

**REQUEST  
FOR  
PROPOSAL  
NO. 2012-03**

**Alabama Department of Corrections  
Wastewater Treatment and Sewage Disposal Management  
Services**

**Alabama Department of Corrections  
Commissioner's Office  
301 South Ripley Street  
Montgomery, Alabama 36104**

**July 20, 2012**

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# **REQUEST FOR PROPOSAL**

## **Alabama Department of Corrections Wastewater Treatment and Sewage Disposal Management Services**

### **INFORMATION FOR SUBMITTING PROPOSALS**

#### **Requesting Agency**

The Alabama Department of Corrections (ADOC) is requesting proposals from responsible Vendors to fill the State's needs as outlined herein. Please read the entire solicitation package and submit your proposal in accordance with all requirements.

#### **Project Title**

Request for Proposal (RFP) for Wastewater Treatment and Sewage Disposal Management Services

#### **Summary Description of Services**

The ADOC seeks proposals from qualified Vendor(s), which may include a municipality or political subdivision of a municipality, to provide comprehensive Wastewater Treatment and Sewage Disposal Management Services to the inmates and staff at two of the State's correctional institutions.

The selected Vendor(s) is expected to operate, maintain and manage the wastewater influent from Red Eagle Work Center and Farquhar State Cattle Ranch under a lease and service agreement with the ADOC. The lease agreement will stipulate that the Vendor shall pay to ADOC a guaranteed annual rental, and where applicable, a royalty for any off-premise wastewater delivered to, stored and/or treated at the waste treatment facilities under lease. The service agreement shall provide for the payment by the ADOC to the Vendor(s) for management services an agreed upon amount per 1000 gallons of wastewater received into and treated at the facilities under lease. It is the intent of this RFP for the ADOC to transfer the National Pollutant Discharge Elimination System (NPDES) permits to the successful vendor(s).

#### **Send Proposals To**

Alabama Department of Corrections  
Commissioner's Office  
301 South Ripley Street  
Montgomery, Alabama 36104  
or

Post Office Box 301501  
Montgomery, Alabama 36130

### **Submission of Proposal**

Qualified Vendors may begin to submit proposals in response to this RFP beginning August 15, 2012, at 10:00 a.m., Central Daylight Savings Time. Deadline for receipt of proposal in response to this RFP is August 22, 2012, at 5:00 p.m. Central Daylight Savings Time.

The RFP number, proposal opening date, and time **must be** indicated on the outside front lower left corner of the sealed envelope/package. Proposals submitted by “Express/Overnight” services must be in a separate inner envelope/package, sealed, and identified as stated above.

**SECTION I**  
**INTRODUCTION**

The Alabama Department of Corrections (ADOC), an agency of the State of Alabama, solicits proposals from qualified Vendor(s), which may include a municipality or political subdivision of a municipality, to manage and deliver a system that will provide comprehensive Wastewater Treatment and Sewage Disposal Systems to the inmates and staff in the Alabama State penal institutions of the Farquhar Cattle Ranch and the Red Eagle Honor Farm. The ADOC desires to enter into a separate ground lease and service agreement for each of the above locations. These wastewater treatment and sewage disposal systems of the ADOC are not currently the subject of any lawsuit.

These identified facilities currently have National Pollutant Discharge Elimination System (NPDES) permits issued by the Alabama Department of Environmental Management. The ADOC may elect to enter into several contracts with multiple qualified vendors to meet their needs for water treatment and sewage disposal. It is the intent of this RFP for the qualified vendor(s) to assume the complete operation, maintenance and management responsibilities of these systems, or in the alternative to use these systems, in conjunction with other permitted systems operated by the Vendor, for the receipt and treatment of system influent from these correctional institutions. It is the intent of this RFP for the ADOC to transfer the NPDES permits to the successful vendor(s).

Proposals must be delivered to ADOC between 10:00 a.m., Central Daylight Saving Time, August 15, 2012 and 5:00 p.m., Central Daylight Savings Time, August 22, 2012, to the Alabama Department of Corrections, Commissioner's Office, 301 South Ripley Street, Montgomery, Alabama 36104 or to the mailing address at Post Office Box 301501, Montgomery, Alabama 36130.

Vendor may mail or hand-deliver proposals, including amendments, but the ADOC must actually receive them as specified. It will not be sufficient to show that the Vendor mailed or commenced hand delivery of the response before the scheduled closing time for receipt of proposals. All times are State of Alabama local times. Computer, fax, or other electronic submissions are not allowed and will not be accepted. Proposals arriving after the deadline date will not be considered.

**1.1 Definitions**

Definitions for this Request For Proposal are as follows:

- a) ADOC, DOC, or Department - the Alabama Department of Corrections.

- b) Authorized Representative – any person or entity duly authorized and designated in writing to act for and on behalf of the party of this agreement or contract, which designation has been furnished to all parties herein.
- c) Contract - the awarded contract, comprised of both the Ground Lease and Service Agreement, that has been executed by the ADOC and the Vendor for the operation, maintenance, and management responsibilities of a specific site and System.
- d) Contract Monitor – the employee, employees, representative, or representatives of ADOC designated to monitor the operation of the plant for contract compliance and to coordinate actions and communications between ADOC and the Contractor(s).
- e) Contractor - the successful Vendor, selected through the proposal process for contract award, who has executed the Contract.
- f) Court Orders – any existing or future orders or judgments issued by a court of competent jurisdiction or any existing or future stipulations, agreements, or plans entered into in connection with litigation which are applicable to the operation, management, or maintenance of the wastewater treatment and sewage disposal facility(s).
- g) Fiscal Year – each one year period beginning October 1 and ending September 30 that is used for budgeting and appropriation purposes by the State of Alabama.
- h) Ground Lease- a written agreement between the selected Vendor and the ADOC for the lease of a Wastewater and Sewage Disposal System (either a Wastewater Treatment Plant or Wastewater Lagoon) at a specific site.
- i) Plant, System – facilities for wastewater treatment and sewage disposal located at the ADOC institutions listed
- j) RFP - this Request for Proposal for Wastewater Treatment and Sewage Disposal Management Services issued by the Alabama Department of Corrections.
- k) Service Agreement - a written agreement between the selected Vendor and the ADOC for the provision of services associated with and pertinent to the complete operation, maintenance and management of the Wastewater and Sewage Disposal System at a specific site.
- l) Service Commencement Date – shall be the date on which selected Vendor shall accept receivership of the wastewater treatment and sewage disposal systems and commence their management, operation and maintenance.
- m) Services or Work - all of the goods, products, services, and deliverables as described and required in the RFP, plus those goods, products, services, and deliverables as may additionally be described and provided for in the Vendor's proposal.
- n) Vendor – A public or private provider, including any municipality or subdivision, eligible to respond to the RFP.

## **1.2 Tour of Facilities**

The Alabama Department of Corrections has established a tour schedule for Vendors interested in submitting proposals on the Wastewater Treatment and Sewage Disposal RFP. Site visits have been scheduled for July 31, 2012 and August 1, 2012, (Tuesday and Wednesday). All tours are mandatory and are intended to familiarize the Vendors with the wastewater treatment systems. A Vendor that does not have a representative on the tour(s) will not be eligible to submit a proposal for that specific sewage treatment plant or lagoon. There is no mandatory requirement for a vendor to visit a site(s) which it has no intention of submitting a responsive

proposal(s) on. No individual or special tours will be given. Vendors are responsible for their own meals, transportation, and lodging. Vendors will only be allowed to tour the wastewater treatment and sewage disposal components of a facility, such as wastewater treatment plants and immediate surrounding areas. Any vendor shall contact Henrietta Peters, OHS Environmental Supervisor for the Alabama Department of Corrections, 301 South Ripley Street, Montgomery, Alabama 36130 at (334) 353-5508, fax (334) 353-3967, to obtain a copy of the tour schedule and to reserve an opportunity to tour the facilities. Any questions regarding the tours should also be directed to Henrietta Peters, OHS Environmental Supervisor for the Alabama Department of Corrections, 301 South Ripley Street, Montgomery, Alabama 36130 at (334) 353-5508, fax (334) 353-3967. Submission of a proposal will be deemed conclusive evidence that such an inspection has been made and that the Vendor has familiarized itself with the scope of the project(s).

Vendors will be allowed to visibly inspect the sewage treatment plants and lagoons to become familiar with the current operations, scope of work, and services requested. This visible inspection shall occur during the facility tours. Any Vendor may request an opportunity to inspect copies of Discharge Monitoring Reports (DMRs) for the calendar year 2011 for the identified facilities. Any inspection of DMRs will occur at the office of Henrietta Peters, OHS Environmental Supervisor for the Alabama Department of Corrections, 301 South Ripley Street, Montgomery, Alabama 36130 or a designated person by the ADOC.

### **1.3 Opening Date**

Vendor's proposals will be opened on August 23, 2012 at 10:00 a.m. Central Savings Time, in the Commissioner's Office, 301 South Ripley Street, Montgomery, AL 36104.

### **1.4 Cost Proposal**

Any and all costs associated with the operation, maintenance, and management responsibilities of these system(s), or the receipt and treatment of system influent from these penal institutions, shall be specified. Prices will be firm for the time period indicated.

### **1.5 Contract Term**

The Contract is for a five (5) year initial term with three (3) renewal options of five (5) years each to extend the contract. The Contract will be dependent upon the provision of necessary appropriations by the Alabama Legislature. The Vendor will assume responsibility for providing the delivery of Wastewater Treatment and Sewage Disposal Management Services beginning October 15, 2012 or at such other day as the ADOC may designate after the award of the Contract. The successful Vendor will have the facility(s) fully operational and able to achieve compliance with all ADEM regulations within sixty (60) days of starting the Contract. Failure on the part of the Vendor to fully implement the delivery of wastewater treatment and sewage disposal services within sixty (60) days could result in liquidated damages as outlined in Section VII of the RFP and incorporated into the Service Agreement.

## **1.6 Entire Agreement**

Upon acceptance of the Vendor's proposal by the ADOC, the parties will execute a formal contract, in writing, and duly signed by the proper parties thereto, subject to review by the Legislative Contract Review Committee and approval of the Governor of the State of Alabama.

## **1.7 Form and Content of Proposals**

An original and four (4) copies of each proposal are required along with a searchable, digital copy on CD. Failure to submit the required number of copies may prevent a Vendor's proposal from being evaluated within the allotted time. Proposals must be submitted in ink, typed, or printed form. The digital copy should be in PDF format. An authorized representative must sign the proposal, and any changes, in ink in all required places. The proposal must address all requirements of this RFP and provide all the information requested.

The RFP number, proposal opening date, and time must be indicated on the outside front lower left corner of the sealed envelope/package. Each proposal must include original signature and notarization on the enclosed Vendor Authorization Form to Submit Proposal (Appendix C) and must be returned with proposal. Proposals submitted on reduced and/or mutilated forms will be rejected. Proposals submitted by "Express/Overnight" services must be in a separate inner envelope/package, sealed, and identified as stated above.

Properly identified proposals will be securely kept, and will remain unopened, until time of proposal presentation. The ADOC does not accept responsibility for the premature opening of a proposal not properly identified or the late arrival of a proposal for whatever reason.

At the scheduled place and date for the proposal opening (or as soon thereafter as is applicable), prices will be made public for information of interested respondents who may be present either in person or by representative. Such information is not to be construed as meaning any Vendor meets all specifications as set out in the RFP.

The ADOC takes its responsibilities under the State of Alabama's public records law – Alabama Code Section 36-12-40 – very seriously. If Vendor considers any portion of the documents, data, or records submitted in response to this solicitation to be confidential, trade secret, or otherwise not subject to public disclosure, Vendor must, in addition to the required original and four (4) copies of the proposal, also provide the ADOC with a separate redacted copy of its proposal and briefly describe in a separate writing, as to each item redacted, the grounds for claiming exemption from the public records law. This redacted copy shall be clearly marked "Redacted Copy." The redacted copy shall be provided to the ADOC at the same time Vendor submits its proposal and must only exclude or redact those exact portions that are claimed confidential, trade secret, or otherwise not subject to disclosure.

Vendor shall be responsible for defending its determination that the redacted portions of its proposal are confidential, trade secret, or otherwise not subject to disclosure. Furthermore, Vendor shall protect, defend, and indemnify the ADOC for any and all claims arising from or relating to Vendor's determination that the redacted portions of its proposal are confidential,

trade secret, or otherwise not subject to disclosure. All of the above shall be acknowledged in Vendor's "Redacted Copy."

If Vendor fails to submit a Redacted Copy with its proposal, the ADOC is authorized to produce the entire document(s), data, and/or records submitted by Vendor in answer to any public records request.

### **1.8 Request to Modify or Withdraw Proposal**

The Vendor may make a written request to modify or withdraw the proposal at any time prior to opening. No oral modifications will be allowed. Such requests must be addressed and labeled in the same manner as the original proposal and plainly marked Modification to (or Withdrawal of) Proposal. Only written requests received by the ADOC prior to the scheduled opening time will be accepted. The ADOC will correct the proposal after opening.

### **1.9 Suspected Errors/Clarification**

If the Vendor suspects an error, omission, or discrepancy in this solicitation, the Vendor must immediately notify Anne Hill, General Counsel, (334) 353-3884, at the above stated address. The ADOC will issue written instructions if appropriate.

If a Vendor considers any part of the RFP unclear, that Vendor is expected to make a written request for clarification to the General Counsel for the Alabama Department of Corrections, 301 South Ripley Street, Montgomery, Alabama 36130 at (334) 353-3884, fax (334) 353-3967. The ADOC will respond in writing to all such requests. In the ADOC response, the ADOC will state the request for clarification followed by a statement of clarification. A copy of the response will be provided to all Vendors who submitted a proposal.

If changes in the RFP become necessary, an addendum will be mailed to all parties, who submitted a proposal.

### **1.10 Proposal Firm Time**

The proposal will remain firm and unaltered after opening for ninety (90) days after the proposal due date or until the ADOC signs a contract with another Vendor, whichever is earlier. The ADOC may accept the Vendor's proposal at any time during the proposal firm time, subject to successful contract negotiations.

### **1.11 Security**

Vendor must provide official documentation from a bonding or surety company that it has the ability to provide a Performance Guarantee or Bond in the amount of five hundred thousand dollars (\$500,000) within ten (10) working days of Contract signature by the ADOC Commissioner. Security will be in the form of a formal bond or other form acceptable to the ADOC. Letters of guarantee from a parent company or subsidiary will not be an acceptable form of a performance guarantee. The performance bond will remain in force from October 15, 2012,

through the initial term of the contract and any subsequent renewal terms. A breach of contract by Vendor will cause the performance guarantee to become payable to the State of Alabama. The Department of Corrections will be the custodian of the performance bond/guarantee. The performance guarantee is predicated upon the condition of verified services rendered by Vendor regarding the fulfillment of contractual obligations. A good faith effort has been made by the Department to list all functions and/or services required for the fulfillment of the Contract in the provision of waste water treatment and sewage disposal services. This in no way relieves Vendor from the obligation to furnish all services, personnel and equipment required in meeting the needs of the ADOC for proper and professional implementation of the Contract.

#### **1.12 Evaluation and Selection**

The ADOC will evaluate all proposals using the criteria outlined in Section III. It is the ADOC's intent to select the Vendor(s) that provides the best solution for the needs of the ADOC. Upon the ADOC selecting a Vendor's proposal for contract negotiations, the ADOC will send the Vendor a written notice. Notice letters sent or posted during proposal firm time, or during any extension thereof, will extend the proposal firm time until such time as the ADOC signs a contract or determines negotiations with the Vendor have failed. Receipt or posting of a notice is not equivalent to a contract with the ADOC.

#### **1.13 Responsibility to Read and Understand**

By responding to this solicitation, the Vendor will be held to have read and thoroughly examined the RFP. Failure to read and thoroughly examine the RFP will not excuse any failure to comply with the requirements of the RFP or any resulting contract, nor will such failure be a basis for claiming additional compensation.

#### **1.14 Contract Negotiations**

The Vendor(s) chosen may be required to enter into contract negotiations if the ADOC believes such is necessary or desirable. If agreement cannot be reached to the satisfaction of the ADOC, the Department may reject the Vendor's proposal or revoke the selection and begin negotiations with another Vendor. Any proposed changes as well as the final Contract must be approved and signed by the appropriately authorized State and ADOC official(s).

#### **1.15 Commencement of Work**

If the Vendor begins any billable work prior to the final approval by the ADOC and execution of the Contract, the Vendor does so at its own risk.

#### **1.16 Vendor Contact**

The ADOC will consider the person who signed the Vendor's proposal the contact person for all matters pertaining to the proposal unless the Vendor designates another person in writing.

### **1.17 Reservations**

The ADOC reserves the right to reject all proposals; to reject individual proposals for failure to meet any requirement; to award by item, part or portion of an item, group of items, or total; and to waive minor defects. The ADOC may seek clarification of the proposal from the Vendor at any time, and failure to respond is cause for rejection. Clarification is not an opportunity to change the proposal. Submission of a proposal confers on the Vendor no right of selection or to a subsequent contract. This process is for the benefit of the ADOC only and is to provide the ADOC with competitive information to assist in the selection process. All decisions on compliance, evaluation, terms, and conditions will be made solely at the discretion of the ADOC and made to favor the State.

### **1.18 Cost of Preparation**

The ADOC is not responsible for and will not pay any costs associated with the preparation and submission of the Vendor's proposal, regardless of whether or not selected for negotiations.

### **1.19 Vendor Services**

It is the intent of this RFP for the selected Vendor(s) to provide all services necessary for the complete operation, maintenance, and management of select wastewater treatment and sewage disposal system(s) currently operated by the Alabama Department of Corrections. The Vendor will develop, operate, maintain, manage, and implement an overall wastewater treatment and sewage disposal system for inmates and staff assigned to the following facilities:

- a) Farquhar State Cattle Ranch  
1132 County Road 73  
Greensboro, Alabama 36744-9313

( Note: The Farquhar State Cattle Ranch is owned by the Alabama Department of Conservation and operated by ADOC under an inter-agency agreement).

- b) Red Eagle Work Center  
1290 Red Eagle Road  
Montgomery, Alabama 36110

## SECTION II

### GENERAL TERMS AND CONDITIONS

#### **2.1 Proposal Conditions**

**2.1.1** By signing the proposal, the Vendor agrees to be bound by all terms and conditions of the RFP. Any exceptions to the specified terms and conditions must be clearly set forth within the Vendor's proposal.

**2.1.2** The agreement constitutes the entire agreement of the parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and agreements that may have been made in connection with the subject matter hereof. No modification or amendment to this agreement will be binding upon the parties unless the same is in writing and signed by the respective parties thereto.

**2.1.3** The fee per 1,000 gallons of influent discharged into the wastewater treatment and sewage disposal systems established at award will constitute the factor by which invoices will be calculated and payments made to the Vendor to perform the Scope of Work set forth in the Services Agreement. Annual adjustments to this rate will be allowed and will be tied to the change in the Consumer Price Index with certain restrictions. The rental fee established at award will constitute the annual amount payable to the ADOC under the Ground Lease agreement. The royalty established at award and payable to ADOC will constitute the percentage of total gross sales of wastewater treatment charges billed to other persons and entities connected to or serviced by the facilities included in the Ground Lease.

**2.1.4** All Vendor proposals will remain firm and unaltered for ninety (90) days after the proposal due date shown or until the Contract is fully executed with another Vendor, whichever is earlier. An exception to the criterion will be the Vendor engaged in contract negotiations after pre-award notification, which will be allowed to make Vendor proposal modification(s) only in accordance with a request by the ADOC.

**2.1.5** Any alternate proposal submitted by the Vendor (receiving pre-award notice), which in the opinion of the ADOC best satisfies the Department's requirements, may be considered and substituted for that Vendor's initial proposal, either in whole or in part.

**2.1.6** The ADOC reserves the right to modify the requirements of the RFP or awarded contract requirements by: a) changing the Scope of Work deliverables or time frames; b) adding or deleting tasks to be performed or equipment to be provided; and/or c) any other modification deemed necessary by the ADOC. Any changes in the Vendor's proposed program or pricing in response to an ADOC request are subject to acceptance by the ADOC.

**2.1.7** Prior to award, in the event of changes to proposed pricing or changes to proposed services in response to an ADOC request are not acceptable to the Department, a

Vendor's pre-award status may be rescinded. At the option of the ADOC, another selection for pre-award may be made from the Vendors to the RFP, or the ADOC may open the process to re-procurement based upon the new specifications.

**2.1.8** All information submitted pursuant to the RFP may be subject to the Open Records Act. Any information submitted with a proposal, including cost, price, and other information (whether or not marked as proprietary or confidential), which is made part of the Contract is subject to release in accordance with the Open Records Act and/or applicable law. (See Section 1.7)

**2.1.9** Only the final results of the ADOC and ADOC Evaluation Committee may be considered public. Any work papers, individual evaluator or consultant comments, notes, or scores are not open.

**2.1.10** The successful Vendor(s) who execute(s) the awarded Contract is/are contractually responsible for the total performance of the Contract. Assignments for subcontracting may be allowable, but must be disclosed as a part of the proposal or otherwise approved in advance by the ADOC in writing. Any subcontractor providing services required in the RFP or in the awarded Contract will meet or exceed the requirements set forth in the RFP and the Contract.

**2.1.11** The awarded Vendor will be required to provide a performance bond as outlined in Section 1.11 to guarantee the provision of services as outlined in this RFP.

**2.1.12** All terms of the RFP and the Vendor's responses to the RFP, along with all schedules and attachments will be incorporated and referenced as part of the awarded Contract.

## **2.2 Other General Terms**

**2.2.1** The executed Contract and any renewals thereof are subject to the appropriation of funds or funds made available to the ADOC to fulfill the Contract obligations.

**2.2.2** No interpretation of any provision of the Contract resulting from the RFP, including applicable specifications, is binding on the ADOC unless furnished or agreed to in writing by the ADOC.

**2.2.3** Any and all personnel of the Vendor(s) may be subject to a background investigation conducted by the ADOC as a requisite for initial and/or continued employment.

**2.2.4** The Vendor's provision of services must comply with the standards of the, Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251-1378 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, Code of Alabama 1975, Sections 22-22-1 to 22-22-14 (the "AWPCA", the Alabama Environmental Management Act, as amended, Code of Alabama 1975, Sections 22-22A-1 to 22-22A-15,

and Alabama Department of Environmental Management (ADEM) rules and regulations, and achieve compliance with such standards and regulations within sixty (60) days of assuming the responsibility for operation and maintenance and shall be responsible for maintaining compliance thereafter.

**2.2.5** The Vendor(s) will provide the ADOC with a copy of all its maintenance and/or equipment contract agreements upon request. The Vendor(s) is responsible for all dealings with its subcontractor(s) and will answer all questions posed by the ADOC regarding them or their work.

**2.2.6** The ADOC will not be bound to any terms and conditions included in any Vendor or subcontractor documents. No condition in subcontractor documents in variance with or in addition to the requirements of the RFP or the awarded Contract will in any way affect the Vendor's obligations with the awarded Contract.

**2.2.7** The Vendor(s) will, at all times, maintain the staff and expertise necessary to perform the requirements specified in the RFP and any proposal resulting from the RFP. Should the Vendor(s) at any time: 1) refuse or neglect to supply adequate and competent supervision, or sufficiently and properly skilled/trained/licensed personnel; 2) fail to perform the Services according to the specifications required in the RFP; 3) fail in any respect to perform the service requirements of the RFP with promptness and diligence; or 4) fail in the performance of any agreement contained in the awarded Contract, the ADOC will have the option, after forty-eight (48) hours written notice to the Vendor, or by posting in some conspicuous space on-the-job site, to take any one or more of the following actions:

- a) Withhold any monies then or next due to Vendor; or
- b) Provide such materials, supplies, equipment, and labor as may be necessary to complete said work; Bring the rendition of the Services up to the specification and standards required in the RFP or awarded Contract; Pay for same, and deduct the amount so paid from any money then or thereafter due the Vendor; or
- c) Terminate the Contract.

**2.2.8** All work products originated or prepared by the Vendor and delivered to the ADOC pursuant to the RFP are, or will be, the exclusive property of the ADOC.

**2.2.9** All documents, materials, or data developed as a result of work under the awarded Contract will be the property of the ADOC. The ADOC will have the right to use and reproduce any documents, materials, and data, including confidential information, used in or developed as a result of Vendor work under the awarded Contract. The ADOC may use this information for its own purposes. The Vendor is required to have the rights to utilize any documents, materials, or data provided by the Vendor to fulfill requirements of the RFP. The Vendor will keep confidential all documents, materials, and data prepared or developed by the Vendor or supplied by the ADOC.

**2.2.10** The Vendor will supply on a quarterly basis, at a minimum, all billings, records, evidence of services performed, or other documents, including but not limited to the Daily Flow Logs/Reports and the Discharge Monitoring Reports, for review and audit by the ADOC. Licensed materials, used as a part of fulfilling the requirements of the awarded Contract, will be considered a trade secret to the Licensors. The Vendor will be responsible for the supervision, management, operation, and control of materials licensed to the ADOC. The Vendor will fulfill all obligations required of the ADOC as well as for the Vendor under the ADOC licensure agreements as part of the RFP. Upon the termination of the Contract, or the termination of any ADOC License Agreement, the Vendor will return any licensed material and documentation required by the Licensor, and will certify in writing that such obligation has been fulfilled, if required by Licensor or the ADOC.

**2.2.11** The Vendor will be an independent Contractor. The Vendor, its agents, subcontractors and/or employees, will not be considered to be an agent, distributor, or representative of the ADOC or the State of Alabama. Further, neither the Vendor nor any employees of the Vendor will be entitled to participate in any retirement or pension plan, group insurance program, or other programs designed to benefit employees of the ADOC or the State of Alabama.

### **2.3 Disputes**

Any dispute arising under or relating to the awarded Contract that cannot be informally resolved by the parties will be made in writing and presented to the ADOC for a written decision. The ADOC will issue a written decision on the dispute within thirty (30) days. In the event of any conflict between the Vendor and the requirements of the RFP and the Contract, the provisions of the Contract will control. The Vendor will proceed diligently with performance of the awarded Contract pending final resolution of any request for relief or adjustment or any dispute or appeal and will comply with any direction of the ADOC pending such final resolution. In cases where there is a failure to resolve such disputes to both parties satisfaction, mediation and other non-binding forms of dispute resolution administered through the Attorney General's office or private mediators, where appropriate, may be utilized.

### **2.4 Term and Renewals**

The length of the Contract shall be a five (5) year initial term with three (3) renewal options of five (5) years each. If the commencement of performance is delayed because the ADOC does not execute the Contract on the start date, the ADOC may change the start date, end date, and milestones to reflect the delayed execution. No renewal may be effective automatically. No renewal may be effective solely at the Vendor's option.

### **2.5 Termination for Convenience**

If the ADOC terminates for convenience, the ADOC will pay the Vendor for supplies and services satisfactorily provided and authorized expenses incurred up to the time of termination.

## **2.6 Billing**

**2.6.1** The Vendor(s) shall provide a monthly invoice utilizing one standardized format for the treatment plant along with the daily Flow Logs/Reports. All invoices shall begin on the 1<sup>st</sup> day of the month and end on the last day of the month.

**2.6.2** Payments for proper performance of services will be commensurate with the scheduled progress of the work and will be made upon receipt of a detailed invoice for payment and the ADOC receiving proper authorization.

**2.6.3** The Vendor will not bill for any taxes unless a statement is attached to the bill identifying the tax and showing why it is legally chargeable to the ADOC. If determined that taxes are legally chargeable to the ADOC, the ADOC will pay the tax as required. State and federal tax exemption information is available upon request. The ADOC does not warrant that the interest component of any payment, including installment payments to Vendor, is exempt from income tax liability.

**2.6.4** The Vendor will be in compliance with applicable tax requirements and will be current in payment of such taxes.

**2.6.5** Payments delayed by the ADOC at the beginning of the fiscal year because of the appropriation process will not be considered a breach. The State has not historically delayed payments at the beginning of the fiscal year; however, such a circumstance will not constitute a breach by the ADOC.

**2.6.6** The ADOC will not be liable to pay the Vendor for any supplies provided, services performed, or expenses for the supplies and services subject on the Contract incurred prior to the beginning of the term of the Contract.

**2.6.7** The approved invoice amount will be paid less any retainer and previous partial payments. Final payment will be made upon determination by the ADOC that all requirements under the Contract have been completed, which determination will not be unreasonably withheld. Such final payment will be made, subject to adjustment, after completion of an audit of Vendor's records as provided for in the Contract.

**2.6.8** Payments will be made to conform to State fiscal year requirements notwithstanding any contrary provision in the Contract or order. This may include prorating payments that extend beyond the end of the fiscal year for the ADOC.

## **2.7 Availability of Appropriations**

The ADOC will use its best efforts to secure sufficient appropriations to fund the Contract. However, obligations of the ADOC under the service agreement may cease if the Alabama Legislature fails to make an appropriation sufficient to pay such obligation. The ADOC will determine whether amounts appropriated are sufficient. The ADOC will give Vendor notice of

insufficient funding as soon as practicable after the ADOC becomes aware of the insufficiency. The Vendor's obligation to perform will cease upon receipt of the notice.

## **2.8 Consultation**

The Vendor will consult with and keep the ADOC fully informed as to the progress of all matters covered by the Contract. At a minimum the Vendor will provide the ADOC quarterly Discharge Monitoring Reports and any time prior to filing with any public body or adversarial party. The Vendor will promptly furnish the ADOC with copies of all correspondence and all documents prepared in connection with the services rendered under the Contract. Upon request, the Vendor will arrange, index, and deliver all correspondence and documents to the ADOC within fourteen (14) days of such request.

## **2.9 Audit/Retention of Records**

The Vendor and its subcontractors will maintain books and records related to performance of the Contract or subcontract and necessary to support amounts charged to the ADOC in accordance with applicable law, terms and conditions of the Contract, and generally accepted accounting principles. The Vendor will maintain these books and records for a minimum of three (3) years after the completion of the Contract, final payment, or completion of any contract audit or litigation, whichever is later. All books and records will be available for review or audit by the ADOC, its representatives, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. The Vendor agrees to cooperate fully with any such review or audit. If any audit indicates overpayment to the Vendor, or subcontractor, the ADOC will adjust future or final payments otherwise due. If no payments are due and owing to the Vendor, or if the overpayment exceeds the amount otherwise due, the Vendor will immediately refund all amounts that may be due to the ADOC. Failure to maintain the books and records required by this Section will establish a presumption in favor of the ADOC for the recovery of any funds paid by the ADOC under the Contract for which adequate books and records are not available to support the purported disbursement.

## **2.10 Schedule of Work**

Any work performed on State premises will be done during the hours designated by the ADOC. Said work shall be done during reasonable times and hours, with the exception of emergencies. The Vendor should coordinate said work with the Warden of the Facility or his/her designee. Should there be any disagreement between the Vendor and the Warden of the Facility or his/her designee, either party shall contact the General Counsel for the Alabama Department of Corrections, 301 South Ripley Street, Montgomery, Alabama 36130 at (334) 353-3884, fax (334) 353-3967 for final resolution, so as to minimize interference with the operation of the ADOC facility.

## **2.11 Responsibility for Agents and Employees**

The Vendor will remain fully responsible for the negligent acts and omissions of its agents, employees, and subcontractors in their performance of Vendor's duties under the Contract. The

Vendor represents that it will utilize the services of individuals skilled in the profession for which they will be used in performing services hereunder. In the event that the ADOC determines that any individual performing services for the Vendor hereunder is not providing such skilled services, the ADOC will promptly notify the Vendor and the Vendor will replace that individual.

## **2.12 License**

The Vendor, or its employees, who perform services requiring a license, will have and maintain said required licenses. With the consent of the ADOC, the Vendor may meet the license requirement through use of a subcontractor.

## **2.13 Assignment and Subcontracting**

**2.13.1** The Vendor may not assign, subcontract, or transfer any interests in the work subject to the Contract without the prior written consent of the ADOC. In the event the ADOC gives such consent, the terms and conditions of the Contract will apply to and bind the party or parties to whom such work is subcontracted, assigned, or transferred as fully and completely as Vendor is hereby bound and obligated. This includes requiring such parties to submit certificates and disclosures to the ADOC for review and approval.

**2.13.2** The names and addresses of all subcontractors utilized by the Vendor will be listed in an addendum to the Contract together with the anticipated amount of money that the subcontractor is expected to receive pursuant to the Contract.

**2.13.3** If the Vendor is unable to secure or maintain individuals named in the Contract to render the services set forth in the Contract, Vendor will not be relieved of its obligations to complete performance. However, the ADOC will have the option to terminate the Contract upon written notice to the Vendor.

**2.13.4** The ADOC may transfer the subject matter of the Contract or payment responsibility to another State agency after giving written notice to the Vendor.

## **2.14 Maintenance Assurance**

**2.14.1** The ADOC reserves the right to maintain any ADOC equipment leased to the Vendor under the Contract using ADOC personnel or third-party maintainers. The Vendor will provide upon request by the ADOC or its maintenance provider any documentation, materials, and parts pertinent to such equipment under reasonable terms and conditions and at reasonable costs. The ADOC reserves the right to return said equipment to the Vendor's care and control following written certification by Vendor that the equipment is eligible for the Vendor's maintenance. In such event, the Vendor's standard charges for the certification inspection, plus any applicable charges required to bring the equipment into eligibility for Vendor's maintenance, will apply. Exercise of these rights by the ADOC will be without penalty by the Vendor.

**2.14.2** Should Vendor discontinue service or maintenance of equipment or software provided under the Contract, Vendor will provide to the ADOC adequate documentation and access to specialized or proprietary tools to allow the ADOC or a subcontractor to maintain the equipment or software. This provision will not apply if Vendor makes arrangements for continued service and maintenance through another Vendor and at a price acceptable to the ADOC.

### **2.15 Background Check**

The ADOC may conduct criminal background checks on the Vendor's officers, employees, or agents, who would directly supervise or physically perform the Contract requirements at ADOC facilities. Any such officer, employee, or agent deemed unsuitable by the ADOC must be replaced immediately.

### **2.16 Conflicts of Interest**

The Vendor covenants that it has disclosed, and agrees it is under a continuing obligation to disclose to the ADOC, financial or other interests (public or private, direct or indirect) that may be a potential conflict of interest, or which may conflict in any manner with the Vendor's obligations under the Contract. The Vendor further covenants that it will not employ any person with a conflict to perform under the Contract. The Vendor further covenants that no person has an interest in the Vendor or in the Contract that would violate Alabama law.

## **SECTION III**

### **METHOD OF SELECTION**

#### **3.1 Qualifications of the Vendor(s)**

The Vendor(s) selected will be the sole source of contact for the selected sewage treatment plant or lagoon. The ADOC will not subcontract any work under the Contract to any other firm and will not deal with any subcontractors. Vendor is totally responsible for all actions and work performed by subcontractors. All terms, conditions, and requirement of the Contract will apply without qualification to any services performed for goods provided by any subcontractor.

The qualified vendor must have proven ability of contract transition with an orderly and efficient operation. The qualified vendor must be currently operating a facility or facilities having a National Pollutant Discharge Elimination System (NPDES) permit(s) issued by the Alabama Department of Environmental Management. A detailed plan with a proposed timetable is required for implementation and operation of the system(s) herein proposed. The systems must be operating and in full compliance with all ADEM regulations within sixty (60) days of the Contract start date. Vendor shall acknowledge receivership and begin the operation,

maintenance, and management of the wastewater treatment and/or sewage disposal system(s) immediately upon receipt of the executed Contract, unless otherwise instructed by the ADOC in writing.

The Vendor must be able to mobilize sufficient personnel, equipment, and resources to meet the deadlines in the RFP. Vendor must include a description of its qualifications and experience in providing the requested or similar services including resumes of personnel assigned to the project stating their education, specialized training, and work experience.

The Vendor should specifically list the following:

- a) All past and present contracts for the operation, maintenance, or management of wastewater treatment and sewage disposal system(s), or the receipt and treatment of system influent from an entity;
- b) All National Pollutant Discharge Elimination System (NPDES) permit(s) granted within the previous five (5) years;
- c) Services provided;
- d) Year(s) in which the services were provided;
- e) The type of wastewater treatment and sewage disposal plants currently operated or contracted to operate, the National Pollutant Discharge Elimination System (NPDES) permit number(s) and a brief description of the discharge limitations and monitoring requirements existing under said permit(s) and where each is located; and
- f) The number of Certified Operators employed by the Vendor and the grade of certification.

### **3.2 Proposal Format**

The following information is required:

- a) A transmittal letter that includes the following statements:
  - i) Vendor is the prime Vendor and identifies all subcontractors.
  - ii) Vendor is a corporation, municipality, or political subdivision or other legal entity.
  - iii) No attempt has been made or will be made to induce any other person/firm to submit or not to submit a proposal.
  - iv) Vendor does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or disability.
  - v) Vendor presently has no interest, direct or indirect, which would conflict with the performance of services under the Contract and will not employ in the performance of the Contract any person having a conflict.
  - vi) The person signing the proposal is authorized to make decisions as to pricing and has not participated, and will not participate, in any action contrary to the above-statements.
  - vii) Whether a reasonable probability exists that the Vendor is or will be associated with any parent, affiliate, or subsidiary service furnishing any supplies or equipment to the Vendor which would relate to the performance of the Contract.

If the response is in the affirmative, the Vendor is required to submit with the proposal written certification and authorization from the parent, affiliate, or subsidiary organization granting State and/or the Federal Government the right to examine any directly pertinent books, documents, papers, or records involving such transactions related to the Contract. Further, if at any time after a proposal is submitted, such an association arises, Vendor will obtain a similar certification and authorization, and failure to do so will constitute grounds for termination of the Contract at the option of the ADOC.

- viii) Vendor has not been retained, nor retained a person, to solicit or secure a state contract on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Vendor for the purpose of securing business. For breach of this provision, the ADOC will have the right to reject the proposal, terminate the Contract, and/or deduct from the Contract price or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or other benefit.
- b) An overview of the Vendor's organizational structure and that of any subcontractor. The following points should be addressed, if applicable:
- i) Date established.
  - ii) Governance.
  - iii) Number of personnel, full or part time, assigned to this project by function and job title.
  - iv) Data processing resources and the extent they are dedicated to other matters.
  - v) Location of the project within Vendor's organization.
  - vi) Relationship of the project to other lines of business and organization chart.
  - vii) List by name, address, telephone, and Contract Administrator all facilities or businesses where Vendor is providing wastewater treatment and sewage disposal services and the length of time that each contract has been in effect.
  - viii) List by name, address, telephone, and Contract Administrator all facilities or businesses where Vendor either terminated services or had services terminated in the past three (3) years.
  - ix) Submit five (5) references to which Vendor has contracted services that are proposed to the ADOC. These references will include the name of the firm or other state departments, the name of the contact person, the address, and the telephone number of the contact person. Employees and subcontractors of the Vendor may not be listed as references or contact persons.
  - x) A public corporation shall state whether the corporate office is registered with the Secretary of State to do business in the State of Alabama, or provide proof of having submitted an application to do business with the assurance the Vendor will be licensed prior to assuming the Contract.
- c) An analysis containing the following for each location the Vendor intends to submit a proposal:

- i) A proposed price/fee to operate, manage, and maintain the wastewater treatment and sewage disposal system(s) per 1,000 gallons of system influent received and treated;
- ii) The estimated startup cost for each facility with itemized summary of the costs;
- iii) The estimated maintenance cost for each facility;
- iv) A proposed minimum guaranteed rental for the wastewater treatment and sewage disposal facility **and** a proposed percentage royalty from the total gross sales to other persons and entities connected to and serviced by the plant.

### **3.3 Contract Transition**

The Vendor must demonstrate prior ability to perform an orderly and efficient contract transition. A detailed implementation plan must be submitted describing how the following issues will be handled:

- a) Proposed timetable for implementation and operation and a statement relating to the Vendor's ability to meet stated and required deadlines;
- b) Identifying and assuming the current costs of wastewater and sewage disposal;
- c) Vendor's management personnel to be assigned to supervise and monitor the transition and to ensure satisfactory continued provision of services;
- d) Estimated capital improvements with projected timelines for implementation; and
- e) Staff training on Vendor's policies and procedures, including the transition process from current policies and procedures.

### **3.4 Method of Selection**

Vendor selection will be based on the proposal that best meets or exceeds the requirements set forth in the RFP. The selection process may, however, include a request for additional information or an oral presentation to support the written proposal. The ADOC reserves the right to select other than the low-priced Vendor if a higher-priced proposal provides the best value. Vendors whose proposals do not meet the mandatory requirements will be considered non-compliant. After the evaluation of proposals received and selection of the successful Vendor, all Vendors will be notified in writing regarding the selection of the successful Vendor(s). All proposals received will become the property of the ADOC. The ADOC reserves the right to use for its benefit the ideas contained in proposals received.

## **SECTION IV**

### **CERTIFICATIONS**

#### **4.1 Liability and Insurance**

The Vendor also agrees to indemnify and hold harmless the State of Alabama, the Department of Corrections and their officers and employees from and against any and all loss or damage,

including court costs and attorney fees, for liability claimed against or imposed upon the ADOC because of a bodily injury, death, or property damage, real or personal, including loss of use thereof, arising out of or as a consequence of the breach of any duty or obligations of the Vendor included in this agreement, negligent acts, errors or omissions, including engineering and/or professional error, fault, mistake, or negligence of Vendor, their employees, agents, or representatives or subcontractors, in connection with or incident to the performance of their contract, or arising out of Worker Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of Vendor and/or subcontractors, or claims under similar such law or obligations. Vendor obligation, under this section, will not extend to any liability caused solely by negligence of the ADOC or its employees.

#### **4.2 Liability Coverage**

Before signing the Contract, the Vendor must file with the ADOC a certificate from Vendor's insurer showing the amounts of insurance carried and the risk covered thereby. Liability insurance must be no less than \$1,000,000 per occurrence and \$3,000,000 in aggregate. The Vendor must carry general liability insurance coverage with \$1,000,000 combined single limit for personal injury and property damage which incorporates said coverage for all of Vendor's employees and subcontractors. This coverage is required to extend to services performed at the two facilities and institutions where services will be provided under the Contract. The Vendor will also be required to provide a certificate naming the ADOC as an additional insured prior to contract execution. The Vendor must carry vehicle insurance meeting state law requirements. Coverage required, but not limited to, includes Comprehensive General Liability, Worker's Compensation, and Employee's Liability.

Vendor will provide legal representation, at its own expense, in defending all suits against the Vendor or Vendor's employees. The Vendor will pay all judgments and costs rendered against the Vendor or Vendor's employees in said suits.

#### **4.3 Notice to Parties**

Any notice given to the ADOC under the Contract will be submitted in a timely manner. Notices will be mailed to the Alabama Department of Corrections, Commissioner's Office, Attention: General Counsel, 301 South Ripley Street, Montgomery, Alabama 36104. Notices to the Vendor will be mailed to the address shown in its submitted proposal. Notices will be sent by registered mailed, return receipt requested.

Both parties agree to fully cooperate with one another for the successful pursuit of their respective and mutual interests. Both parties will share information, provide timely notification to one another in the event of a claim against either party, and present a collaborative defense against such claims. There will be no settlement of any claim by either party without consultation.

#### **4.4 Legal Compliance**

The Vendor certifies compliance or agreement to comply with the following legal requirements and that it is not barred from being awarded a contract or subcontract due to violation of, or inability, or unwillingness to comply with those requirements.

**4.4.1** No person or business entity will be awarded a contract or subcontract if that person or business entity (1) has been convicted under the laws of Alabama or any other state of bribery or attempting to bribe an officer or employee of the State of Alabama or any other state in that officer's or employee's official capacity; or (2) has made an admission of guilt of such conduct that is a matter of record but has not been prosecuted for such conduct.

**4.4.2** No business will be barred from contracting with the ADOC as a result of a conviction of any employee or agent of the business if the employee or agent is no longer employed by the business and; (1) the business has been finally adjudicated not guilty; or (2) the business demonstrates to the ADOC that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or a high managerial agent on behalf of the business.

**4.4.3** When an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and pursuant to the direction or authorization of a responsible official of the business, the business will be deemed culpable for the conduct.

#### **4.5 Felony Conviction**

Unless otherwise provided, no person or business entity convicted of a felony will do business with the ADOC from the date of conviction until five (5) years after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

#### **4.6 Inducements**

Any person who offers or pays any money or valuables to any person to induce him or her not to submit a proposal on the RFP is guilty of a felony. Any person who accepts money or other valuables for not submitting a proposal on the RFP or who withholds a proposal in consideration of the promise for the payment of money or other valuables is guilty of a felony.

The Vendor is prohibited from entering into financial agreements with employers or other independent Vendors or subcontractors who grant monetary awards for limiting the level or availability of services requested from this RFP.

#### **4.7 Reporting Anticompetitive Practices**

When, for any reason, a Vendor or designee suspect collusion or other anticompetitive practice among any Vendors or employees of the ADOC, a notice of the relevant facts will be transmitted to the Alabama Attorney General and ADOC Commissioner's Office. This includes reporting any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, request for proposal documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement or contract process, or any current or former elected or appointed State official or State employee who knowingly uses confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

#### **4.8 Drug-free Workplace**

The Vendor will provide a drug free workplace. No individual engaged in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance will be eligible for the Contract. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of the Contract, termination of the Contract, and/or debarment of contracting opportunities with the ADOC for at least one (1) year, but not more than five (5) years.

The Vendor certifies and agrees to provide a drug free workplace by:

- a) Publishing a statement for the purpose of: (1) notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the Vendor's workplace; (2) specifying the actions that will be taken against employees for violations of such prohibition; and, (3) notifying the employee that, as a condition of employment on such contract, the employee will abide by the terms of the statement and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- b) Establishing a drug free awareness program to inform employees about:
  - i) The dangers of drug abuse in the workplace;
  - ii) The Vendor's policy of maintaining a drug free workplace;
  - iii) Available drug counseling, rehabilitation, and employee assistance programs; and
  - iv) The penalties that may be imposed upon employees for drug violations.
- c) Providing a copy of the statement required by subparagraph (a) to each employee engaged in the performance of the Contract and posting the statement in a prominent place in the workplace.
- d) Notifying the ADOC within ten (10) days after receiving notice under subsection (a)(3) above from an employee or otherwise receiving actual notice of such conviction.
- e) Imposing a sanction on or requiring the satisfactory participation in drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by Section 5 of the Drug Free Workplace Act.

- f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.
- g) Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

#### **4.9 Equal Employment Opportunities - Affirmative Action/Sexual Harassment**

The Vendor will:

Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination, as follows:

- a) Comply with the regulations, procedures, and requirements of the ADOC concerning equal employment opportunities and affirmative action;
- b) Provide such information with respect to its employees and applicants for employment;
- c) Have written sexual harassment policies that will include, at a minimum, the following information: (1) the illegality of sexual harassment; (2) the definition of sexual harassment under State law; (3) a description of sexual harassment, utilizing examples; (4) the Vendor's internal complaint process including penalties; (5) the legal recourse, investigative, and complaint process available through the Vendor; (6) directions on how to contact the Vendor, and (7) protection against retaliation.

#### **4.10 Performance Subject to Law**

In compliance with the Equal Employment Opportunity and Nondiscrimination Practices Act, the Vendor will:

- a) Comply with the provisions of the Civil Rights Act of 1964;
- b) Comply with the nondiscrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons with regard to race, color, religion, sex, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor;
- c) Comply with Section 504 of the Federal Rehabilitation Act of 1973 as amended (29 U.S.C. 794) and requirements imposed by the Applicable H.E.W. regulation 45 C.F.R. Part 84, and all guidelines and interpretations issued pursuant thereto.

#### **4.11 Confidentiality and Use of Work Product**

**4.11.1** Any documents or information obtained by the Vendor from the ADOC in connection with the Contract will be kept confidential and will not be provided to any third party unless the ADOC approves disclosure in writing. All work product produced under the Contract including, but not limited to, documents, reports, information, documentation of any sort and ideas, whether preliminary or final, will become and remain the property of the ADOC. Any patent, copyright, or other intellectual ideas,

concepts, methodologies, processes, inventions, and tools (including computer hardware and software where applicable) that the Vendor previously developed and brings to the ADOC in furtherance of performance of the Contract will remain the property of the Vendor. The Vendor grants to the ADOC a nonexclusive license to use and employ such software, ideas, concepts, methodologies, processes, inventions, and tools solely within its enterprises.

**4.11.2** The Vendor will assume risk of loss until delivery to the designated facility.

**4.11.3** The Vendor will do nothing to prejudice the ADOC to recover against third parties for any loss, destruction, or damage to State property, and will at their request and expense, furnish to the ADOC reasonable assistance and cooperation, including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the ADOC in obtaining recovery.

**4.11.4** The Vendor will, at its expense, defend the ADOC against all claims asserted by any person that anything provided by the Vendor infringes a patent, copyright, trade secret, or other intellectual property right and will, without limitation, pay the costs, damages, and attorney fees awarded against the ADOC in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly on any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement. If a preliminary or final judgment is obtained against the ADOC for its use or operation of the items provided by the Vendor hereunder or any part thereof by reason of any alleged infringement, the Vendor will, at its expense, either: (a) modify the item so that it becomes non-infringing; (b) procure for the ADOC the right to continue to use the item; (c) substitute for the infringing item other item(s) having at least equivalent capability; or (d) refund to the ADOC an amount equal to the price paid, less reasonable usage from installation acceptance through cessation of use, which amount will be calculated on a useful life not less than five (5) years, and plus any additional costs the ADOC may incur to acquire substitute supplies or services.

**4.11.5** The ADOC assumes no liability for actions of the Vendor and is unable to indemnify or hold the Vendor harmless for claims based on the Contract or use of the Vendor provided supplies or services.

## **4.12 Warranty**

**4.12.1** The Vendor warrants that all services will be performed in a good-faith and professional manner.

**4.12.2** Unless otherwise specified in this section, supplies will be new, unused, of most current manufacture and not discontinued. All supplies will be free of defects in materials and workmanship, will be provided in accordance with manufacturer's standardized warranty, and will perform in accordance with manufacturer's published specifications. These are minimum requirements that may be modified by specific provisions of the Contract.

**4.12.3** The Vendor warrants that it has the title to or the right to allow the ADOC to use the supplies and services being provided and that the ADOC will have use of such supplies and services without suit, trouble, or hindrance from the Vendor or third parties. This is to ensure that no infringements, prohibitions, or restrictions are in force that would interfere with the use of such supplies and services that would leave the ADOC liable.

#### **4.13 Breach and Other For Cause Terminations**

The ADOC may terminate the Contract without penalty to the ADOC or further payment required in the event of:

- a) Any breach of the Contract which, if it is susceptible of being cured, is not cured within fifteen (15) days of the ADOC giving notice of breach to Vendor, including, but not limited to, failure of Vendor to maintain covenants, representations, warranties, certifications, bonds, and insurance;
- b) Commencement of a proceeding by or against the Vendor under the United States Bankruptcy Code or similar law, or any action by the Vendor to dissolve, merge, or liquidate; and/or;
- c) Material misrepresentation or falsification of any information provided by the Vendor in the course of any dealing between the ADOC and the Vendor or between the Vendor and any State agency.
- d) Failure by the Vendor to notify ADOC of its association with any parent, affiliate, or subsidiary service furnishing any supplies or equipment to the Vendor which would relate to the performance of the Contract.
- e) Any decision of ADOC to not terminate shall not be considered as a waiver by ADOC.

#### **4.14 Entire Contract**

The Contract, including any attachments, constitutes the entire contract between the Vendor and the ADOC. Modifications and waivers must be in writing and signed or approved by authorized representatives of the Vendor and the ADOC to be binding. If any term or condition of the Contract is declared void, unenforceable, or against public policy, that term or condition will be ignored and will not affect the remaining terms and conditions of the Contract, and the Contract will be interpreted as far as possible to give effect to the parties' intent.

#### **4.15 Applicable Law**

All services under the Contract will be performed in accordance with applicable Alabama and Federal law, statutes, provisions, and regulations. Also, prior to the transfer of or renewal of any NPDES permit to a selected Vendor, the Vendor will comply with any Consent Order issued by ADEM and any State or Federal Court Order(s) that pertains to the operation of Alabama prisons and institutions for which the ADOC is statutorily responsible. Vendor's only remedy for any claim under the Contract is to file a claim against the ADOC with the Alabama Board of Adjustment within the time prescribed by the rules of the Alabama Board of Adjustment.

As required by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act and any subsequent amendment to that Act, Vendor identified in the Contract resulting from this RFP is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify employment eligibility of: all persons employed during the contract term by Vendor to perform employment duties; and all persons including subcontractors assigned by Vendor to perform work pursuant to the Contract with the Department. (<http://www.uscis.gov/everify>). Vendor shall attest to such by sworn affidavit signed before a notary.

Additionally, Vendor shall include a provision in all subcontracts that requires all subcontractors to utilize the U.S. Department of Homeland Security's E-Verify system to verify employment eligibility of: all persons employed during the contract term by Vendor or subcontractor to perform work or provide services pursuant to this Contract with the Department. The subcontractor shall attest to such by sworn affidavit signed before a notary.

## SECTION V

### MAIN REQUEST FOR PROPOSAL

#### 5.1 Introduction

Under the Contract(s) established subsequent to this RFP, it is expected that the Vendor(s) will enter into a lease agreement for the property and existing equipment at the current wastewater treatment and sewage plants of those ADOC institutions listed at 1.19, and execute a service agreement to operate, manage and maintain the wastewater treatment and sewage disposal systems at these facilities. Or, in the alternative, the Vendor is expected to receive and treat system influent from these penal institutions. A more detailed description of the two facilities being offered is as follows:

- a) Farquhar State Cattle Ranch  
1132 County Road 73  
Greensboro, Alabama 36744-9313

This wastewater treatment facility is regulated and permitted by the Alabama Department of Environmental Management (ADEM). The permit for this facility is currently held by the ADOC and the ADOC will coordinate the transfer of the permit to the successful Vendor selected via this RFP. This facility consists of a three (3) cell lagoon. The effluent discharge is through a sand filter and then to force main to Big German Creek.

The Cattle Ranch has a designed capacity of 10,000 GPD. The average inmate population for this correctional facility in calendar year 2011 was approximately 100.

- b) Red Eagle Work Center  
1290 Red Eagle Road  
Montgomery, Alabama 36110

This wastewater treatment facility is regulated and permitted by the Alabama Department of Environmental Management (ADEM). The permit for this facility is currently held by the ADOC and the ADOC will coordinate the transfer of the permit to the successful Vendor selected via this RFP. This facility consists of a three (3) cell lagoon. The effluent discharge is to the Tallapoosa River.

The Red Eagle Lagoon has a design capacity of 25,000 GPD. The average inmate population for this facility in the calendar year 2011 was approximately 340.

## **5.2 Administration**

**5.2.1** Each wastewater treatment and sewage disposal plant shall be managed by a single executive officer employed by Vendor. Vendor shall establish the minimum qualifications for said position but must include a Wastewater Operator with a Certificate of Class as required by ADEM. The Certified Operator shall provide a copy of the certification to the ADOC. The Vendor shall identify the proposed plant manager(s) and include that individual's resume within a reasonable time after award of the Contract. ADOC shall have the right to reject any person(s) proposed as plant manager(s).

**5.2.2** Vendor shall identify the person(s) who will serve as liaison during the period between the execution of the Wastewater Treatment and Sewage Disposal Contract and the hiring of the plant manager(s).

**5.2.3** Vendor responses shall describe the procedures that will be used to monitor the operation of the wastewater treatment plant and adherence to Standards and Contract provisions.

**5.2.4** Vendor responses must identify and describe Vendor's equipment and operational needs to implement the Contract.

**5.2.5** Vendor responses shall provide an organizational chart that accurately reflects the structure of the authority, responsibility and accountability between Vendor and the wastewater treatment plant(s).

## **5.3 Personnel and Training**

**5.3.1** Vendor responses shall include minimum staffing requirements to ensure the operation and maintenance of the wastewater treatment plant(s) on a 24/7 basis.

**5.3.2** Vendor responses shall describe Vendor's drug testing policies and procedures.

**5.3.3** Vendor responses shall include job descriptions and qualifications for all positions.

**5.3.4** Vendor responses shall describe all employee training and/ or certifications.

**5.3.5** Vendor responses shall identify all services that Vendor intends to subcontract and the name of the sub-Vendor(s), if known.

## **5.4 Indemnification**

**5.4.1** Vendor shall defend in any action at law, indemnify, and hold the State, its officials, agents, and employees harmless against any and all claims arising from the provisions of this RFP or the Contract executed as a result of a proposal, any and all violations of any environmental regulations, and or laws including, without limitation, any and all claims arising from:

- a) Any breach or default on the part of Vendor in the performance of the Agreement;
- b) Any claims or losses for services rendered by Vendor and/or by any person or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract;
- c) Any claims, losses, or injuries to any persons, including inmates, or property damaged from the acts or omissions of Vendor, its officers, agents, or employees in the performance of this Agreement by Vendor;
- d) Any claims or losses by any person or firm injured or damaged by Vendor, its trustees, officers, agents, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the Agreement in a manner not authorized by the Agreement or by federal, state, county, or town regulations or statutes; and,
- e) Any failure by Vendor, its officers, agents, or employees to observe the Constitution or laws of the United States and the State of Alabama; and,
- f) All costs, reasonable attorney's fees, and liabilities incurred in or about any such claim, action, or proceeding brought thereon.

**5.4.2** Said indemnification shall not be applicable to any claim, injury, death, or damage to property arising out of any act or omission on the part of the State, its officials, agents, servants, or independent vendors (other than Vendor) who are directly responsible to the State.

In case any action or proceeding is brought against the State by reason of any such claim, Vendor, upon notice from the State, shall defend against such action by counsel satisfactory to the State. Said counsel will not enter into any settlement contract with respect to any claim, which may affect the State, without first obtaining approval of the State.

In defending the State, its officials, agents, and employees, Vendor shall advise and consult with the ADOC General Counsel's Office which may, in its discretion, enter any legal proceeding on behalf of the State, its officials, agents, or employees.

Indemnification by Vendor shall not preclude an indemnified party from receiving the benefits of any insurance Vendor may carry that provides indemnification for any loss, liability, or expense related to the Contracts.

**5.4.3** To the extent allowable by Alabama law, the State of Alabama shall indemnify and hold Vendor, its officers, agents, and employees harmless for and against:

- a) Any breach or default on the part of the State in the performance of the Contract;
- b) Any claims or losses for services rendered by the State or by any person or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract, except sub-Vendors of the Vendor;
- c) Any claims, losses, or injuries to any persons, including inmates, or property damaged from the acts or omissions of the State, its officers, agents, or employees in the performance of the Contract.
- d) Any claims or losses by any person or firm injured or damaged by the State, its officers, agents, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the Contract in a manner not authorized by the Agreement, or by federal, state, county, or town regulations or statutes; and,
- e) Any failure of the State, its officers, agents, or employees to observe the laws of the United States and the State, including, but not limited to, labor laws and minimum wage laws.

## **5.5 Insurance**

Vendor shall continuously maintain and pay for such insurance as will protect Vendor, the State, the ADOC, their officers, agents, and employees from all claims, including death and claims based on violations of civil rights, arising from the services performed under the Contract, and actions by a third party against Vendor as a result of the Contract.

## **5.6 Types of Insurance**

Prior to the Service Commencement Date, Vendor shall provide insurance policies and endorsements in a form, and for terms, satisfactory to the State.

## **5.7 Insurance Services**

**5.7.1** All insurance policies required under this Contract must name the State as being an additional insured or loss payee and as entitled to all notices under the policies. All certificates of insurance shall contain the following provision: *The coverage provided shall not be canceled, reduced, or allowed to lapse unless and until the State has received at least ten (10) days written notice.*

**5.7.2** At least thirty (30) days prior to each policy anniversary date, Vendor shall provide the ADOC with renewal information and any changes in coverage.

## **5.8 Liquidated Damages**

The ADOC intends to have a schedule of liquidated damages and/or a performance bond

for failure to perform as required. This schedule shall be negotiated with the successful Vendor(s).

## **5.9 Services**

The services and their applicable terms and conditions that are required and offered by ADOC are as follows:

- a) The operation, maintenance, and management of the wastewater treatment and sewage disposal systems previously described are currently being provided by a private operator under a temporary contract with the ADOC.
- b) The ADOC plans to terminate the temporary contract for the operation, maintenance and management of said treatment plants.
- c) The ADOC will lease the current wastewater treatment and sewage disposal plant(s) to a Vendor(s) under terms similar to those described in the Sample Ground Lease that is attached hereto as Appendix A.
- d) The ADOC will contract with Vendor(s) for the services of operating, maintaining, and managing the plant(s) for wastewater treatment and sewage disposal or the collection, receipt, and treatment of system influent, discharge system effluent, and transport and disposal of system residuals at the facilities previously listed for a period not exceeding twenty (20) years. Operation, maintenance, and management services will be governed under the terms similar to those described in the Sample Service Agreement which is attached hereto as Appendix B.
- e) The Ground Lease and the Service Agreement will run concurrently.
- f) Vendor will pay remuneration to ADOC based upon a proposed minimum guaranteed rental, and where and when applicable, shall, in addition to the proposed minimum guaranteed rental, also pay to ADOC a royalty based upon a proposed percentage of the total gross sales to other persons and entities connected to, and serviced by, the plant. Vendors must understand that the royalty percentage based on gross sales to other customers is a **required** element of a proposal and such percentage will be incorporated into the ground lease. Vendor(s) must also understand that a proposal shall include a proposed minimum guaranteed rental.
- g) Vendor will provide remuneration to ADOC on a monthly basis commencing thirty (30) days after the signing of the Ground Lease and Service Agreement. Said remuneration will be tendered as specified by the ADOC.
- h) The ADOC will pay remuneration to Vendor - a fee per 1,000 gallons of wastewater influent discharged into the wastewater treatment and sewage disposal systems described - for the operation, maintenance and management of the said facilities.
- i) Vendor will bill the ADOC for this service fee on a monthly basis based upon total influent volume discharged into the plant for the month prior or part thereof.

# **APPENDIX A**

## SAMPLE GROUND LEASE

**THIS GROUND LEASE ("Lease")** is executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between **ALABAMA DEPARTMENT OF CORRECTIONS** (hereinafter referred to as "**Landlord**") and \_\_\_\_\_ (hereinafter referred to as "**Tenant**"), and together referred to as "the parties".

### 1. **PREMISES, IMPROVEMENTS, AND ADDITIONAL LAND RIGHTS**

1.1 **Premises.** In consideration of \$\_\_\_\_\_ minimum guaranteed rental payment to be paid by Tenant to Landlord, and in consideration of the representations, warranties, covenants, and conditions set forth herein, Landlord hereby leases and demises to Tenant, and Tenant hereby takes and hires from Landlord, upon the terms and conditions set forth herein, that certain real property situated in \_\_\_\_\_, State of Alabama, consisting of approximately \_\_\_\_\_ acres, known as the \_\_\_\_\_ Wastewater Treatment Plant ("the Plant"), as more particularly described on **EXHIBIT "A"** attached hereto and by this reference incorporated herein (hereinafter sometimes referred to as the "**Premises**").

1.2 **Improvements.** All improvements on the Premises, including existing or future buildings and other structures, are herein sometimes referred to as "**Improvements**". The Tenant's equipment, furnishings, trade fixtures, inventory, and other personal property located on the Premises are not improvements and shall remain, at all times, the property of Tenant.

1.3 **Additional Land Rights.** Landlord agrees to assign to Tenant such additional land rights, including rights-of-way, easements, and leases on Landlord's property during the term of the Lease where such rights would facilitate maintenance, repairs, improvements, or an expansion of the plant or System at a cost or lease rate as shall be agreed upon by the parties.

### 2. **DEFINITIONS**

2.1 **Definitions.** The terms listed below will have the following meaning when used in this Lease:

- (a) **Contract** - the awarded contract, comprised of both the Ground Lease and Service Agreement, that has been executed by the ADOC and the Vendor for the operation, maintenance, and management responsibilities of a specific site and System.
- (b) **Lease Effective Date** - shall be the last of the dates that both the Landlord and Tenant have executed this Lease.

- (c) **Lease Commencement Date** - shall be the date on which Tenant shall commence the management and operation of the plant on the premises.
- (d) **Service Agreement**. - That certain agreement between the Alabama Department of Corrections (Landlord herein) and \_\_\_\_\_ (Tenant herein), executed simultaneously herewith and attached hereto as **EXHIBIT "B"**, pursuant to which Tenant shall assume the responsibility of the operation, maintenance, and management of the \_\_\_\_\_ Wastewater Treatment Plant. The parties acknowledge that the Tenant may expand the capacity of the plant during the Lease and permit persons and entities other than the \_\_\_\_\_ to be connected to and serviced by the plant in the future. The parties acknowledge that in addition to the minimum guaranteed rental specified in Section 1.1, Tenant shall also pay to the Landlord for each year during the term of this lease a royalty comprising \_\_\_ per cent of total gross sales to any current or future persons and entities connected to and serviced by the plant. The term "gross sales" as used in this agreement shall be construed to include the entire amount of the fee charged to a person(s) and or entity for the receipt and treatment of system influent.
- (e) **Service Agreement Commencement Date** - shall be the lease commencement date.

### 3. CONTINGENCIES AND CONDITIONS PRECEDENT

3.1 **Contingency Satisfaction Period**. Tenant will have a period of thirty (30) days from the Lease Effective Date to perform all necessary due diligence (the "**Contingency Satisfaction Period**"). During the Contingency Satisfaction Period, Tenant and Landlord shall investigate and perform the matters set forth below and such matters shall remain conditions precedent to the parties' respective Lease obligations:

(a) **Title Warranty**. Landlord and/or agent shall and hereby warrants to Tenant that there are no existing encumbrances on the Premises. Landlord acknowledges that Tenant is expressly relying on this warranty as an inducement to enter this Lease.

(b) **Survey**. Landlord shall deliver to Tenant any available surveys and survey information for the premises and all engineering and site drawings related to the Plant. Tenant shall have the exclusive right at Tenant's expense, to obtain a current survey of the property conducted by a registered land surveyor, and the parties agree that the legal description resulting from said survey and which is approved by the parties shall become the Exhibit A legal description.

(c) **Landlord's Maintenance and Repair of System**. Prior to the Lease Commencement Date, Landlord shall timely perform all routine day to day maintenance, repairs and replacements to the system.

(d) **Other Conditions.** Tenant may, at its sole discretion and expense, obtain soil investigation reports, soil samples, and environmental studies, satisfy itself as to adequate parking, satisfy itself as to site acceptability, the availability of utilities, and any other matters that it deems necessary to determine if Tenant desires to enter into this Lease.

If Tenant is not satisfied, in its sole discretion, with any one or more of the foregoing contingencies and conditions, or if any condition precedent is not accomplished, Tenant may, at any time during the Contingency Satisfaction Period, terminate this Lease by written notice to Landlord.

3.2 **Future Permitting.** After Landlord's existing permit is transferred to Tenant, Tenant shall assume all responsibility for future permitting and expansion of the plant as may be required to service the needs of the \_\_\_\_\_ as well as the needs of future parties to be connected to and serviced by the plant.

3.3 **Discharge Liability.** Tenant warrants that it will use its best efforts to operate the Plant in compliance with the permit at all times. Landlord warrants that it will make no prohibited discharges into the wastewater from the \_\_\_\_\_, and further warrants that it will not discharge any substance into such wastewater in violation of any local, state, or federal law or regulation now in effect or hereafter enacted, including, but not limited to, the Federal Water Pollution Control Act, the Alabama Water Pollution Control Act, or Chapter 335-6-5-of ADEM's Water Division - Water Quality Program Regulations.

3.4 **Tenant's Right of Entry.** Landlord hereby grants to Tenant, its agents, employees, and subcontractors, a license to enter the Premises at all reasonable times for the purposes of performing the tasks required to remove the contingencies and conditions precedent recited herein. Tenant agrees to cause said tasks to be performed so as not to damage the Premises. Tenant does hereby indemnify and hold harmless the Landlord from any claims, actions, damages, or injuries arising from the action, inaction, or negligence of its agents, employees or subcontractors in performing such tasks. If requested by Landlord, Tenant shall, within a reasonable period of time, provide copies of any reports, studies, tests, or surveys to Landlord without cost.

#### 4. **TERM AND IMPROVEMENTS**

4.1 **Initial Term.** The term of this Lease shall begin at the Lease Commencement Date and shall continue for a period of five (5) years, unless sooner terminated as hereinafter provided.

4.2 **Lease Renewal.** With the concurrence of both the Landlord and the Tenant, Lease may be renewed for three (3) additional five- (5) year terms. Tenant must notify Landlord in writing of any intent to renew the Lease at least 6 months prior to the Lease expiration date.

4.3 **Value of Tenant's Improvements.** For all purposes of this Lease, any and all structures, buildings, and improvements constructed or installed by Tenant at the Plant shall be initially valued at their construction or installation cost.

4.4 **Use of Inventory.** Tenant shall have the right to use and consume in the performance of the Contract the spare parts and consumables existing in the inventory of the plant.

4.5 Landlord shall provide Tenant with such information that is in Landlord's possession relating to the Plant as Tenant may reasonably request.

## 5. **PROPERTY TAXES AND ASSESSMENTS**

**Payment.** From and after the Lease Commencement Date, and continuing thereafter throughout the Term of this Lease, Tenant shall pay all personal property taxes and assessments levied against Tenant's fixtures, equipment, merchandise, and other personal property located in, upon, or about the Premises and the Landlord shall pay the real estate and improvement taxes and assessments thereon.

## 6. **USE OF PREMISES**

At the Lease Commencement Date, Tenant shall assume the responsibility for the operation and management of the \_\_\_\_\_ Wastewater Treatment Plant ("the Plant") in accordance with the terms of the Contract entered into by the parties simultaneously herewith.

## 7. **ALTERATIONS**

During the Term hereof, Tenant shall have the right to make, at its sole cost and expense, such structural and nonstructural changes, alterations, improvements, and additions to the Improvements and the Premises or any portion thereof as Tenant may desire, and shall also have the right to install therein and replace such fixtures and equipment as it may deem advisable for the operation of the plant.

## 8. **REPAIRS AND UPKEEP**

8.1 **Landlord's Non-responsibility.** Landlord and/or agent shall not be required or obligated to make any changes, alterations, additions, improvements, or repairs in, on, or about the Premises, the Improvements or any part thereof, during the Term of this Lease. However, in the event Tenant fails to maintain the Premises and all Improvements in compliance with all applicable codes, the Landlord shall have the right (but not the duty) to undertake all such maintenance and repair actions which are required by any applicable code, ordinance, or regulation, after written notice from Landlord to Tenant and the failure of Tenant to remedy the noncompliance within the earlier of \_\_\_\_\_ days after receipt by Tenant of said written notice, or the time frame mandated by any applicable code, ordinance, or regulation; provided that in any event Tenant shall be entitled to at least \_\_\_\_\_ hours after receipt of said written

notice within which to commence the remedy of the non-compliance. Any reasonable monies expended by Landlord in performing such work shall be reimbursed within \_\_\_\_\_ days after demand by Landlord to Tenant.

8.2 **Tenant's Responsibility.** Following the Lease Commencement Date and throughout the Lease term, Tenant shall, at its sole cost and expense, keep and maintain the Premises and all Improvements in good order and repair. Tenant shall make any and all additions to or alterations or repairs in and about the Premises and the Improvements which may be required by all public laws, ordinances and regulations from time to time applicable thereto, and Tenant shall be permitted to perform such work without any notice to or approval from Landlord.

## 9. UTILITIES

Tenant shall pay for all water, natural gas, electric, sewer, telephone, and all other services and utilities supplied to the Premises by direct payment to the utility suppliers. The parties acknowledge that at the commencement of the Lease, a temporary power meter to supply the plant may be placed, at Tenant's expense, or that the parties shall negotiate a power usage fee to be paid by Tenant to Landlord until Tenant can secure a direct power feed to the plant.

## 10. INSURANCE

During the term of the Lease, Tenant shall maintain property damage, general liability, and statutory workers compensation insurance coverage as stipulated in the RFP No. 2012-03 utilized to select the Tenant.

## 11. DAMAGE BY FIRE OR OTHER CASUALTY

(a) If the Improvements, or any material part thereof, should be destroyed or damaged by fire or other casualty, Tenant shall immediately deliver written notice thereof to Landlord.

(b) In the event of destruction or damage to the Improvements: (i) Tenant may elect to rebuild and repair the damaged portion of the Improvements to substantially the same condition in which they existed prior to such damage; or (ii) Tenant may elect to rebuild and repair the damaged portion of the Improvements in accordance with revised plans and specifications; or (iii) Tenant may elect not to rebuild or repair the Improvements, in which event the insurance proceeds shall be payable to and devisable between Tenant and Landlord as their interests may appear, subject to paragraph (c) of this Article and Article 4.5 of this Lease; and provided that the holder of any leasehold mortgage upon the interests of Tenant under this Lease shall be entitled to the receipt of such proceeds up to the balance owing under the indebtedness secured by its leasehold mortgage.

(c) All such insurance proceeds shall be paid to Tenant to the extent they are received by reason of a loss to any Improvements made by Tenant to the premises or to any Improvements which have become the property of Tenant pursuant to this Lease, or by

reason of the loss of Tenant's equipment, trade, and business fixtures, signs, and other personal property.

(d) There shall be a prorated abatement of rent during any period of rebuilding and repairing which results from any destruction or damage to any Improvements.

## 12. **LANDLORD'S RIGHT OF ENTRY**

Tenant shall permit Landlord and its agents to enter upon the Premises at reasonable times with \_\_\_\_\_ hours advance notice, except that no such advance notice shall be required during emergency conditions. On such occasions, Landlord agrees not to interfere with Tenant's operations and equipment.

## 13. **ASSIGNMENT AND SUBLETTING**

(a) Tenant may assign this Lease or sublet the whole or any part of the Premises provided (i) no Event of Default has occurred and is continuing at the time of the assignment or sublease; (ii) the assignee or subtenant shall agree in writing that it will not use or occupy the Premises in any manner prohibited by this Lease; and (iii) Tenant shall deliver to Landlord prior to the effective date of the assignment or subletting an executed duplicate thereof, together with a duly executed assumption agreement which must be approved by Landlord, provided that such approval is not to be unreasonably withheld or delayed.

(b) Any such assignment or subletting shall be subject to and upon all of the terms, provisions, and covenants of this Lease and shall provide that Landlord can enforce the terms of the sublease directly against the Subtenant (in the event of a default by Tenant). In the event of any assignment or subletting, true and correct copies, certified by Tenant, of all documents of assignment or sublease shall be submitted to Landlord prior to the effective date thereof.

(c) Any assignment of this Lease or sublease of any part of the Premises must be approved in writing by Landlord, provided that such approval is not to be unreasonably withheld or delayed. Landlord agrees to respond in writing to any request for approval of an assignment or sublease within \_\_\_\_\_ days after the request is made.

(d) Any assignment or subletting may, with the written approval of Landlord, be deemed to constitute a novation and a release of Tenant from further performance of its obligations under this Lease.

(e) With respect to any sub-lease which is permitted pursuant to this Lease, and under which Tenant has any continuing responsibility under the Lease, Landlord agrees, for the benefit of any such sublessee and the mortgagees of any such sublessee, as follows:

(i) Landlord shall give any such sublessee and its mortgagees, simultaneously with service on Tenant, a duplicate of any and all notices or demands

given by Landlord to Tenant at the address provided by such sublessee and said mortgagees;

- (ii) Such sublessee and mortgagees shall have the right, but not the obligation, to perform any obligations or rights of Tenant under this Lease or to cure any default by Tenant hereunder;
  - (iii) Landlord shall not terminate this Lease due to any default by Tenant if within \_\_\_\_\_ days following the expiration of the period of time within which Tenant has the right to cure such default, such sublessee or its mortgagees commence to cure such default and proceed diligently to effect such cure, and such default is remedied within \_\_\_\_\_ days after said commencement or within such additional time as is reasonably necessary to accomplish the remedy, provided that the interests of Landlord are not materially adversely affected by the delay;
  - (iv) In the event of the termination of tenant's responsibilities under this Lease for any reason, Landlord will attorn to such sublessee, for the benefit of the sublessee and its leasehold mortgagees, and will recognize the sublease and the rights and interests of the sublessee and its mortgagees thereunder;
  - (v) Landlord will, within \_\_\_\_\_ days after written request from Tenant or any such sublessee or mortgagee of a sublessee, sign an appropriate Subordination, Non-disturbance and Attornment Agreement, in such form as is requested by Tenant or any such sublessee or mortgagee and which is reasonably acceptable to Landlord, and pursuant to which Landlord shall agree that, so long as such sublessee does not pay rent more than \_\_\_\_\_ months in advance and agrees to attorn to Landlord in the event of a termination of this Lease, then Landlord will not disturb the possession of such sublessee so long as there is no Event of Default by the sublessee under its sublease. This provision shall be for the benefit of any sublessee and its mortgagees; and,
  - (vi) Landlord must receive written notice and a copy of any such sublease or such mortgage for same to be binding upon Landlord.
- (f) Any sale of the Premises is expressly subject to Article 20 of this Lease.
- (g) Anything herein to the contrary notwithstanding, Tenant, without Landlord's prior written consent, but otherwise subject to the foregoing conditions, may assign its lease, or sublease the Premises: to (i) any entity into which Tenant has merged or consolidated; (ii) any parent, subsidiary, successor or affiliated entity of Tenant; (iii) any entity that acquires all, or substantially all, of the assets or operations of Tenant; or, (iv) any entity, the majority interest of which shall be owned by Tenant or a parent, subsidiary, or affiliated entity of Tenant.

14. **DEFAULT**

(a) Tenant shall be in default under this Lease in the event Tenant fails to comply with any term, provision, or covenant of this Lease, and shall not cure such failure within \_\_\_\_\_ days after written notice thereof is given by Landlord to Tenant, provided that if any such default shall be a default that cannot with diligence be cured within such \_\_\_\_\_ day period, and if the cure of such default shall be promptly commenced and prosecuted with diligence, the period within which such default may be cured shall be extended for such additional period of time as may be reasonably necessary to cure such default so long as Tenant prosecutes such cure with diligence and continuity and provided the Landlord receives periodic reports with respect thereto;

(b) Upon the occurrence of Tenant's default, Landlord shall have the option to pursue any one or more of the following remedies after providing Tenant with \_\_\_\_\_ days advance written notice of Landlord's intent to pursue remedies, and subject to specific grace periods set forth herein:

- (i) Terminate this Lease.
- (ii) Without terminating this Lease, enter upon and take possession of the Premises and expel or remove Tenant and other persons who may be occupying the Premises, or any part thereof, and relet the Premises, as Tenant's agent, and receive the rent therefore; and Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of such reletting. If rents in excess of the rent due from Tenant shall be received by Landlord, Landlord shall pay such excess to Tenant; and/or
- (iii) Enter upon the Premises, and do whatever Tenant is obligated to do under the terms of this Lease and Tenant agrees to reimburse Landlord on demand for any reasonable expenses which Landlord may incur in thus effecting compliance with Tenant's obligations hereunder.

(c) At any time prior to the entry of a final decree by a court of competent jurisdiction which terminates this Lease or awards possession to Landlord, Tenant may cure any Event of Default and reinstate this Lease by the payment to Landlord of all rents and other reasonable sums owing for the period up to the date of payment, including attorneys fees, penalties, and late fees.

15. **PAYMENTS, NOTICES, AND SERVICE AGREEMENT INVOICING**

All rents payable by Tenant to Landlord hereunder shall be paid to Landlord at its address set forth below or at such other place as Landlord may hereafter designate in writing. All invoices for monthly service fees payable by Landlord to Tenant hereunder shall be deposited in the United States mail, postage prepaid and addressed to the

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or at such other place as Landlord may hereafter designate in writing. Any notice to be given or other document to be delivered by either party to the other hereunder may be delivered in person, may be transmitted by facsimile to the facsimile number set forth below, or may be deposited in the United States mail, postage prepaid, and addressed as follows:

If to Landlord  
and/or Agent

**ALABAMA DEPARTMENT OF CORRECTIONS**  
310 South Ripley Street \_\_\_\_\_  
Montgomery, Alabama 36104 \_\_\_\_\_  
Attention: \_\_\_\_\_  
Facsimile No. \_\_\_\_\_

If to Tenant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Facsimile No. \_\_\_\_\_

Either party hereto may from time to time, by written notice to the other, served in the manner herein provided, designate a different address or facsimile number.

**16. QUIET POSSESSION**

Landlord covenants that it owns or is duly authorized to manage the Premises in fee simple, subject to title exceptions disclosed to Tenant, that it has full right to make this Lease, and that if and so long as Tenant shall not be in default under the provisions of this Lease, Tenant shall quietly hold, occupy, and enjoy the Premises, in accordance with the provisions hereof, throughout the Term hereof, without hindrance, ejection, or molestation of Landlord or any party claiming under Landlord or otherwise.

**17. MORTGAGE OF LEASEHOLD**

Tenant shall have the right to subject the leasehold estate and the Improvements to one or more mortgages as security for a loan or loans or other obligation of Tenant; provided that no such mortgage shall extend to or affect the fee, the reversionary interest, or the estate of the Landlord in and to any land or building. In the event any of such leasehold mortgage, Landlord hereby agrees for the benefit of such mortgagee as follows:

- (a) Landlord shall give any such mortgagee simultaneously, with service on Tenant a duplicate of any and all notices or demands given by Landlord to Tenant at the address provided by such mortgagee;

(b) Such mortgagee shall have the right, but not the obligation, to perform any obligations or rights of Tenant under this Lease or to cure any default by Tenant hereunder;

(c) Landlord shall not terminate this Lease due to any default by Tenant if within \_\_\_\_\_ days following the expiration of the period of time within which Tenant has the right to cure such default, such mortgagee commences to cure such default and proceeds diligently to effect such cure;

(d) No right of Tenant to terminate this Lease shall be effectively exercised unless joined in by any such mortgagee.

(e) In the event of the foreclosure of any such leasehold mortgage, whether under power of sale, judicial sale, deed in lieu of foreclosure, or otherwise, Landlord will recognize the purchaser at the foreclosure sale as the successor to Tenant, subject to the terms and provisions of this Lease.

(f) Tenant must give Landlord notice and a copy of any such mortgage for same to be binding.

#### **18. SCOPE OF THE AGREEMENT**

The Ground Lease and the Service Agreement (i.e. the Contract) between the parties hereto shall be considered to be the only agreements between the parties hereto as to the subject matter hereof. All negotiations and oral agreements acceptable to both parties are included herein.

#### **19. AMENDMENT OF LEASE**

No amendment or other modification of this Lease shall be effective unless in writing, signed by the parties hereto. The ADOC reserves the right to request modifications in the requirements of the Ground Lease and Service Agreement (i.e. the Contract) such as: a) changing the Scope of Work, deliverables or time frames; b) adding or deleting tasks to be performed or equipment to be provided; and/or c) any other modification deemed necessary by the ADOC. Any changes in the Vendor's program or pricing in response to an ADOC request are subject to acceptance by the ADOC.

#### **20. VALUE OF TENANT IMPROVEMENTS, COSTS, OR LOSSES**

At the end of the Lease Term, or should the Lease be terminated for whatever reason, or should Landlord elect to be relieved of its performance of the Lease pursuant to Article 25.2 hereof, or should Landlord elect to sell the land on which the leasehold premises and plant are located (or any part thereof), during the term of the Lease, then, and in any of such events, the parties acknowledge that Tenant may file a claim with the Board of Adjustment for the State of Alabama for the recovery of the current value of improvements constructed or installed by

Tenant at the Plant, together with such other costs or losses caused Tenant by virtue of such action of Landlord.

**21. AGENT'S COMMISSION**

Tenant represents to Landlord that it has not, by virtue of any actions taken by Tenant, incurred any fees to a broker or agent. Landlord represents to Tenant that it has not, by virtue of any actions taken by Landlord, incurred any fees to a broker or agent. Each party agrees to defend, indemnify to extent allowed by State law, and hold harmless from any cost, expense, or liability, including without limitation, reasonable attorneys' fees, for any breach of the representations contained in this Article.

**22. RECORDING**

Landlord and Tenant agree to execute a recordable short form Lease complying with applicable Alabama laws and reasonably satisfactory to the attorneys for Landlord and Tenant. In no event shall such documents set forth the rental or other charges payable and shall expressly provide that it is not intended to vary the terms and conditions of this Lease. The party choosing to record such short-form lease shall pay the cost of such recording.

**23. CONSTRUCTION AND EFFECT**

Time is of the essence of this Lease. All headings herein are used only for the purpose of convenience and shall not be deemed to contain or limit the subject matter of the provisions hereof, nor be considered in the construction thereof. Each and all of the obligations, covenants, and conditions contained herein shall inure to the benefit of, and be binding upon and enforceable against, as the case may require the successors and assigns of Landlord and Tenant. In this Lease, the neuter gender includes the feminine and masculine, the singular number includes the plural, and the plural number includes the singular wherever the context so requires.

**24. NET LEASE**

This is intended to be a net Lease with all costs of every type and kind to be borne by Tenant. Accordingly, all costs of improvements, repairs, maintenance, insurance, and improvement taxes with respect to the Premises are to be borne by Tenant.

**25. MISCELLANEOUS**

25.1 The terms and commitments contained in the Contract shall not be construed as a debt of the State of Alabama in violation of Article I, Section 213 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. It is further agreed that if any provision of the Contract shall contravene any statute of the Constitution provision or amendment, either now in effect or which may, during the course of the Contract, be enacted, then that conflicting provision in the Contract shall be deemed null and void. The sole remedy for the settlement of any and all disputes arising under the terms of the Contract are by Alabama law limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

25.2 For any and all disputes arising under the terms of the Contract, the parties hereto agree, in compliance with the recommendation of the Governor and the Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative Hearings or, where appropriate, private mediators. Either party may request mediation by providing the other party with \_\_\_\_\_ days written notice of their desire to mediate. If the parties cannot agree upon a mediator, then the parties will request the Alabama Bar Association to identify the names of mediators knowledgeable in contract and utility issues. If the parties cannot choose a mediator from the list supplied by the Bar, each party will select a mediator and those two mediators will then select a mediator to hear and decide the issues in question. The parties will equally share the cost of such mediation.

Nothing in the Contract shall be construed to create an agency relationship, an employee/employer relationship, or a joint venture relationship among the parties. The parties agree that in the event that the Alabama State Legislature fails to provide the necessary appropriations for the performance of the Contract, or in the event that such appropriations are exhausted prior to the expiration of the Contract, or in the event that the State General Fund Budget goes into proration and such proration causes insufficient funds to be available for the performance of the Contract, the parties may, at either's option, be relieved of performance hereunder, upon \_\_\_\_\_ days written notice.

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Lease on the date below their signature.

**ALABAMA DEPARTMENT  
OF CORRECTIONS**

By: \_\_\_\_\_  
Kim Thomas  
It's: Commissioner

**(TENANT)**

By: \_\_\_\_\_  
(Printed Name)  
It's : \_\_\_\_\_

**STATE OF ALABAMA**

By: \_\_\_\_\_  
Robert Bentley  
Governor

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Robert Bentley, whose name as Governor of the State of Alabama is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as Governor of the State of Alabama, executed the same voluntarily on the day the same bears date for and as the act of the State of Alabama.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Kim Thomas, whose name as Commissioner of the State of Alabama Department of Corrections is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as Commissioner of the State of Alabama Department of Corrections, executed the same voluntarily on the day the same bears date for and as the act of the State of Alabama Department of Corrections.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of \_\_\_\_\_, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as aforesaid, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

# **APPENDIX B**

## SAMPLE SERVICE AGREEMENT

This Service Agreement (hereinafter referred to as “the Agreement”) entered into this the \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the Department of Corrections of the State of Alabama, (hereinafter referred to as “Department”), and \_\_\_\_\_, (hereinafter referred to as “Company”), and together referred to as “the Parties.”

### RECITALS

WHEREAS, simultaneously herewith the Company will lease the wastewater treatment and sewage disposal plant at the \_\_\_\_\_, in \_\_\_\_\_, Alabama (hereinafter referred to as “System”) from the Department pursuant to a Ground Lease (hereinafter referred to as the “Lease”), into which this Agreement is merged and specifically incorporated (collectively hereinafter referred to as “the Contract”); and,

WHEREAS, the operation, maintenance, and management of System noted above are currently being provided by an private operator under a temporary contract with the Department; and,

WHEREAS, by execution of this Agreement, the Department shall terminate its current temporary contract for operation, maintenance, and management responsibilities of the System effective on the Lease Commencement Date as defined in the Lease, and the Company hereby agrees to commence operation, maintenance, and management responsibilities of the System to be effective on the Lease Commencement Date;

NOW, THEREFORE in consideration of the foregoing premises, and the mutual conditions and covenants contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

### ARTICLE I. COMPANY OBLIGATIONS

A. General Obligations. The Company shall:

1. Lease the Plant and assume all responsibilities, obligations, and commitments associated with said Lease;
2. Operate and manage the System on a 24-hour per day, 7 day per week basis; and
3. Collect, receive and treat System Influent, discharge System Effluent, transport and dispose of System Residuals and operating wastes, control odor, invoice customers, and collect receivables for services provided, provide all information necessary to secure Governmental Approvals and otherwise manage and operate the System as to comply with Applicable Law and the terms and conditions of the Contract. Maintenance shall include the control of vegetation within the confines of the System.

ARTICLE II. RATES AND CHARGES

- A. General. The Company shall at its cost be responsible for setting rules and regulations for use of the System and instituting a program and implementing procedures for establishing and collecting fees from Customers other than the Department.
- B. Department's Monthly User Fee. The Department's initial Monthly User Fee shall be \$\_\_\_\_ per 1000 gallons of wastewater influent discharged to the System. This monthly User Fee shall be subject to escalation and increase in accordance with the following:
1. An annual increase based on the percentage increase of the Consumer Price Index (CPI) established by the Bureau of Labor and The United States Department of Labor.
  2. Changes in any local, state, or federal law or regulation on or after the Lease Commencement Date.

Escalations in monthly user fees shall in no circumstances be greater than a four percent (4%) increase over the preceding year and the resulting fee shall in no circumstances be greater than the lowest commercial/industrial rate charged to another commercial/industrial customer.

ARTICLE III. TERM

This contract shall take effect on the Lease Commencement Date and remain in effect for the same period as designated by the Lease.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have executed this Agreement on the dates appearing adjacent to their respective signatures.

**ALABAMA DEPARTMENT  
OF CORRECTIONS**

**(COMPANY)**

By: \_\_\_\_\_  
Kim Thomas  
It's: Commissioner

By: \_\_\_\_\_  
(Printed Name)  
It's : \_\_\_\_\_

**STATE OF ALABAMA**

By: \_\_\_\_\_

Robert Bentley  
Governor

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Robert Bentley, whose name as Governor of the State of Alabama is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as Governor of the State of Alabama, executed the same voluntarily on the day the same bears date for and as the act of the State of Alabama.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Kim Thomas, whose name as Commissioner of the State of Alabama Department of Corrections is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as Commissioner of the State of Alabama Department of Corrections, executed the same voluntarily on the day the same bears date for and as the act of the State of Alabama Department of Corrections.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA)

COUNTY OF \_\_\_\_\_)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of \_\_\_\_\_, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, in his capacity as aforesaid, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

# **APPENDIX C**

**VENDOR AUTHORIZATION  
TO  
SUBMIT PROPOSAL**

I/we agree to furnish the above requested services at the prices shown and guarantee that each item proposed meets or exceeds all specification, terms, conditions, and requirements listed herein.

Terms \_\_\_\_\_  
Respondent's Proposal Valid for \_\_\_\_\_ Days  
Prospective Respondent's Telephone Number: \_\_\_\_\_

I hereby affirm I have not been in any agreement or collusion among or in restraint of freedom of competition by agreement to respond at a fixed price or to refrain from responding or otherwise.

\_\_\_\_\_ Authorized Signature (ink)  
\_\_\_\_\_ Authorized Name (typed)  
\_\_\_\_\_ Title of Authorized Person

Company Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
FEIN or SSN# \_\_\_\_\_  
Date: \_\_\_\_\_

Sworn to and subscribed before me and given under my hand an official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_