

**TERM CONTRACT  
Y16-1095-MR  
FLYGT PUMPS, PARTS AND REPAIRS**

This contract is made as of the 1<sup>st</sup> day of August, 2016 by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and Xylem Water Solutions USA, Inc., a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. number is 452080074.

**GENERAL TERMS AND CONDITIONS**

**1. GENERAL INFORMATION**

This contract, these general and special terms and conditions, and the specifications/scope of services constitute the complete set of specifications and requirements. All work shall be performed in accordance with said specifications/scope of services. The estimated contract amount is \$3,000,000.00 for the initial three (3) year contract term.

**2. FEDERAL AND STATE TAX**

The COUNTY is exempt from Federal and State Sales and Use Taxes for tangible personal property (Certificate of Registry for tax transactions under Chapter 32, Internal Revenue Code and Florida Sales/Use Tax Exemption Certificate). The CONTRACTOR shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the COUNTY, nor shall the CONTRACTOR be authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The COUNTY has the following tax exemption certificates assigned.

- A. Certificate of Registry No. 59-70-004K for tax free transactions under Chapter 32, Internal Revenue Code;
- B. Florida Sales and Use Tax Exemption Certificate No. 58-12-090729-53C.

**3. CONFLICT OF INTEREST**

This contract is subject to provisions of applicable State Statutes and County Ordinances. The CONTRACTOR must disclose the name of any officer, director, or agent who is also an employee of the COUNTY. Further, the CONTRACTOR must disclose the name of any COUNTY employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the CONTRACTOR'S firm or any of its branches.

Should the CONTRACTOR permanently or temporarily hire any COUNTY employee who is, or has been, directly involved with the CONTRACTOR prior to or during performance of the contract, the contract shall be subject to immediate termination by the COUNTY.

**4. LEGAL REQUIREMENTS**

Federal, State, County and local laws, ordinances, rules and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the CONTRACTOR shall in no way be a cause for relief from responsibility. The CONTRACTOR is prohibited from discriminating against any employees, applicant, or client because of race, religion, color, disability, national origin, gender, or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.

Venue for any litigation involving this contract shall be the Ninth Circuit Court in and for Orange County, Florida.

**5. UNIFORM COMMERCIAL CODE**

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the CONTRACTOR and the COUNTY for any terms and conditions not specifically stated in this contract.

**6. AVAILABILITY OF FUNDS**

The obligations of the COUNTY under this contract are subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the Board of County Commissioners.

**7. EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the COUNTY'S policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONTRACTOR shall abide by the following provisions:

- (a) The CONTRACTOR shall represent that the CONTRACTOR has adopted and maintains a policy of nondiscrimination as defined by applicable COUNTY ordinance throughout the term of this contract.
- (b) The CONTRACTOR shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.
- (c) The provisions of the prime contract shall be incorporate by the CONTRACTOR into the contracts of any applicable subcontractors.

8. **COPIES**

Copies of documents, records, materials, and/or reproductions upon request will be charged in accordance with the COUNTY'S fee schedule. Copyrighted materials may be inspected, but cannot be copied or reproduced per Federal law.

9. **PAYMENT TERMS/DISCOUNTS**

The COUNTY'S payment terms are in accordance with Florida Statute 218, Florida Prompt Payment Act.

10. **PATENTS AND ROYALTIES**

Unless otherwise provided, the CONTRACTOR shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of the contract.

The CONTRACTOR, without exception, shall indemnify and save harmless the COUNTY and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or supplied by the CONTRACTOR. In the event of any claim against the COUNTY of copyright or patent infringement, the COUNTY shall promptly provide written notification to the CONTRACTOR.

If such a claim is made, the CONTRACTOR shall use its best efforts to promptly purchase for the COUNTY any infringing products or services or procure a license, at no cost to the COUNTY, which will allow continued use of the service or product. If none of the alternatives are reasonably available, the COUNTY agrees to return the article on request to the CONTRACTOR and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.

11. **INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY**

The provisions of Florida Statute 768.28 applicable to the COUNTY apply in full to this contract. Any legal actions to recover monetary damages in tort for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the COUNTY acting within the scope of his/her office or employment are subject to the limitations specified in this statute.

No officer, employee or agent of the COUNTY acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for injury or damage suffered as a result of any act, event or failure to act.

The COUNTY shall not be liable in tort for the acts or omissions of an officer, employee or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONTRACTOR or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

**12. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The CONTRACTOR certifies that in connection with this procurement, all prices have been arrived at independently, without consultation, collusion, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any competitor.

**13. SUCCESSORS AND ASSIGNS**

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this contract.

Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, not shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

**14. TOBACCO FREE CAMPUS**

**Effective January 1, 2010, virtually all Orange County operations under the Board of County Commissioners will effectively become tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.**

**15. CONTRACT CLAIMS**

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a CONTRACTOR against the COUNTY relating to a particular contract shall be submitted to the Purchasing and Contracts Manager in writing clearly labeled "Contract Claim" requesting a final decision. The CONTRACTOR or also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the CONTRACTOR believes the COUNTY is liable; and that I am duly authorized to certify the claim on behalf of the CONTRACTOR."

**Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.**

The decision of the Purchasing and Contracts Manager shall be issued in writing and shall be furnished to the CONTRACTOR. The decision shall state the reasons for the decision reached. The Purchasing and Contracts Manager shall render the final decision within sixty (60) days after receipt of CONTRACTOR'S written request for a final decision. The Purchasing and Contracts Manager's decision shall be final and conclusive.

The CONTRACTOR shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of Purchasing and Contracts.

**16. LAWS AND REGULATIONS**

The CONTRACTOR is directed to the fact that all applicable Federal and State laws, municipal and COUNTY ordinances, and the rules and regulation of all authorities having jurisdiction shall apply to this contract.

## **SPECIAL TERMS AND CONDITIONS**

### **1. LICENSES AND PERMITS**

Prior to furnishing the requested product(s) or service(s), it shall be the responsibility of the CONTRACTOR to obtain, at no additional cost to the COUNTY, any and all licenses and permits required to complete this contractual service. These licenses and permits shall be readily available for review by the Manager, Purchasing and Contracts Division or his/her designee.

### **2. F.O.B. POINT**

The F.O.B. shall be Destination in Orange County. The prices quoted for each purchase shall include all costs of packaging, transporting, delivery and unloading to the stated point within Orange County. The COUNTY reserves the option to deliver to and pickup from the CONTRACTOR pumps, parts and repaired pumps or items.

### **3. DELIVERY**

Delivery time is of the essence in this contract. Delivery shall be no later than the delivery times as stated below. Failure of the CONTRACTOR to meet this delivery requirement may result in default. It is hereby understood and mutually agreed to by and between the parties hereto that the time of delivery is an essential condition of this contract.

Pumps that are in stock locally, 1 day delivery.

Pumps that are not in stock locally, but within the United States, 10 day delivery.

Pumps that are not in stock within the United States, under 88hp 10 weeks.

Over 88hp 14 weeks, normal factory delivery.

### **4. PICKUP OF PUMPS FOR REPAIR**

When requested by the COUNTY, pumps in need of repair shall be picked up within two (2) business days from notification from the following locations:

701 W. McCormick Rd., Apopka, FL

8100 Presidents Dr., Orlando, FL

1621 S. Alafaya Tr., Orlando, FL

The CONTRACTOR shall submit to the COUNTY an itemized estimate of the repair costs within three (3) business days of pump pickup to include an estimated delivery date of the repaired pump.

### **5. TERMINATION**

#### **A. Termination for Default:**

The COUNTY, by written notice to the CONTRACTOR, may terminate this contract for default in whole or in part (delivery orders, if applicable) if the CONTRACTOR fails to:

1. provide products or services that comply with the specifications herein or fails to meet the COUNTY'S performance standards.
2. deliver the supplies or to perform the services within the time specified in this contract or any extension.
3. make progress so as to endanger performance of this contract.
4. perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONTRACTOR through the Manager, Purchasing and Contracts, affording him/her the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONTRACTOR in accordance with the COUNTY'S Procurement Ordinance. The CONTRACTOR and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONTRACTOR'S default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONTRACTOR will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the vendor shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work
- C. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the County.
- D. Continue and complete all parts of that work that have not been terminated.

If the CONTRACTOR'S failure to perform the contract arises from causes beyond the control and without the fault or negligence of the CONTRACTOR, the contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.

B. Termination for Convenience:

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the COUNTY'S interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY'S Notice of Termination may provide the contractor thirty (30) days prior notice before it becomes effective.

However, at the COUNTY'S sole option, a termination for convenience may be effective immediately and may apply to delivery orders (if applicable) or to the contract in whole.

6. **AS SPECIFIED**

All product delivered must meet the specifications herein. Product delivered not as specified will be returned at no expense by the COUNTY. The COUNTY may return, for full credit any unused product received which fail to meet the COUNTY'S performance standards. Replacement product meeting specifications must be submitted within a reasonable time after rejection of the non-conforming product.

7. **COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH**

CONTRACTOR certified that all material, equipment, etc., contained in this contract meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc., into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

8. **SAFETY REGULATIONS**

Equipment must meet all State and Federal safety regulations for grounding of electrical equipment.

9. **PAYMENT**

Partial payments in the full amount for the value of items received and accepted may be requested by the submission of a properly executed invoice, with supporting documents id required. Payment shall be made in accordance with Florida Statute 218, Florida Prompt Payment Act. Payment for accepted equipment/supplies/services will be accomplished by submission of an invoice, in duplicate, to:

Orange County Utilities  
Field Services Division  
8100 Presidents Drive.  
Orlando, FL 32809  
Phone: (407) 836-6829

**10. EQUIPMENT/SERVICE**

- A. The scope of these specifications is to insure the delivery of a complete unit ready for operation. Omission of any essential detail from these specifications does not relieve the CONTRACTOR from furnishing a complete unit.
- B. All equipment must be new, or current manufacturer in production and carry standard warranties. The CONTRACTOR must service all equipment prior to delivery.
- C. The CONTRACTOR must be an authorized dealer, distributor, and/or representative of the manufacturer for the brand/model being bid. Dealer, distributor, and/or representative means a firm or person that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, parts, articles, or equipment of the general character described in the specifications are bought, kept in stock and sold commercially or to the general public in the usual course of business.
- D. The CONTRACTOR must maintain a normal supply of repair parts and be equipped with personnel and facilities to provide such service as necessary to keep the equipment in operation with a minimum of delay. Failure to meet and maintain these requirements, in the COUNTY'S sole opinion, may be cause for contract termination.

**11. WARRANTY**

The CONTRACTOR shall fully warrant all new equipment furnished hereunder against defect in materials and/or workmanship for a period of five (5) years or 10,000 hours after delivery and acceptance by the COUNTY. Should any defect in materials or workmanship, except ordinary wear and tear, appear during the above stated warranty period, the CONTRACTOR shall repair or replace same at no cost to the COUNTY, immediately upon written notice from the COUNTY'S authorized representative.

The CONTRACTOR shall fully warrant all parts for a period of one (1) year from delivery and acceptance in accordance with the manufacturer's warranty.

The CONTRACTOR shall fully warrant all repairs against defect in materials and/or workmanship for a period of one (1) year from delivery and acceptance.

All warranty provisions of the Uniform Commercial Code shall additionally apply.

**12. MANUALS**

The following manual shall be delivered with each piece of new equipment and be available on CD and/or online. The cost of the manual shall be included in the unit price.

Operation and Maintenance Manual      1 copy

### 13. INSURANCE REQUIREMENTS

CONTRACTOR agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the COUNTY'S review or acceptance of insurance maintained by CONTRACTOR is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by CONTRACTOR under this contract.

The CONTRACTOR shall require and ensure that each of its sub-contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

***(Note: State licenses can be checked via [www.floir.com/companysearch/](http://www.floir.com/companysearch/) and A.M. Best Ratings are available at [www.ambest.com](http://www.ambest.com))***

Required Coverage:

1. Workers' Compensation - The CONTRACTOR shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the COUNTY. **Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any CONTRACTOR using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).**
2. Commercial General Liability - The CONTRACTOR shall maintain coverage issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with a limit of liability of not less than \$500,000 per occurrence. CONTRACTOR further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.
3. Business Automobile Liability - The CONTRACTOR shall maintain coverage for all owned; non-owned and hired vehicles issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with limits of not less than \$500,000 per accident. In the event the CONTRACTOR does not own automobiles the CONTRACTOR shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

By entering into this contract CONTRACTOR agrees to provide a waiver of subrogation or waiver of transfer of rights of recovery, in favor of the COUNTY for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

CONTRACTOR agrees to endorse the COUNTY as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners.

Any request for an exception to these insurance requirements must be submitted in writing to the COUNTY for approval.

Prior to execution and commencement of any operations/services provided under this contract the CONTRACTOR shall provide the COUNTY with current certificates of insurance evidencing all required coverage. **In addition to the certificate(s) of insurance the CONTRACTOR shall also provide a blanket (Exhibit B) or specific (Exhibit C) Additional Insured Endorsement and all Waiver of Subrogation (Exhibit D) or Waiver of Transfer of Rights of Recovery (Exhibit E) endorsements for each policy as required above.** For continuing service contracts renewal certificates shall be submitted upon request by either the COUNTY or its certificate management representative. The certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Certificates shall specifically reference the respective contract number. The certificate holder shall read:

Orange County Board of County Commissioners  
Purchasing & Contracts Division  
400 E. South Street  
Orlando, Florida 32801

**14. CONTRACT TERM/RENEWAL**

- A. This contract shall commence effective upon issuance of a term contract by the COUNTY and extend for a period of three (3) years. The contract may be renewed for two (2) additional one (1) year periods, upon mutual agreement of both parties. If any such renewal results in changes in the terms or conditions, such changes shall be reduced to writing as an amendment to this contract and such amendment shall be executed by both parties. Renewal of the contract shall be subject to appropriation of funds by the Board of County Commissioners.

- B. The initiating COUNTY department(s) shall issue delivery (purchase) orders against the term contract on an "as needed" basis.
- C. Any order issued during the effective period of this contract, but not completed within that period, shall be completed by the CONTRACTOR within the time specified in the order. The contract shall govern the CONTRACTOR'S and the COUNTY'S rights and obligations with respect to that order to the extent as if the order were completed during the contract's performance period.

**15. PRICING/INVOICING**

The CONTRACTOR shall have a published price list for all available pumps and parts. The CONTRACTOR shall list a percentage discount off of the published price list for pump and parts purchases on the price proposal page of this contract. The COUNTY requires a firm percentage discount for all pumps and parts for the entire contract period. Pricing is not required until a specific pump or part is ordered. Price lists may be updated annually. Price lists for pumps and parts shall be provided to the COUNTY on CD.

Pricing on invoices shall be accomplished by listing the pump or part and the list price of that pump or part, the discount percentage and dollar amount of the discount and the net price to be paid for the pump and/or parts being invoiced.

**16. PRICING/AUDIT**

The CONTRACTOR shall maintain adequate records to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in performing the work for at least three (3) years after completion of this contract. The COUNTY shall have access to such books, records, subcontract, financial operations, and documents of the CONTRACTOR or its subcontractors as required to comply with this section for the purpose of inspection or audit during normal business hours at the CONTRACTOR'S place of business.

**17. PRICE ADJUSTMENT**

Written request for price adjustments **for labor only**, may be made every twelve (12) months, no less than 30 days prior to the requested effective date. Any increased price adjustment(s) must be accompanied by written justification attesting that the request is a bonafide cost increase to the vendor. The base period for any requested adjustment shall be the beginning of the latest period during which an adjustment may have been made. For example, if annual adjustments may be requested under a three-year contract and none is requested after the first two years, the base period for an adjustment effective the third year shall be the beginning of the second year. All requests for price adjustment(s) shall be supported by Consumer Price Index and/or Producer Price Index documentation supporting the requested increase. **The maximum allowable increase shall not exceed 4%.** All price adjustments must be accepted by the Manager, Purchasing and Contracts Division and shall be accomplished by written amendment to this contract.

**18. USE OF CONTRACT BY OTHER GOVERNMENT AGENCIES**

At the option of the CONTRACTOR, the use of this contract may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties, and cities.

Each governmental agency allowed by the CONTRACTOR to use this contract shall do so independent of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods or services ordered, received and accepted. No agency receives any liability by virtue of this bid and subsequent contract award.

**19. SALVAGEABLE PARTS**

When a pump is determined to be beyond reasonable repair, the COUNTY reserves the right to request that any and all salvageable parts from the broken pump be returned to the COUNTY.

**20. REQUIREMENTS CONTRACT**

This is a Requirements Contract and the COUNTY shall order from the CONTRACTOR all of the supplies and/or services specified in the contract's price schedule that are required to be purchased by the COUNTY. If the COUNTY urgently requires delivery of goods or services before the earliest date that delivery may be required under this contract, and if the CONTRACTOR will not accept an order providing for accelerated delivery, the COUNTY may acquire the goods or services from another source.

Except as this contract may otherwise provide, if the COUNTY'S requirements do not result in orders in the quantities described as "estimated" in the contract's price schedule, that fact shall not constitute the basis for an equitable adjustment.

## **SPECIFICATIONS/SCOPE OF SERVICES**

### **COMPLIANCE WITH SPECIFICATIONS**

The CONTRACTOR shall strictly adhere to the Orange County Utilities Standards and Construction Specifications Manual, latest edition. This manual may be found on-line at the following internet address:

<http://www.orangecountyfl.net/PlanningDevelopment/UtilitiesPlanningandConstruction.aspx>

### **PUMPS**

The CONTRACTOR shall provide Flygt pumps of the size and configuration as required and ordered by the COUNTY.

### **PARTS**

The CONTRACTOR shall keep an ample inventory of high use parts to ensure parts availability. The CONTRACTOR shall provide a parts list on CD with pricing and the percentage discount off of the list price for all parts.

### **REPAIRS**

The CONTRACTOR shall provide repairs to Flygt pumps at the CONTRACTOR'S repair facility. Repairs shall be made using original equipment manufacturer parts and shall be accomplished by factory trained technicians.

### **PRICING FOR PUMPS AND PARTS**

The graduated pricing discount for pumps and parts shall be cumulative. Annual sales shall be regarded as contract year sales.

## PRICE PROPOSAL FORM

The CONTRACTOR shall provide the COUNTY Flygt pumps, parts, and repairs including all labor and other resources necessary to provide the equipment and/or services as set forth in the specifications/scope of services contained herein for the percentage discount from manufacturer's published list price and prices stated on this price proposal form.

<u>Item#</u>	<u>Description</u>	<u>Unit Price/% Discount</u>
1.	Pumps as specified:	5% for annual sales up to \$500,000 7.5% for annual sales from \$500,001 to \$750,000 10% for annual sales over \$750,000
2.	Parts	5% for annual sales up to \$500,000 7.5% for annual sales from \$500,001 to \$750,000 10% for annual sales over \$750,000
3.	Hourly labor rate for repairs	<u>\$80.00 per hour</u>
4.	Environmental Fee	
	1 to 10 HP	<u>\$35.00 each</u>
	11 to 50 HP	<u>\$55.00 each</u>
	Greater than 50 HP	<u>\$73.00 each</u>
5.	Lubricants and Materials	
	1 to 10 HP	<u>\$28.00 each</u>
	11 to 50 HP	<u>\$41.00 each</u>
	Greater than 50 HP	<u>\$66.00 each</u>
6.	Flange Drilling	<u>\$165.00 each</u>

**IN WITNESS WHEREOF**, the Board of County Commissioners of Orange County, Florida has made and executed this contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

CONTRACTOR:

ORANGE COUNTY, FLORIDA

Xylem Water Solutions USA Inc  
Company Name

By:   
Carrie Woodell MPA, CPPO, CFCM, C.P.M.  
Manager, Procurement Division

  
Signature

8-9-16  
Date

Frank Jones  
Typed Name

Regional Manager  
Title

7/28/16  
Date

**THE FOLLOWING SECTION MUST BE COMPLETED BY ALL BIDDERS:**

Company Name: Xylem Water Solutions USA, Inc

**NOTE: COMPANY NAME MUST MATCH LEGAL NAME ASSIGNED TO TIN  
NUMBER. CURRENT W9 MUST BE SUBMITTED WITH BID.**

TIN#: 45-2080074 D-U-N-S® # \_\_\_\_\_

14125 South Bridge Circle Charlotte  
(Street No. or P.O. Box Number) (Street Name) (City)

Mecklenburg North Carolina 28273  
(County) (State) (Zip Code)

Contact Person: Frank Jones

Phone Number: 407-880-2900 Fax Number: 407-880-2962

Email Address: frank.jones@xyleminc.com

**EMERGENCY CONTACT**

Emergency Contact Person: Tommy Ortiz

Telephone Number: 407-880-2900 Cell Phone Number: 239-825-8615

Residence Telephone Number: N/A Email: tommy.ortiz@xyleminc.com

**ACKNOWLEDGEMENT OF ADDENDA**

The Bidder shall acknowledge receipt of any addenda issued to this solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the bid. Failure to acknowledge an addendum that has a material impact on this solicitation may negatively impact the responsiveness of your bid. Material impacts include but are not

limited to changes to specifications, scope of work/services, delivery time, performance period, quantities, bonds, letters of credit, insurance, or qualifications.

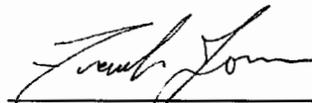
Addendum No. \_\_\_\_\_, Date \_\_\_\_\_ Addendum No. \_\_\_\_\_, Date \_\_\_\_\_

Addendum No. \_\_\_\_\_, Date \_\_\_\_\_ Addendum No. \_\_\_\_\_, Date \_\_\_\_\_

AUTHORIZED SIGNATORIES/NEGOTIATORS

The Bidder represents that the following **principals** are authorized to sign bids, negotiate and/or sign contracts and related documents to which the bidder will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

<u>Name</u>	<u>Title</u>	<u>Telephone Number/Email</u>
<u>Frank Jones</u>	<u>Reg Direct Sales Mgr Fl</u>	<u>407-880-2900 frank.jones@xyleminc.com</u>

	<u>7/28/16</u>
(Signature)	(Date)

Regional Direct Sales Manager Florida  
(Title)

Xylem Water Solutions USA, Inc  
(Name of Business)

The Bidder shall complete and submit the following information with the bid:

**Type of Organization**

Sole Proprietorship     Partnership     Non-Profit  
 Joint Venture     Corporation

**State of Incorporation:** North Carolina

Principal Place of Business (Florida Statute Chapter 607): Apopka/Orange/Florida  
City/County/State

**THE PRINCIPAL PLACE OF BUSINESS SHALL BE THE ADDRESS OF THE BIDDER'S PRINCIPAL OFFICE AS IDENTIFIED BY THE FLORIDA DIVISION OF CORPORATIONS.**

Federal I.D. number is 45-2080074

**DRUG-FREE WORKPLACE FORM**

The undersigned Bidder, in accordance with Florida Statute 287.087 hereby certifies that Xylem Water Solutions USA, inc does:

Name of Business

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Florida Statute 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs 1 thru 5.

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

  
\_\_\_\_\_  
Bidder's Signature

7/28/16  
\_\_\_\_\_  
Date

**SCHEDULE OF SUBCONTRACTING**

**IFB NO. Y16-1095-MR**

As specified in the General Terms and Conditions and the Bid Preference Clause in the Special Terms and Conditions, bidders are to present the details of subcontractor participation.

Name Of Subcontractor	Is the SubContractor a Certified M/WBE with Orange County Government?	Address	Type of Work to be Performed	Percent and dollar amount of Contract Amount to be Subcontracted

Company Name: \_\_\_\_\_

**CONFLICT/NON-CONFLICT OF INTEREST STATEMENT**

**CHECK ONE**

To the best of our knowledge, the undersigned bidder has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

**OR**

The undersigned bidder, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

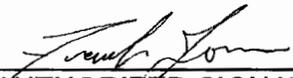
**LITIGATION STATEMENT**

**CHECK ONE**

The undersigned bidder has had no litigation and/or judgments entered against it by any local, state or federal entity and has had no litigation and/or judgments entered against such entities during the past ten (10) years.

The undersigned bidder, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation and/or judgments entered by or against any local, state or federal entity, by any state or federal court, during the past ten (10) years.

Xylem Water Solutions USA, Inc  
\_\_\_\_\_  
COMPANY NAME

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE

Frank Jones  
\_\_\_\_\_  
NAME (PRINT OR TYPE)

Regional Direct Sales Manager Florida  
\_\_\_\_\_  
TITLE

Failure to check the appropriate blocks above may result in disqualification of your bid. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation and/or judgments, may result in disqualification of your bid.

## E VERIFICATION CERTIFICATION

Contract No.Y16-1095-MR

I hereby certify that I will utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing the use of the system to confirm the employment eligibility of the individuals classified below. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida statutes.

All persons, including subcontractors and their workforce, who will perform work under **Contract No.Y16-1095-MR, Flyght Pumps, Parts and Repairs**, within the state of Florida.

NAME OF CONTRACTOR: Xylem Water Solutions USA, inc

ADDRESS OF CONTRACTOR: 2152 Sprint Blvd

Apopka, FL 32703

AUTHORIZED SIGNATURE:  \_\_\_\_\_

TITLE: Regional Direct Sales Manager Florida

DATE: 7/28/16