
CHERYL STRICKLAND, CLERK

BY: _____
Deputy Clerk

Date

LEGALLY SUFFICIENT:

Assistant County Attorney

Date

CONTRACTOR:

Airgas Specialty Products, Inc
Company Name

Name (Type or Print)

Signature

Title

Date

WITNESS:

Signature

Printed Name & Title

Date of Execution

EXHIBIT "A"

BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT CHEMICALS TO SJC UTILITY DEPARTMENT

BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the Unit Prices as submitted on the "Official Total Bid Form" in the Bid Documents. The Unit Prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY *prior* to any work being implemented and shall be added to the applicable Contract Amendment.

Unit Price adjustments shall be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the CONTRACTOR and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective after the beginning of the applicable renewal period.

EXHIBIT "B"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

Initial Contract – Shall become effective on February 1, 2012, and shall remain in effect for a period of one (1) year, or until funds may become exhausted.

Contract Renewal/s – The contract may be renewed for four (4), one (1) year terms upon satisfactory performance by the CONTRACTOR, mutual agreement by all parties, the availability of funds and the continued need of the COUNTY for services.



CONTRACT AGREEMENT
Bid No: 12-16; Supply of Water & Wastewater Treatment
Chemicals to SJC Utility Department
Master Contract #: _____

This Contract Agreement is made as of this _____ day of _____, 2012, by and between St. Johns County, FL, 500 San Sebastian View, St. Augustine, FL 32084, hereinafter referred to as the "COUNTY", and Allied Universal Corporation, authorized to do business in the State of Florida, hereinafter referred to as the "CONTRACTOR", whose address is 3901 NW 115 Avenue, Miami, FL 33178 whose Phone: (305) 888-2623 and Fax: (305) 463-8369.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 – DURATION and EXTENSION

The duration of this Contract Agreement runs from February 1, 2012, through and until 11:59 p.m., Eastern Standard Time, on January 31, 2012, and may be extended for up to a maximum of four (4) one (1) year periods, upon satisfactory performance by the CONTRACTOR, mutual agreement by both parties, and the availability of funds. While this Contract Agreement may be renewed as stated in this Article, it is expressly noted that the COUNTY is under no obligation to extend this Contract Agreement. It is further expressly understood that the option of extension is exercisable only by the COUNTY, and only upon the COUNTY's determination that the CONTRACTOR satisfactory performed the Services noted in the Contract Documents.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all Bid Documents and any addenda/exhibits thereto; all Specifications; this Contract Agreement and any duly executed amendments, addenda, and/or exhibits hereto; and any and all Change Orders.

ARTICLE 3 - SERVICES

The CONTRACTOR's responsibility under this Contract Agreement is to provide all labor, materials, and equipment necessary to supply the St. Johns County Utility Department with Sodium Hydroxide (50%), Calcium Hypochlorite (HTH), and Chlorine Gas, in accordance with Bid No: 12-16 and as otherwise provided in the Contract Documents.

Services provided by the CONTRACTOR shall be under the general direction of David Parker, Wastewater Superintendent, and Barry Stewart, Water Operations Superintendent, St. Johns County Utility Department, or authorized COUNTY designee, who shall act as the COUNTY'S representative during the performance of this Contract Agreement.

ARTICLE 4 – SCHEDULE

The CONTRACTOR shall perform the required Services as needed by the St. Johns COUNTY Utility Department. A schedule for the delivery of products and supporting services to be performed shall be coordinated with the St. Johns COUNTY Utility Department. No changes to said schedule shall be made without prior written authorization from the COUNTY's representative.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

A. The COUNTY shall compensate the CONTRACTOR based upon the unit prices as submitted in the Bid Proposal and incorporated herein on Exhibit "A-1". The maximum amount available as compensation to CONTRACTOR under this Contract Agreement shall not exceed the annual amount budgeted by SJC Utility Department for Services satisfactorily performed in accordance with the Contract Documents.

- B. It is strictly understood that CONTRACTOR is not entitled to the above-referenced amount of compensation. Rather, CONTRACTOR's compensation is based upon CONTRACTOR's adhering to the Scope of Services, detailed in this Contract Agreement. As such, the CONTRACTOR's compensation is dependent upon satisfactory completion and delivery of all work product and deliverables noted in the Scope of Services, and detailed in this Contract Agreement.
- C. The CONTRACTOR shall bill the COUNTY at the end of each month, for Services satisfactorily performed, and materials satisfactorily delivered.
- D. Though there is no billing form or format pre-approved by either the COUNTY, or the CONTRACTOR, bills/invoices submitted by the CONTRACTOR shall include a detailed written report of the Work accomplished in connection with the Scope of Services. The COUNTY may return a bill/invoice from the CONTRACTOR, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- E. Unless otherwise notified, bills/invoices should be delivered to:
- St. Johns County Utility Department
ATTN: Frank Kenton, Administrative Manager
1205 State Road 16
St. Augustine, FL 32084
- F. **FINAL INVOICE:** In order for the COUNTY and the CONTRACTOR to reconcile/close their books and records, the CONTRACTOR shall clearly indicate "final invoice" on the CONTRACTOR's final bill/invoice to the COUNTY. Such indication establishes that all Services have been satisfactorily performed and that all charges and costs have been invoiced to the COUNTY and that there is no further Work to be performed under this Contract Agreement.

ARTICLE 6 – TERMINATION

This Contract Agreement may be terminated without cause upon either the COUNTY, or the CONTRACTOR providing at least thirty (30) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the COUNTY or the CONTRACTOR intends to terminate this Contract Agreement thirty (30) days from the date of notification (unless a date greater than thirty (30) days is specified).

This Contract Agreement may be terminated with cause by the COUNTY upon failure by the CONTRACTOR to comply with any portion of the responsibilities under this Contract Agreement. The COUNTY shall provide written notification of any and all issues of non-compliance, which the CONTRACTOR shall then have fourteen (14) consecutive calendar days to correct. If correction is not made, or acceptable corrective action has not been taken within the provided fourteen (14) day period, the Contract Agreement may be terminated by the COUNTY for cause upon giving at least fourteen (14) days advance written notice to the CONTRACTOR.

In addition to the above, failure on the part of the CONTRACTOR to comply with the requirements of the Contract Documents three (3) separate times throughout the duration of the Contract Agreement, shall constitute sufficient grounds for termination of the contract by the COUNTY for cause.

Consistent with other provisions of this Contract Agreement, CONTRACTOR shall be compensated for any services and/or expenses that are both authorized under this Contract Agreement and that are performed and/or accrue up to the termination of this Contract Agreement.

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The CONTRACTOR represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted in the Contract Documents. It is expressly understood that such personnel shall not be employees of,

or have any contractual relationship with the COUNTY.

All of the Services required hereunder shall be performed by the CONTRACTOR, or under its supervision. All personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

Any changes or substitutions in the CONTRACTOR's key personnel must be made known to the COUNTY's representative and written approval granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

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The COUNTY reserves the right to disqualify any subcontractor, vendor, or material supplier based upon prior unsatisfactory performance.

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In accordance with Local, State, and Federal law, the COUNTY is exempt from the payment of Sales and Use Taxes. The COUNTY shall execute a tax exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempt from the payment of all applicable taxes in its performance under this Contract Agreement. It is expressly understood by the COUNTY and by the CONTRACTOR that the CONTRACTOR shall not be authorized to use the COUNTY's Tax Exemption status in any manner.

The CONTRACTOR shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from CONTRACTOR's performance under this Contract Agreement.

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The CONTRACTOR shall acquire and provide proof of the insurance coverage described below prior to the execution of this Contract Agreement. Such coverage shall be maintained by the CONTRACTOR for the duration of this Contract Agreement. CONTRACTOR shall provide the COUNTY no less than thirty (30) days prior notice of any changes to or cancellation of insurance coverage. Failure by CONTRACTOR to provide such notice shall constitute cause for automatic termination of this Contract Agreement without further notice or action required on the part of the COUNTY.

Insurance Requirements:

- a) Workers' compensation – to meet statutory limits in compliance with the Workers Compensation Law of Florida. This policy must include Employer Liability with a limit of \$100,000 for each accident, \$500,000 disease policy limit and \$100,000 disease each employee limit.
- b) Commercial general liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 Aggregate, for bodily injury, advertising injury and property damage. This shall include coverage for:
 - 1. Premises/operations
 - 2. Products/complete operations
 - 3. Contractual liability
 - 4. Independent contractors
 - 5. Participant Legal Liability
 - 6. Medical Expenses
- c) Business auto liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:
 - 1. Owned autos
 - 2. Hired autos
 - 3. Non-owned autos
- d) Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

Special Requirements:

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
 - 1. St. Johns County will be named as additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies.
 - 2. **Bid No: 12-16; Supply of Water/Wastewater Treatment Chemicals to St. Johns County Utility Department** shall be specified in the notes area of the Certificate of Insurance.
 - 3. St. Johns County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance.
- b) It is the responsibility of the CONTRACTOR to insure that all subcontractors comply with all insurance requirements.
- c) It should be remembered that these are minimum requirements which are subject to modification in response to high hazard operations.

In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

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ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 13 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY, whether such 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 by certified mail within 30 days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract Agreement.

ARTICLE 15 - NO THIRD PARTY BENEFICIARIES

Both the COUNTY and the CONTRACTOR explicitly agree, and this Contract Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 16 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any delay in performance if such delay arises out of causes reasonably beyond the CONTRACTOR'S control and without its fault or negligence. Such causes may include, but are not limited to: acts of God; the COUNTY'S omissive and commissive failures; natural or public health emergencies; freight embargoes; and severe weather conditions.

If delay is caused by the failure of the CONTRACTOR'S subcontractor(s) to perform or make progress, and if such delay arises out of causes reasonably beyond the control of the CONTRACTOR and its subcontractor(s) and is without the fault or negligence of either of them, the CONTRACTOR shall not be deemed to be in default.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any delay in performing the work and, if the CONTRACTOR'S failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Contract Agreement shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all of the Work at any time.

ARTICLE 17 - ARREARS

The CONTRACTOR shall not pledge the COUNTY'S credit, or make it a guarantor of payment, or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and

represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract Agreement.

ARTICLE 18 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the COUNTY, or at its expense, shall be kept confidential by the CONTRACTOR and shall not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Contract Agreement, or at the COUNTY'S expense, shall be and remains the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract Agreement, an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract Agreement shall at all times and in all places be subject to the CONTRACTOR'S sole direction, supervision, and control.

The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this agreement.

ARTICLE 20 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

ARTICLE 21 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Contract Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the COUNTY'S cost, upon five (5) days written notice.

ARTICLE 22 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the COUNTY, and the CONTRACTOR.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties.

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall: (1) if requested by the COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY in writing if the contemplated change shall effect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract Agreement. If the COUNTY instructs in writing, the CONTRACTOR shall suspend work on that portion of the project, pending the COUNTY'S decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall issue a Change Order for changes, or a contract change order, if the original contract is be changed or amended the CONTRACTOR shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

ARTICLE 28 - FLORIDA LAW & VENUE

This Contract Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in St. Johns County, Florida.

ARTICLE 29 - ARBITRATION

The Owner shall not be obligated to arbitrate or permit any arbitration binding on the Owner under any of the Contract Documents or in connection with the project in any manner whatsoever.

ARTICLE 31 - NOTICES

All notices required in this Contract Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

St. Johns COUNTY Purchasing Department
Attn: Joe Burch, Purchasing Director
2446 Dobbs Road
St. Augustine, FL 32084

and if sent to the CONTRACTOR shall be mailed to:

Allied Universal Corporation
Attn: Ms. Catherine Guillarmod, Executive Administrator
3901 NW 115 Avenue
Miami, FL 33178

ARTICLE 32 - HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Contract Agreement, or affect its meaning, construction or effect.

ARTICLE 33 – ACCESS TO RECORDS

The access to, disclosure, non-disclosure, or exemption of records, data, documents, correspondence, and/or materials associated with this Contract Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE 35 – USE OF COUNTY LOGO

Pursuant to, and consistent with, COUNTY Ordinance 92-2 and COUNTY Administrative Policy 101.3, the CONTRACTOR may not manufacture, use, display, or otherwise use any facsimile or reproduction of the COUNTY Seal/Logo without express written approval of the Board of COUNTY Commissioners of St. Johns COUNTY, Florida.

ARTICLE 36 – SURVIVAL

It is explicitly noted that the following provisions of this Contract Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Contract Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; (6) Enforcement Costs; and (7) Access to Records.

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

ST. JOHNS COUNTY, FL:

Joe Burch, Purchasing Director

Date

ATTEST:
CHERYL STRICKLAND, CLERK

BY: _____
Deputy Clerk

Date

LEGALLY SUFFICIENT:

Assistant County Attorney

Date

CONTRACTOR:

Allied Universal Corporation
Company Name

Name (Type or Print)

Signature

Title

Date

WITNESS:

Signature

Printed Name & Title

Date of Execution

EXHIBIT "A"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the Unit Prices as submitted on the "Official Total Bid Form" in the Bid Documents. The Unit Prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY *prior* to any work being implemented and shall be added to the applicable Contract Amendment.

Unit Price adjustments shall be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the CONTRACTOR and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective after the beginning of the applicable renewal period.

EXHIBIT "A-1"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

UNIT PRICE SCHEDULE

1.	Sodium Hydroxide (50%)	<u>\$ 2.47 / GAL</u>
2.	Calcium Hypochlorite (HTH)	<u>\$ 1.25 / LB</u>
3.	Chlorine Gas	<u>\$ 0.42 / LB</u>

EXHIBIT "B"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

Initial Contract – Shall become effective on February 1, 2012, and shall remain in effect for a period of one (1) year, or until funds may become exhausted.

Contract Renewal/s – The contract may be renewed for four (4), one (1) year terms upon satisfactory performance by the CONTRACTOR, mutual agreement by all parties, the availability of funds and the continued need of the COUNTY for services.



CONTRACT AGREEMENT
Bid No: 12-16; Supply of Water & Wastewater Treatment
Chemicals to SJC Utility Department
Master Contract #: _____

This Contract Agreement is made as of this _____ day of _____, 2012, by and between **St. Johns County, FL**, 500 San Sebastian View, St. Augustine, FL 32084, hereinafter referred to as the "COUNTY", and **Brenntag Mid-South, Inc** authorized to do business in the State of Florida, hereinafter referred to as the "CONTRACTOR", whose address is 250 Central Florida Parkway, Orlando, FL 32824 Phone: (407) 857-9310 and Fax: (407) 851-3512.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 – DURATION and EXTENSION

The duration of this Contract Agreement runs from February 1, 2012, through and until 11:59 p.m., Easter Standard Time, on January 31, 2012, and may be extended for up to a maximum of four (4) one (1) year periods, upon satisfactory performance by the CONTRACTOR, mutual agreement by both parties, and the availability of funds. While this Contract Agreement may be renewed as stated in this Article, it is expressly noted that the COUNTY is under no obligation to extend this Contract Agreement. It is further expressly understood that the option of extension is exercisable only by the COUNTY, and only upon the COUNTY's determination that the CONTRACTOR satisfactorily performed the Services noted in the Contract Documents.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all Bid Documents and any addenda/exhibits thereto; all Specifications; this Contract Agreement and any duly executed amendments, addenda, and/or exhibits hereto; and any and all Change Orders.

ARTICLE 3 - SERVICES

The CONTRACTOR's responsibility under this Contract Agreement is to provide all labor, materials, and equipment necessary to supply the St. Johns County Utility Department with **Muriatic Acid (Hydrochloric Acid)** in accordance with Bid No: 12-16 and as otherwise provided in the Contract Documents.

Services provided by the CONTRACTOR shall be under the general direction of David Parker, Wastewater Superintendent, and Barry Stewart, Water Operations Superintendent, SJC Utility Department, or authorized COUNTY designee, who shall act as the COUNTY'S representative during the performance of this Contract Agreement.

ARTICLE 4 – SCHEDULE

The CONTRACTOR shall perform the required Services as needed by the SJC Utility Department. A schedule for the delivery of products and supporting services to be performed shall be coordinated with the SJC Utility Department. No changes to said schedule shall be made without prior written authorization from the COUNTY's representative.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

- A. The COUNTY shall compensate the CONTRACTOR based upon the unit price per gallon of **nine dollars four cents (\$9.04) per gallon** as submitted in the Bid Proposal. The maximum amount available as compensation to CONTRACTOR under this Contract Agreement shall not exceed the annual amount budgeted by SJC Utility Department for Services satisfactorily performed in accordance with the Contract Documents.
- B. It is strictly understood that CONTRACTOR is not entitled to the above-referenced amount of compensation. Rather, CONTRACTOR's compensation is based upon CONTRACTOR's adhering to the Scope of Services,

detailed in this Contract Agreement. As such, the CONTRACTOR's compensation is dependent upon satisfactory completion and delivery of all work product and deliverables noted in the Scope of Services, and detailed in this Contract Agreement.

- C. The CONTRACTOR shall bill the COUNTY at the end of each month, for Services satisfactorily performed, and materials satisfactorily delivered.
- D. Though there is no billing form or format pre-approved by either the COUNTY, or the CONTRACTOR, bills/invoices submitted by the CONTRACTOR shall include a detailed written report of the Work accomplished in connection with the Scope of Services. The COUNTY may return a bill/invoice from the CONTRACTOR, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- E. Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Utility Department
ATTN: Frank Kenton, Administrative Manager
1205 State Road 16
St. Augustine, FL 32084
- F. FINAL INVOICE: In order for the COUNTY and the CONTRACTOR to reconcile/close their books and records, the CONTRACTOR shall clearly indicate "final invoice" on the CONTRACTOR's final bill/invoice to the COUNTY. Such indication establishes that all Services have been satisfactorily performed and that all charges and costs have been invoiced to the COUNTY and that there is no further Work to be performed under this Contract Agreement.

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This Contract Agreement may be terminated with cause by the COUNTY upon failure by the CONTRACTOR to comply with any portion of the responsibilities under this Contract Agreement. The COUNTY shall provide written notification of any and all issues of non-compliance, which the CONTRACTOR shall then have fourteen (14) consecutive calendar days to correct. If correction is not made, or acceptable corrective action has not been taken within the provided fourteen (14) day period, the Contract Agreement may be terminated by the COUNTY for cause upon giving at least fourteen (14) days advance written notice to the CONTRACTOR.

In addition to the above, failure on the part of the CONTRACTOR to comply with the requirements of the Contract Documents three (3) separate times throughout the duration of the Contract Agreement, shall constitute sufficient grounds for termination of the contract by the COUNTY for cause.

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The CONTRACTOR represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted in the Contract Documents. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the COUNTY.

All of the Services required hereunder shall be performed by the CONTRACTOR, or under its supervision. All personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

Any changes or substitutions in the CONTRACTOR's key personnel must be made known to the COUNTY's representative and written approval granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

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The CONTRACTOR shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from CONTRACTOR's performance under this Contract Agreement.

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 - 1. Premises/operations
 - 2. Products/complete operations
 - 3. Contractual liability
 - 4. Independent contractors
 - 5. Participant Legal Liability
 - 6. Medical Expenses
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 - 3. Non-owned autos
- d) Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

Special Requirements:

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
 - 1. St. Johns County will be named as additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies.
 - 2. **Bid No: 12-16; Supply of Water/Wastewater Treatment Chemicals to St. Johns County Utility Department** shall be specified in the notes area of the Certificate of Insurance.
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In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

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The CONTRACTOR shall indemnify and hold harmless the COUNTY, and its officers, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, intentional/unintentional conduct or omission of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 13 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY, whether such 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 by certified mail within 30 days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract Agreement.

ARTICLE 15 - NO THIRD PARTY BENEFICIARIES

Both the COUNTY and the CONTRACTOR explicitly agree, and this Contract Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 16 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any delay in performance if such delay arises out of causes reasonably beyond the CONTRACTOR'S control and without its fault or negligence. Such cases may include, but are not limited to: acts of God; the COUNTY'S ommissive and commissive failures; natural or public health emergencies; freight embargoes; and severe weather conditions.

If delay is caused by the failure of the CONTRACTOR'S subcontractor(s) to perform or make progress, and if such delay arises out of causes reasonably beyond the control of the CONTRACTOR and its subcontractor(s) and is without the fault or negligence of either of them, the CONTRACTOR shall not be deemed to be in default.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any delay in performing the work and, if the CONTRACTOR'S failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Contract Agreement shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all of the Work at any time.

ARTICLE 17 - ARREARS

The CONTRACTOR shall not pledge the COUNTY'S credit, or make it a guarantor of payment, or surety for any

contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract Agreement.

ARTICLE 18 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the COUNTY, or at its expense, shall be kept confidential by the CONTRACTOR and shall not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Contract Agreement, or at the COUNTY'S expense, shall be and remains the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract Agreement, an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract Agreement shall at all times and in all places be subject to the CONTRACTOR'S sole direction, supervision, and control.

The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this agreement.

ARTICLE 20 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

ARTICLE 21 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Contract Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the COUNTY'S cost, upon five (5) days written notice.

ARTICLE 22 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the COUNTY, and the CONTRACTOR.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties.

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall: (1) if requested by the COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY in writing if the contemplated change shall effect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract Agreement. If the COUNTY instructs in writing, the CONTRACTOR shall suspend work on that portion of the project, pending the COUNTY'S decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall issue a Change Order for changes, or a contract change order, if the original contract is be changed or amended the CONTRACTOR shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

ARTICLE 28 - FLORIDA LAW & VENUE

This Contract Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in St. Johns County, Florida.

ARTICLE 29 - ARBITRATION

The Owner shall not be obligated to arbitrate or permit any arbitration binding on the Owner under any of the Contract Documents or in connection with the project in any manner whatsoever.

ARTICLE 31 - NOTICES

All notices required in this Contract Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

St. Johns COUNTY Purchasing Department
Attn: Joe Burch, Purchasing Director
2446 Dobbs Road
St. Augustine, FL 32084

and if sent to the CONTRACTOR shall be mailed to:

Brenntag Mid-South, Inc
Attn: Ms. Danette Dicken, District Administrator
250 Central Florida Parkway
Orlando, FL 32824

ARTICLE 32 - HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Contract Agreement, or affect its meaning, construction or effect.

ARTICLE 33 – ACCESS TO RECORDS

The access to, disclosure, non-disclosure, or exemption of records, data, documents, correspondence, and/or materials associated with this Contract Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE 35 – USE OF COUNTY LOGO

Pursuant to, and consistent with, COUNTY Ordinance 92-2 and COUNTY Administrative Policy 101.3, the CONTRACTOR may not manufacture, use, display, or otherwise use any facsimile or reproduction of the COUNTY Seal/Logo without express written approval of the Board of COUNTY Commissioners of St. Johns COUNTY, Florida.

ARTICLE 36 – SURVIVAL

It is explicitly noted that the following provisions of this Contract Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Contract Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; (6) Enforcement Costs; and (7) Access to Records.

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

ST. JOHNS COUNTY, FL:

Joe Burch, Purchasing Director

Date

ATTEST:
CHERYL STRICKLAND, CLERK

BY: _____
Deputy Clerk

Date

LEGALLY SUFFICIENT:

Assistant County Attorney

Date

CONTRACTOR:

Brenntag Mid-South, Inc
Company Name

Name (Type or Print)

Signature

Title

Date

WITNESS:

Signature

Printed Name & Title

Date of Execution

EXHIBIT "A"

BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT CHEMICALS TO SJC UTILITY DEPARTMENT

BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the Unit Prices as submitted on the "Official Total Bid Form" in the Bid Documents. The Unit Prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY prior to any work being implemented and shall be added to the applicable Contract Amendment.

Unit Price adjustments shall be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the CONTRACTOR and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective after the beginning of the applicable renewal period.

EXHIBIT "B"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

Initial Contract – Shall become effective on February 1, 2012, and shall remain in effect for a period of one (1) year, or until funds may become exhausted.

Contract Renewal/s – The contract may be renewed for four (4), one (1) year terms upon satisfactory performance by the CONTRACTOR, mutual agreement by all parties, the availability of funds and the continued need of the COUNTY for services.



CONTRACT AGREEMENT
Bid No: 12-16; Supply of Water & Wastewater Treatment
Chemicals to SJC Utility Department
Master Contract #: _____

This Contract Agreement is made as of this _____ day of _____, 2012, by and between **St. Johns County, FL**, 500 San Sebastian View, St. Augustine, FL 32084, hereinafter referred to as the "COUNTY", and **The Dumont Company** authorized to do business in the State of Florida, hereinafter referred to as the "CONTRACTOR", whose address is 381 S. Central Avenue, Oviedo, FL 32765 Phone: (800) 330-1369 and Fax: (800) 524-9315.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 – DURATION and EXTENSION

The duration of this Contract Agreement runs from February 1, 2012, through and until 11:59 p.m., Easter Standard Time, on January 31, 2012, and may be extended for up to a maximum of four (4) one (1) year periods, upon satisfactory performance by the CONTRACTOR, mutual agreement by both parties, and the availability of funds. While this Contract Agreement may be renewed as stated in this Article, it is expressly noted that the COUNTY is under no obligation to extend this Contract Agreement. It is further expressly understood that the option of extension is exercisable only by the COUNTY, and only upon the COUNTY's determination that the CONTRACTOR satisfactory performed the Services noted in the Contract Documents.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all Bid Documents and any addenda/exhibits thereto; all Specifications; this Contract Agreement and any duly executed amendments, addenda, and/or exhibits hereto; and any and all Change Orders.

ARTICLE 3 - SERVICES

The CONTRACTOR's responsibility under this Contract Agreement is to provide all labor, materials, and equipment necessary to supply the SJC Utility Department with Anti-Scalant in accordance with Bid No: 12-16 and as otherwise provided in the Contract Documents.

Services provided by the CONTRACTOR shall be under the general direction of David Parker, Wastewater Superintendent, and Barry Stewart, Water Operations Superintendent, SJC Utility Department, or authorized COUNTY designee, who shall act as the COUNTY'S representative during the performance of this Contract Agreement.

ARTICLE 4 – SCHEDULE

The CONTRACTOR shall perform the required Services as needed by the SJC Utility Department. A schedule for the delivery of products and supporting services to be performed shall be coordinated with the SJC Utility Department. No changes to said schedule shall be made without prior written authorization from the COUNTY's representative.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

- A. The COUNTY shall compensate the CONTRACTOR based upon the unit price per gallon of seven dollars fifty six cents (\$7.56) per gallon as submitted in the Bid Proposal. The maximum amount available as compensation to CONTRACTOR under this Contract Agreement shall not exceed the annual amount budgeted by SJC Utility Department for Services satisfactorily performed in accordance with the Contract Documents.
- B. It is strictly understood that CONTRACTOR is not entitled to the above-referenced amount of compensation. Rather, CONTRACTOR's compensation is based upon CONTRACTOR's adhering to the Scope of Services, detailed in this Contract Agreement. As such, the CONTRACTOR's compensation is dependent upon satisfactory

completion and delivery of all work product and deliverables noted in the Scope of Services, and detailed in this Contract Agreement.

- C. The CONTRACTOR shall bill the COUNTY at the end of each month, for Services satisfactorily performed, and materials satisfactorily delivered.
- D. Though there is no billing form or format pre-approved by either the COUNTY, or the CONTRACTOR, bills/invoices submitted by the CONTRACTOR shall include a detailed written report of the Work accomplished in connection with the Scope of Services. The COUNTY may return a bill/invoice from the CONTRACTOR, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- E. Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Utility Department
ATTN: Frank Kenton, Administrative Manager
1205 State Road 16
St. Augustine, FL 32084
- F. **FINAL INVOICE:** In order for the COUNTY and the CONTRACTOR to reconcile/close their books and records, the CONTRACTOR shall clearly indicate "final invoice" on the CONTRACTOR's final bill/invoice to the COUNTY. Such indication establishes that all Services have been satisfactorily performed and that all charges and costs have been invoiced to the COUNTY and that there is no further Work to be performed under this Contract Agreement.

ARTICLE 6 – TERMINATION

This Contract Agreement may be terminated without cause upon either the COUNTY, or the CONTRACTOR providing at least thirty (30) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the COUNTY or the CONTRACTOR intends to terminate this Contract Agreement thirty (30) days from the date of notification (unless a date greater than thirty (30) days is specified).

This Contract Agreement may be terminated with cause by the COUNTY upon failure by the CONTRACTOR to comply with any portion of the responsibilities under this Contract Agreement. The COUNTY shall provide written notification of any and all issues of non-compliance, which the CONTRACTOR shall then have fourteen (14) consecutive calendar days to correct. If correction is not made, or acceptable corrective action has not been taken within the provided fourteen (14) day period, the Contract Agreement may be terminated by the COUNTY for cause upon giving at least fourteen (14) days advance written notice to the CONTRACTOR.

In addition to the above, failure on the part of the CONTRACTOR to comply with the requirements of the Contract Documents three (3) separate times throughout the duration of the Contract Agreement, shall constitute sufficient grounds for termination of the contract by the COUNTY for cause.

Consistent with other provisions of this Contract Agreement, CONTRACTOR shall be compensated for any services and/or expenses that are both authorized under this Contract Agreement and that are performed and/or accrue up to the termination of this Contract Agreement.

ARTICLE 7 – PERSONNEL

The CONTRACTOR represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted in the Contract Documents. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the COUNTY.

All of the Services required hereunder shall be performed by the CONTRACTOR, or under its supervision. All personnel

engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

Any changes or substitutions in the CONTRACTOR's key personnel must be made known to the COUNTY's representative and written approval granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 8 – SUBCONTRACTING

The COUNTY reserves the right to approve the use of any subcontractor, or to reject the selection of a particular subcontractor, and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform the Work described in the Contract Documents. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to satisfactorily perform in accordance with the Contract Documents, and it is necessary to replace the subcontractor to complete the Work in a timely fashion, the CONTRACTOR shall promptly do so, subject to approval by the COUNTY.

The COUNTY reserves the right to disqualify any subcontractor, vendor, or material supplier based upon prior unsatisfactory performance.

ARTICLE 9 – FEDERAL AND STATE TAX

In accordance with Local, State, and Federal law, the COUNTY is exempt from the payment of Sales and Use Taxes. The COUNTY shall execute a tax exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempt from the payment of all applicable taxes in its performance under this Contract Agreement. It is expressly understood by the COUNTY and by the CONTRACTOR that the CONTRACTOR shall not be authorized to use the COUNTY's Tax Exemption status in any manner.

The CONTRACTOR shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from CONTRACTOR's performance under this Contract Agreement.

ARTICLE 10 – AVAILABILITY OF FUNDS

The COUNTY's obligations under this Contract Agreement are subject to the availability of lawfully appropriated funds. While the COUNTY will make all reasonable efforts, in order to provide funds needed to perform under this Contract Agreement, the COUNTY makes no express commitment to provide such funds in any given COUNTY Fiscal Year. Moreover, it is expressly noted that the CONTRACTOR cannot demand that the COUNTY provide any such funds in any given COUNTY Fiscal Year.

ARTICLE 11 - INSURANCE

The CONTRACTOR shall acquire and provide proof of the insurance coverage described below prior to the execution of this Contract Agreement. Such coverage shall be maintained by the CONTRACTOR for the duration of this Contract Agreement. CONTRACTOR shall provide the COUNTY no less than thirty (30) days prior notice of any changes to or cancellation of insurance coverage. Failure by CONTRACTOR to provide such notice shall constitute cause for automatic termination of this Contract Agreement without further notice or action required on the part of the COUNTY.

Insurance Requirements:

- a) Workers' compensation – to meet statutory limits in compliance with the Workers Compensation Law of Florida. This policy must include Employer Liability with a limit of \$100,000 for each accident, \$500,000 disease policy limit and \$100,000 disease each employee limit.
- b) Commercial general liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 Aggregate, for bodily injury, advertising injury and property damage. This shall include coverage for:
 1. Premises/operations
 2. Products/complete operations
 3. Contractual liability
 4. Independent contractors
 5. Participant Legal Liability
 6. Medical Expenses
- c) Business auto liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:
 1. Owned autos
 2. Hired autos
 3. Non-owned autos
- d) Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

Special Requirements:

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
 1. St. Johns County will be named as additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies.
 2. **Bid No: 12-16; Supply of Water/Wastewater Treatment Chemicals to St. Johns County Utility Department** shall be specified in the notes area of the Certificate of Insurance.
 3. St. Johns County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance.
- b) It is the responsibility of the CONTRACTOR to insure that all subcontractors comply with all insurance requirements.
- c) It should be remembered that these are minimum requirements which are subject to modification in response to high hazard operations.

In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

ARTICLE 11 - INDEMNIFICATION

The CONTRACTOR shall indemnify and hold harmless the COUNTY, and its officers, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, intentional/unintentional conduct or omission of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 13 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY, whether such 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 by certified mail within 30 days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract Agreement.

ARTICLE 15 – NO THIRD PARTY BENEFICIARIES

Both the COUNTY and the CONTRACTOR explicitly agree, and this Contract Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

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The CONTRACTOR shall not be considered in default by reason of any delay in performance if such delay arises out of causes reasonably beyond the CONTRACTOR'S control and without its fault or negligence. Such cases may include, but are not limited to: acts of God; the COUNTY'S omissive and commissive failures; natural or public health emergencies; freight embargoes; and severe weather conditions.

If delay is caused by the failure of the CONTRACTOR'S subcontractor(s) to perform or make progress, and if such delay arises out of causes reasonably beyond the control of the CONTRACTOR and its subcontractor(s) and is without the fault or negligence of either of them, the CONTRACTOR shall not be deemed to be in default.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any delay in performing the work and, if the CONTRACTOR'S failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Contract Agreement shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all of the Work at any time.

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The CONTRACTOR shall not pledge the COUNTY'S credit, or make it a guarantor of payment, or surety for any

contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract Agreement.

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The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the COUNTY, or at its expense, shall be kept confidential by the CONTRACTOR and shall not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Contract Agreement, or at the COUNTY'S expense, shall be and remains the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract Agreement, an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract Agreement shall at all times and in all places be subject to the CONTRACTOR'S sole direction, supervision, and control.

The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this agreement.

ARTICLE 20 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

ARTICLE 21 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Contract Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the COUNTY'S cost, upon five (5) days written notice.

ARTICLE 22 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the COUNTY, and the CONTRACTOR.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties.

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall: (1) if requested by the COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY in writing if the contemplated change shall effect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract Agreement. If the COUNTY instructs in writing, the CONTRACTOR shall suspend work on that portion of the project, pending the COUNTY'S decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall issue a Change Order for changes, or a contract change order, if the original contract is be changed or amended the CONTRACTOR shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

ARTICLE 28 - FLORIDA LAW & VENUE

This Contract Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in St. Johns County, Florida.

ARTICLE 29 - ARBITRATION

The Owner shall not be obligated to arbitrate or permit any arbitration binding on the Owner under any of the Contract Documents or in connection with the project in any manner whatsoever.

ARTICLE 31 - NOTICES

All notices required in this Contract Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

St. Johns COUNTY Purchasing Department
Attn: Joe Burch, Purchasing Director
2446 Dobbs Road
St. Augustine, FL 32084

and if sent to the CONTRACTOR shall be mailed to:

The Dumont Company
Attn: Mr. Ronald H. Cartwright, President
381 S. Central Avenue
Oviedo, FL 32765

ARTICLE 32 - HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Contract Agreement, or affect its meaning, construction or effect.

ARTICLE 33 – ACCESS TO RECORDS

The access to, disclosure, non-disclosure, or exemption of records, data, documents, correspondence, and/or materials associated with this Contract Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE 35 – USE OF COUNTY LOGO

Pursuant to, and consistent with, COUNTY Ordinance 92-2 and COUNTY Administrative Policy 101.3, the CONTRACTOR may not manufacture, use, display, or otherwise use any facsimile or reproduction of the COUNTY Seal/Logo without express written approval of the Board of COUNTY Commissioners of St. Johns COUNTY, Florida.

ARTICLE 36 – SURVIVAL

It is explicitly noted that the following provisions of this Contract Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Contract Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; (6) Enforcement Costs; and (7) Access to Records.

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

ST. JOHNS COUNTY, FL:

Joe Burch, Purchasing Director

Date

**ATTEST:
CHERYL STRICKLAND, CLERK**

BY: _____
Deputy Clerk

Date

LEGALLY SUFFICIENT:

Assistant County Attorney

Date

CONTRACTOR:

The Dumont Company

Company Name

Name (Type or Print)

Signature

Title

Date

WITNESS:

Signature

Printed Name & Title

Date of Execution

EXHIBIT "A"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the Unit Prices as submitted on the "Official Total Bid Form" in the Bid Documents. The Unit Prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY *prior* to any work being implemented and shall be added to the applicable Contract Amendment.

Unit Price adjustments shall be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the CONTRACTOR and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective after the beginning of the applicable renewal period.

EXHIBIT "B"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

Initial Contract – Shall become effective on February 1, 2012, and shall remain in effect for a period of one (1) year, or until funds may become exhausted.

Contract Renewal/s – The contract may be renewed for four (4), one (1) year terms upon satisfactory performance by the CONTRACTOR, mutual agreement by all parties, the availability of funds and the continued need of the COUNTY for services.



CONTRACT AGREEMENT
Bid No: 12-16; Supply of Water & Wastewater Treatment
Chemicals to SJC Utility Department
Master Contract #: _____

This Contract Agreement is made as of this _____ day of _____, 2012, by and between **St. Johns County, FL**, 500 San Sebastian View, St. Augustine, FL 32084, hereinafter referred to as the "COUNTY", and **Thatcher Chemical of Florida** authorized to do business in the State of Florida, hereinafter referred to as the "CONTRACTOR", whose address is 245 Hazen Road, Deland, FL 32720-3867 whose Phone: (386) 490-1638 and Fax: (386) 493-1641.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 – DURATION and EXTENSION

The duration of this Contract Agreement runs from February 1, 2012, through and until 11:59 p.m., Easter Standard Time, on January 31, 2012, and may be extended for up to a maximum of four (4) one (1) year periods, upon satisfactory performance by the CONTRACTOR, mutual agreement by both parties, and the availability of funds. While this Contract Agreement may be renewed as stated in this Article, it is expressly noted that the COUNTY is under no obligation to extend this Contract Agreement. It is further expressly understood that the option of extension is exercisable only by the COUNTY, and only upon the COUNTY's determination that the CONTRACTOR satisfactorily performed the Services noted in the Contract Documents.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all Bid Documents and any addenda/exhibits thereto; all Specifications; this Contract Agreement and any duly executed amendments, addenda, and/or exhibits hereto; and any and all Change Orders.

ARTICLE 3 - SERVICES

The CONTRACTOR's responsibility under this Contract Agreement is to provide all labor, materials, and equipment necessary to supply the St. Johns County Utility Department with **Bisulfite Liquid** in accordance with Bid No: 12-16 and as otherwise provided in the Contract Documents.

Services provided by the CONTRACTOR shall be under the general direction of David Parker, Wastewater Superintendent, and Barry Stewart, Water Operations Superintendent, St. Johns County Utility Department, or authorized COUNTY designee, who shall act as the COUNTY'S representative during the performance of this Contract Agreement.

ARTICLE 4 – SCHEDULE

The CONTRACTOR shall perform the required Services as needed by the St. Johns COUNTY Utility Department. A schedule for the delivery of products and supporting services to be performed shall be coordinated with the St. Johns COUNTY Utility Department. No changes to said schedule shall be made without prior written authorization from the COUNTY's representative.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

- A. The COUNTY shall compensate the CONTRACTOR based upon the unit price per gallon of **one dollar eighty cents (\$1.804) per gallon** as submitted in the Bid Proposal. The maximum amount available as compensation to CONTRACTOR under this Contract Agreement shall not exceed the annual amount budgeted by SJC Utility Department for Services satisfactorily performed in accordance with the Contract Documents.
- B. It is strictly understood that CONTRACTOR is not entitled to the above-referenced amount of compensation.

Rather, CONTRACTOR's compensation is based upon CONTRACTOR's adhering to the Scope of Services, detailed in this Contract Agreement. As such, the CONTRACTOR's compensation is dependent upon satisfactory completion and delivery of all work product and deliverables noted in the Scope of Services, and detailed in this Contract Agreement.

- C. The CONTRACTOR shall bill the COUNTY at the end of each month, for Services satisfactorily performed, and materials satisfactorily delivered.
- D. Though there is no billing form or format pre-approved by either the COUNTY, or the CONTRACTOR, bills/invoices submitted by the CONTRACTOR shall include a detailed written report of the Work accomplished in connection with the Scope of Services. The COUNTY may return a bill/invoice from the CONTRACTOR, and request additional documentation/information. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- E. Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Utility Department
ATTN: Frank Kenton, Administrative Manager
1205 State Road 16
St. Augustine, FL 32084
- F. FINAL INVOICE: In order for the COUNTY and the CONTRACTOR to reconcile/close their books and records, the CONTRACTOR shall clearly indicate "final invoice" on the CONTRACTOR's final bill/invoice to the COUNTY. Such indication establishes that all Services have been satisfactorily performed and that all charges and costs have been invoiced to the COUNTY and that there is no further Work to be performed under this Contract Agreement.

ARTICLE 6 – TERMINATION

This Contract Agreement may be terminated without cause upon either the COUNTY, or the CONTRACTOR providing at least thirty (30) days advance written notice to the other party of such notice of termination without cause. Such written notification shall indicate that either the COUNTY or the CONTRACTOR intends to terminate this Contract Agreement thirty (30) days from the date of notification (unless a date greater than thirty (30) days is specified).

This Contract Agreement may be terminated with cause by the COUNTY upon failure by the CONTRACTOR to comply with any portion of the responsibilities under this Contract Agreement. The COUNTY shall provide written notification of any and all issues of non-compliance, which the CONTRACTOR shall then have fourteen (14) consecutive calendar days to correct. If correction is not made, or acceptable corrective action has not been taken within the provided fourteen (14) day period, the Contract Agreement may be terminated by the COUNTY for cause upon giving at least fourteen (14) days advance written notice to the CONTRACTOR.

In addition to the above, failure on the part of the CONTRACTOR to comply with the requirements of the Contract Documents three (3) separate times throughout the duration of the Contract Agreement, shall constitute sufficient grounds for termination of the contract by the COUNTY for cause.

Consistent with other provisions of this Contract Agreement, CONTRACTOR shall be compensated for any services and/or expenses that are both authorized under this Contract Agreement and that are performed and/or accrue up to the termination of this Contract Agreement.

ARTICLE 7 – PERSONNEL

The CONTRACTOR represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted in the Contract Documents. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the COUNTY.

All of the Services required hereunder shall be performed by the CONTRACTOR, or under its supervision. All personnel engaged in performing the Services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such Services.

Any changes or substitutions in the CONTRACTOR's key personnel must be made known to the COUNTY's representative and written approval granted by the COUNTY before said change or substitution can become effective.

The CONTRACTOR warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 8 – SUBCONTRACTING

The COUNTY reserves the right to approve the use of any subcontractor, or to reject the selection of a particular subcontractor, and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform the Work described in the Contract Documents. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to satisfactorily perform in accordance with the Contract Documents, and it is necessary to replace the subcontractor to complete the Work in a timely fashion, the CONTRACTOR shall promptly do so, subject to approval by the COUNTY.

The COUNTY reserves the right to disqualify any subcontractor, vendor, or material supplier based upon prior unsatisfactory performance.

ARTICLE 9 – FEDERAL AND STATE TAX

In accordance with Local, State, and Federal law, the COUNTY is exempt from the payment of Sales and Use Taxes. The COUNTY shall execute a tax exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempt from the payment of all applicable taxes in its performance under this Contract Agreement. It is expressly understood by the COUNTY and by the CONTRACTOR that the CONTRACTOR shall not be authorized to use the COUNTY's Tax Exemption status in any manner.

The CONTRACTOR shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from CONTRACTOR's performance under this Contract Agreement.

ARTICLE 10 – AVAILABILITY OF FUNDS

The COUNTY's obligations under this Contract Agreement are subject to the availability of lawfully appropriated funds. While the COUNTY will make all reasonable efforts, in order to provide funds needed to perform under this Contract Agreement, the COUNTY makes no express commitment to provide such funds in any given COUNTY Fiscal Year. Moreover, it is expressly noted that the CONTRACTOR cannot demand that the COUNTY provide any such funds in any given COUNTY Fiscal Year.

ARTICLE 11 - INSURANCE

The CONTRACTOR shall acquire and provide proof of the insurance coverage described below prior to the execution of this Contract Agreement. Such coverage shall be maintained by the CONTRACTOR for the duration of this Contract Agreement. CONTRACTOR shall provide the COUNTY no less than thirty (30) days prior notice of any changes to or cancellation of insurance coverage. Failure by CONTRACTOR to provide such notice shall constitute cause for automatic termination of this Contract Agreement without further notice or action required on the part of the COUNTY.

Insurance Requirements:

- a) Workers' compensation – to meet statutory limits in compliance with the Workers Compensation Law of Florida. This policy must include Employer Liability with a limit of \$100,000 for each accident, \$500,000 disease policy limit and \$100,000 disease each employee limit.
- b) Commercial general liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 Aggregate, for bodily injury, advertising injury and property damage. This shall include coverage for:
 - 1. Premises/operations
 - 2. Products/complete operations
 - 3. Contractual liability
 - 4. Independent contractors
 - 5. Participant Legal Liability
 - 6. Medical Expenses
- c) Business auto liability – coverage shall provide minimum limits of liability of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily injury and property damage. This shall include coverage for:
 - 1. Owned autos
 - 2. Hired autos
 - 3. Non-owned autos
- d) Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$1,000,000.

Special Requirements:

- a) Prior to execution of a contract, a certificate of insurance will be provided that shall provide for the following:
 - 1. St. Johns County will be named as additional insured on the commercial general liability, business auto liability and umbrella or excess liability policies.
 - 2. **Bid No: 12-16; Supply of Water/Wastewater Treatment Chemicals to St. Johns County Utility Department** shall be specified in the notes area of the Certificate of Insurance.
 - 3. St. Johns County will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance.
- b) It is the responsibility of the CONTRACTOR to insure that all subcontractors comply with all insurance requirements.
- c) It should be remembered that these are minimum requirements which are subject to modification in response to high hazard operations.

In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

ARTICLE 11 - INDEMNIFICATION

The CONTRACTOR shall indemnify and hold harmless the COUNTY, and its officers, and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, intentional/unintentional conduct or omission of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract Agreement. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 13 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY, whether such 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 by certified mail within 30 days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract Agreement.

ARTICLE 15 - NO THIRD PARTY BENEFICIARIES

Both the COUNTY and the CONTRACTOR explicitly agree, and this Contract Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 16 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any delay in performance if such delay arises out of causes reasonably beyond the CONTRACTOR'S control and without its fault or negligence. Such cases may include, but are not limited to: acts of God; the COUNTY'S ommissive and commissive failures; natural or public health emergencies; freight embargoes; and severe weather conditions.

If delay is caused by the failure of the CONTRACTOR'S subcontractor(s) to perform or make progress, and if such delay arises out of causes reasonably beyond the control of the CONTRACTOR and its subcontractor(s) and is without the fault or negligence of either of them, the CONTRACTOR shall not be deemed to be in default.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any delay in performing the work and, if the CONTRACTOR'S failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Contract Agreement shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all of the Work at any time.

ARTICLE 17 - ARREARS

The CONTRACTOR shall not pledge the COUNTY'S credit, or make it a guarantor of payment, or surety for any

contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract Agreement.

ARTICLE 18 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the COUNTY, or at its expense, shall be kept confidential by the CONTRACTOR and shall not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Contract Agreement, or at the COUNTY'S expense, shall be and remains the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 19 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract Agreement, an independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract Agreement shall at all times and in all places be subject to the CONTRACTOR'S sole direction, supervision, and control.

The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as employees or agents of the COUNTY. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this agreement.

ARTICLE 20 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

ARTICLE 21 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work for at least three (3) years after completion of this Contract Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the COUNTY'S cost, upon five (5) days written notice.

ARTICLE 22 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 23 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the COUNTY, and the CONTRACTOR.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties.

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall: (1) if requested by the COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY in writing if the contemplated change shall effect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract Agreement. If the COUNTY instructs in writing, the CONTRACTOR shall suspend work on that portion of the project, pending the COUNTY'S decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall issue a Change Order for changes, or a contract change order, if the original contract is to be changed or amended the CONTRACTOR shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

ARTICLE 28 - FLORIDA LAW & VENUE

This Contract Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract shall be held in St. Johns County, Florida.

ARTICLE 29 - ARBITRATION

The Owner shall not be obligated to arbitrate or permit any arbitration binding on the Owner under any of the Contract Documents or in connection with the project in any manner whatsoever.

ARTICLE 31 - NOTICES

All notices required in this Contract Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

St. Johns COUNTY Purchasing Department
Attn: Joe Burch, Purchasing Director
2446 Dobbs Road
St. Augustine, FL 32084

and if sent to the CONTRACTOR shall be mailed to:

Thatcher Chemical of Florida
Attn: Ms. Diane T. Barlow, Vice President
245 Hazen Road
Deland, FL 32720-3967

ARTICLE 32 - HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Contract Agreement, or affect its meaning, construction or effect.

ARTICLE 33 – ACCESS TO RECORDS

The access to, disclosure, non-disclosure, or exemption of records, data, documents, correspondence, and/or materials associated with this Contract Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE 35 – USE OF COUNTY LOGO

Pursuant to, and consistent with, COUNTY Ordinance 92-2 and COUNTY Administrative Policy 101.3, the CONTRACTOR may not manufacture, use, display, or otherwise use any facsimile or reproduction of the COUNTY Seal/Logo without express written approval of the Board of COUNTY Commissioners of St. Johns COUNTY, Florida.

ARTICLE 36 – SURVIVAL

It is explicitly noted that the following provisions of this Contract Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Contract Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; (6) Enforcement Costs; and (7) Access to Records.

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

ST. JOHNS COUNTY, FL:

Joe Burch, Purchasing Director

Date

**ATTEST:
CHERYL STRICKLAND, CLERK**

BY: _____
Deputy Clerk

Date

LEGALLY SUFFICIENT:

Assistant County Attorney

Date

CONTRACTOR:

Thatcher Chemical of Florida
Company Name

Name (Type or Print)

Signature

Title

Date

WITNESS:

Signature

Printed Name & Title

Date of Execution

EXHIBIT "A"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the Unit Prices as submitted on the "Official Total Bid Form" in the Bid Documents. The Unit Prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY *prior* to any work being implemented and shall be added to the applicable Contract Amendment.

Unit Price adjustments shall be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the CONTRACTOR and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective after the beginning of the applicable renewal period.

EXHIBIT "B"

**BID NO: 12-16; SUPPLY OF WATER & WASTEWATER TREATMENT
CHEMICALS TO SJC UTILITY DEPARTMENT**

CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

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Contract Renewal/s – The contract may be renewed for four (4), one (1) year terms upon satisfactory performance by the CONTRACTOR, mutual agreement by all parties, the availability of funds and the continued need of the COUNTY for services.