

**AMENDED AND RESTATED AGREEMENT**  
**Between**  
**TOHOPEKALIGA WATER AUTHORITY**  
**And**  
**USSI, LLC**  
**For**  
**IN-FLOW ABATEMENT SERVICES**  
(IFB-20-076)

**THIS AMENDED AND RESTATED AGREEMENT FOR IN-FLOW ABATEMENT SERVICES** (the “Agreement”) is made and entered into between Tohopekaglia Water Authority, an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, whose mailing address is 951 Martin Luther King Blvd., Kissimmee, Florida 34741 (“Toho”) and USSI, LLC, a Florida limited liability company, whose mailing address is 752 Commerce Drive, Suite 15, Venice, Florida 34292 (the “Contractor”). Toho and the Contractor may be individually referred to as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on May 27, 2020, Toho and the Contractor entered into that certain agreement for the provision of in-flow abatement services, in accordance with the IFB-20-076 solicitation (the “Original Agreement”); and

**WHEREAS**, the Original Agreement provided for an overall award of \$500,000 for the term of the Original Agreement, which expires on May 12, 2023, with the option for the Parties to extend the term for one additional 2-year period; and

**WHEREAS**, on May 11, 2022, Toho’s Board of Supervisors (the “Board”) approved the First Amendment to the Original Agreement, which provided, in part, revising the unit price list set forth in the Original Agreement; and

**WHEREAS**, on December 14, 2022, the Board approved Addendum #1 to the Original Agreement to increase the contract award by an additional \$545,369.20 (Five Hundred Forty-Five Thousand, Three Hundred Sixty-Nine Dollars and 20/100) for a total not to exceed award amount of \$1,045,369.20 (One Million, Forty-Five Thousand, Three Hundred Sixty-Nine Dollars 20/100) for the term of the Agreement; and

**WHEREAS**, the Parties have agreed to extend the term of the Original Agreement for the one additional 2-year period, through May 12, 2025; and

**WHEREAS**, the Parties acknowledge the potential confusion caused by the execution of the First Amendment and Addendum #1 to the Original Agreement; and

**WHEREAS**, the Parties have agreed to enter into this Agreement to amend and restate the terms and conditions provided in the Original Agreement, the First Amendment, and Addendum #1, as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and consideration, as mutually deemed acceptable by the Parties, the Parties agree as follows:

1. **RECITALS.** The above recitals are true and correct and incorporated as a material to form a material part of this Agreement.

2. **TERM.** The effective date of this Agreement shall be retroactive to May 13, 2020, in accordance with the Original Agreement, and shall continue through May 13, 2025, unless otherwise terminated by either Party.

3. **SCOPE OF SERVICES.** The Contractor shall provide those services and access, as set forth in Exhibit "A" (collectively the "Services"), based upon the unit prices, as set forth in Exhibit "B." Copies of both Exhibit "A" and Exhibit "B" are attached and incorporated by this reference.

4. **OBLIGATIONS OF CONTRACTOR.** Obligations of the Contractor shall include, but not be limited to, the following:

- A. The Contractor shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the Services required by Toho. The Contractor shall not have the authority to create, or cause to be filed, any liens for labor and/or material on, or against, Toho, or any property owned by Toho. Any such lien, attachment, or encumbrance, until removed, shall preclude any and all claims or demand by the Contractor for any payment expected by virtue of this Agreement.
- B. The Contractor will ensure that all of its employees, agents, subcontractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set forth herein, when providing Services for Toho under this Agreement.
- C. The Contractor shall be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to complete the work, properly and fully, as set forth in the Scope of Services.

- D. The Contractor shall maintain an adequate and competent staff and shall remain authorized to do business in the State of Florida for the term of this Agreement, including renewals. The Contractor may subcontract the Services requested by Toho, with prior written approval from Toho; however, the Contractor shall remain fully responsible for the satisfactory completion of all subcontracted work.

**5. STANDARD OF CARE.**

- A. The Contractor has represented to Toho that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the Services provided under this Agreement. By executing this Agreement, the Contractor agrees that the Contractor will exercise that degree of care, knowledge, skill, and ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The Contractor shall perform the requested Services in an efficient manner, consistent with Toho's stated Scope of Services and industry standards.
- B. The Contractor covenants and agrees that it and its employees, agents, subcontractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

**6. COMPENSATION.**

- A. The amount paid under this Agreement for acceptable performance of Services, as more specifically described in Exhibit "A," shall be based upon the unit rates set forth in Exhibit "B" and shall not exceed \$1,045,369.20 (One Million Forty-Five Thousand, Three Hundred Sixty-Nine Dollars and 20/100) for the term of the Agreement.
- B. Compensation for Services completed by the Contractor under this Agreement shall be paid in accordance with Section 218.70, Florida Statutes, Florida's Prompt Payment Act.
- C. Services performed in accordance with this Agreement are subject to the annual appropriation of funds by Toho. Toho reserves the right, in its sole discretion, to forego use of the Contractor for any project that may fall within the Scope of Services, as set forth in Exhibit "A." In the event Toho is not satisfied with the Services performed by the Contractor, Toho will hold any amounts due until the Contractor has appropriately addressed the problem to Toho's satisfaction, in its sole discretion.

7. **TERMINATION FOR CONVENIENCE.** Toho may terminate this Agreement, without cause, upon 30 days written notice to the Contractor prior to the effective date of such termination. The Contractor shall cease work in accordance with the directions set forth in the notice or, if the notice is silent, on the effective date of termination.

8. **TERMINATION FOR CAUSE.** Toho may terminate this Agreement, without further obligation, upon written notice to the Contractor, if the Contractor breaches any material term of the Agreement and such breach remains uncured for 30 days after receipt of said notice.

9. **PAYMENT WHEN SERVICES ARE TERMINATED.**

- A. In the event of termination of this Agreement by Toho, and not due to the fault of the Contractor, Toho shall compensate the Contractor for all authorized Services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the Contractor, or at the written request of the Contractor, Toho shall compensation the Contractor for all authorized Services completed prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to Toho. All such payments shall be subject to an offset for any damages incurred by Toho resulting from any delay occasioned by early termination. The Contractor shall in no way construe this provision as Toho's sole available remedy in the event of breach by the Contractor.

10. **INSURANCE.**

- A. The Contractor shall procure and maintain the following types of insurance, with the respective limits indicated below, and shall provide evidence of the same to Toho, in the form of Certificates of Insurance, prior to the start of any work hereunder:
  - 1) **Worker's Compensation:** The Contractor shall provide Workers' Compensation coverage for all employees at the site location and, in the case any work is subcontracted, shall require the subcontractor to provide Workers' Compensation coverage for all its employees. The limits shall be in accordance with the limits set forth in Florida Statutes and \$1,000,000 (One Million Dollars) for Employer's Liability.
  - 2) **Commercial General Liability:** The Contractor shall provide for all operations including, but not limited to, Contractual and Products Completed Operations. The limits shall not be less than \$1,000,000 (One Million Dollars).

- 3) **Comprehensive Automobile Liability:** The Contractor shall provide coverage for all owned and non-owned vehicles with limits not less than \$1,000,000 (One Million Dollars).
  - 4) **Umbrella Liability:** The Contractor shall provide an umbrella policy in excess to the coverage provided for in the above paragraphs of not less than \$1,000,000 (One Million Dollars).
- B. The Contractor shall name “Tohopekaliga Water Authority” as a certificate holder and as an additional insured, to the extent of the Services provided hereunder, on all required insurance policies, except for Workers’ Compensation policies, and provide Toho with proof of the same.
- C. The Contractor, and any authorized subcontractor(s), shall provide Toho’s Procurement Services with a Certificate of Insurance evidencing such coverage for the duration of the Agreement, including renewals. The Certificate of Insurance shall be dated and include:
- 1) The name of the insured Contractor;
  - 2) The specified job by name and job number;
  - 3) The name of the insurer;
  - 4) The number of the policy;
  - 5) The effective date;
  - 6) The termination date;
  - 7) A statement that the insurer will mail notice to Toho at least 30 days prior to any material changes in the provisions or cancellation of the policy; and
  - 8) A waiver of subrogation in favor of Toho.
  - 9) Coverage shall be primary and non-contributory.
- D. Receipt of certificates or other documentation of insurance or policies, or copies of policies, by Toho or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the Contractor’s obligation to fulfill the insurance requirements specified herein.
- E. The Contractor shall ensure that any subcontractor(s), which hired to perform an of the duties contained in the Scope of Services of this Agreement, procure and maintain the same insurance, in accordance with the requirements set forth herein. In addition, the Contractor shall maintain proof of the same on file and make the same readily available to Toho upon request.

**11. TOHO OBLIGATIONS.** At the Contractor’s request, Toho agrees to provide, at no cost to Toho, all pertinent information known to be available to Toho to assist the Contractor in providing and performing the Services required under this Agreement.

12. **APPLICABLE LAW, VENUE, JURY TRIAL.** The laws of the State of Florida shall govern all aspects of this Agreement. In the event it becomes necessary for either Party to initiate legal action regarding this Agreement, venue shall lie in Osceola County, Florida. Each Party Parties hereby waives their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the Parties hereto.

In all respects, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to any choice of law or rules thereof that may direct the application of the laws of another jurisdiction.

**13. PUBLIC RECORDS COMPLIANCE.**

**A. If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this Agreement, contact the custodian of public records at the following:**

Records Retention  
951 Martin Luther King Blvd.  
Kissimmee, Florida 34741  
(407) 483-3822  
[publicrecordsrequests@tohowater.com](mailto:publicrecordsrequests@tohowater.com)

- B. The Contractor understands that by virtue of this Agreement all of its documents, records, and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If Contractor shall act on behalf of Toho, as provided under Section 119.011(2), Florida Statutes, as amended, the Contractor, subject to the terms of Section 287.058(1)(c), Florida Statutes, as amended, and any other applicable legal and equitable remedies, shall:
- 1) Keep and maintain public records that ordinarily and necessarily would be required by Toho in order to perform the Services; and
  - 2) Provide the public with access to public records on the same terms and conditions that Toho would provide the records and at a cost that does not exceed the cost provided by Florida law; and
  - 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
  - 4) Meet all requirements for retaining public records and transfer, at no cost, to Toho all public records in possession of the Contractor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All

records stored electronically must be provided to Toho in a format that is compatible with the information technology systems of Toho; and

- 5) If the Contractor does not comply with a public records request, Toho shall enforce the contract provisions, in accordance with this Agreement.

**14. INDEPENDENT CONTRACTOR.** This Agreement does not create an employee/employer relationship between the Parties. It is the Parties' intention that the Contractor, its employees, subcontractors, representatives, volunteers, and the like, will be an independent contractor, and not an employee of Toho for the purposes including, but not limited to, application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments; the Federal Insurance Contribution Act; the Social Security Act; the Federal Unemployment Tax Act; the provisions of the Internal Revenue Code; the State of Florida revenue and taxation laws; the State of Florida's Workers' Compensation laws; the State of Florida unemployment insurance laws; and the Florida Retirement System benefits. The Contractor will retain sole and absolute discretion in the judgment regarding the manner and means of carrying out the Contractor's activities and responsibilities under this Agreement.

**15. APPLICABLE LICENSING.** The Contractor, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required for successfully providing the Services set forth herein.

**16. COMPLIANCE WITH ALL LAWS.** The Contractor, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, Toho, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or as adopted at any time following the execution of this Agreement.

**17. INDEMNIFICATION.** To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless Toho, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees, and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever, arising directly or indirectly out of or caused, in whole or 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.

**18. SOVEREIGN IMMUNITY.** Toho expressly retains all rights, benefits, and immunities of sovereign immunity, in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any paragraph, section, or article of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of the sovereign immunity or the limits of liability, which may have been or may be adopted by the Florida Legislature, and the cap on the amount and type of liability of Toho for damages, attorney fees, and costs, regardless of the number or nature of claims in tort, equity, or contract, which shall not exceed the dollar amount

for tort, as set by the Florida Legislature. Nothing in this Agreement shall inure to the benefit of any third party for allowing any claim against Toho, otherwise barred under the Doctrine of Sovereign Immunity or operation of law.

**19. BANKRUPTCY OR INSOLVENCY.** If the Contractor shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court; or if a receiver of the property of the Contractor shall be appointed in any proceeding brought by or against the Contractor; or if the Contractor shall make an assignment for the benefit of creditors; or proceedings shall be commenced on or against the Contractor's operations of the premises, Toho may terminate this Agreement immediately notwithstanding the notice requirements of Section 7 hereof.

**20. BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, personal representatives, successors, and/or assigns.

**21. ASSIGNMENT.** Assignment of this Agreement by the Contractor shall be subject to express written consent of Toho. Failure by Toho to provide such written consent shall deem any such assignment by the Contractor null and void.

**22. SEVERABILITY.** All clauses found herein shall act independently of each other. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall continue in full force without being impaired or invalidated in any way.

**23. WAIVER.** Failure by the Parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement, to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment of any such covenant, term, provision, condition, or right of election, which shall remain in full force and effect.

**24. NOTICE.** The Parties understand and mutually agree that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to Toho and the Contractor. In the event of any change to the addresses indicated below, written notice shall be provided by such Party to the other of such change. All notices required and/or made pursuant to this Agreement to Toho and the Contractor shall be in writing and provided by way of nationally recognized courier or United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

Toho:	Toho Water Authority
	Attn: Procurement Services (Warehouse)
	1628 S. John Young Parkway
	Kissimmee, Florida 34741



Contractor: USSI, LLC  
752 Commerce Drive, Suite 15  
Venice, Florida 34292

25. **MODIFICATION.** The covenants, terms, and provisions of this Agreement may be modified by way of written instrument, mutually accepted by the Parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

26. **ENTIRE AGREEMENT.** This Agreement, including any documents incorporated herein, sets forth and constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof. This Agreement shall supersede any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any Party to this Agreement.

27. **HEADINGS.** All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

28. **ADMINISTRATIVE PROVISIONS.** In the event Toho issues a purchase order, memorandum, letter, or any other instrument addressing the Services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for Toho's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon.

29. **CONFLICT OF INTEREST.** The Contractor warrants that the Contractor has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that the Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this Section, Toho shall have the right to immediately terminate this Agreement, without liability and without regard to the notice requirements set forth in Section 7 hereof.

30. **PUBLIC ENTITY CRIMES.** As required by Section 287.133, Florida Statutes, the Contractor warrants that it is not on the convicted contractor list for a public entity crime committed within the past 36 months. The Contractor further warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in connection with this Agreement for a period of 36 months from the date of being placed on the convicted contractor list.

### 31. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

- A. As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Florida Statutes, the Contractor and its subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
- B. The Contractor shall require each of its subcontractors to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with any unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the record retention requirements of this Agreement.
- C. The Contractor or any subcontractor who has a good faith belief that a person or entity, with which it is contracting, knowingly violated Section 448.09(1), Florida Statutes, or the provisions of this section, shall terminate the contract with the person or entity.
- D. Toho, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but the Contractor otherwise complied, shall immediately notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
- E. A contract terminated under the provisions of this section is not a breach of contract and may not be considered as such. Any contract terminated under the provisions of this section may be challenged pursuant to Section 448.095(2), Florida Statutes. The Contractor acknowledges that upon termination of this Agreement by Toho for a violation of this section by the Contractor, the Contractor may not be awarded a public contract for at least one year. The Contractor further acknowledges that the Contractor will be liable for any additional costs incurred by Toho as a result of the termination of the contract for violation of this section.
- F. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- G. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security website: <http://www/dhs.gov/E-verify>.

32. **JOINT AUTHORSHIP.** This Agreement shall be construed as resulting from joint negotiation and authorship by the Parties. No part of this Agreement shall be construed as the product of any one of the Parties hereto.

33. **EQUAL OPPORTUNITY EMPLOYER.** The Contractor is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The Contractor will further ensure that all subcontractors it uses in providing the Services required under this Agreement will comply with all equal opportunity employment laws.

34. **AUDITING, RECORDS, AND INSPECTION.** In the performance of this Agreement, the Contractor shall keep all books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours, by an authorized representative of Toho, and shall be retained by the Contractor for a period of three years, or as otherwise required under the applicable provisions of the State of Florida Record Retention Schedule, after termination or completion of the Agreement, including renewals, or until Toho's full audit is complete, whichever comes first. Toho shall retain the right to audit the books during the record retention period prescribed herein. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Toho also has the right to conduct and audit within 60 days from the date of execution of this Agreement by both Parties to determine whether the Contractor has the ability to fulfill its contractual obligations to Toho's satisfaction. Toho has the right to terminate this Agreement based upon its findings of such audit without regard to the termination provision set forth herein.

35. **PROJECT MANAGERS.** Toho and the Contractor have identified the individuals listed below as Project Managers, each of who shall have the responsibility for managing the work performed under this Agreement. The person or individual identified by the Contractor to serve as its Project Manager for this Agreement, or any replacement thereof, is subject to prior written approval by Toho. If Toho and the Contractor replace their current Project Manager with another individual, an amendment to this Agreement shall not be required. Notwithstanding the foregoing, Toho will notify the Contractor, in writing, if the current Toho Project Manager is replaced with another individual.

A. Toho's Project Manager contact information is as follows:

Tim Noyes, Asset Manager  
Engineering / Asset Management  
Toho Water Authority  
951 Martin Luther King Blvd.

Kissimmee, Florida 34741  
(407) 944-5040  
[tnoyes@tohowater.com](mailto:tnoyes@tohowater.com)

B. The Contractor Project Manager's contact information is as follows:

Eric McRoberts  
USSI, LLC  
752 Commerce Drive, Suite 15  
Venice, Florida 34292  
(941) 725-2123  
[eric@ussiusa.com](mailto:eric@ussiusa.com)

**36. SCRUTINIZED COMPANIES.**

A. If this Agreement has a cumulative value that meets, or exceeds, \$1,000,000 (One Million Dollars), then the Contractor must certify that it is not a "Scrutinized Company" pursuant to Section 287.135(2), Florida Statutes. A "Scrutinized Company" is a company that is:

- 1) on the "Scrutinized Companies that Boycott Israel List," created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel;
- 2) on the "Scrutinized Companies with Activities in Sudan List" or the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List," created pursuant to Section 215.473, Florida Statutes; or
- 3) engaged in business operations in Cuba or Syria.

B. To ensure compliance with Section 287.135(5), Florida Statutes, certification requirement, the Contractor must complete an "Affidavit of Non-Scrutinized Company Status," a copy of which is attached and incorporated by reference as Exhibit "C." The affidavit must be executed by an individual that is authorized to bind the Contractor and shall be properly notarized.

C. Pursuant to Section 287.135(3)(c), Florida Statutes, Toho may terminate this Agreement should the Contractor be found to:

- 1) have falsified its certification of non-scrutinized company status; or
- 2) subsequent to the submittal of the attached affidavit, the Contractor engages in activities that make it a "Scrutinized Company."

**37. SIGNATORY.** Each signatory below represents and warrants that he or she has the

full power, and is duly authorized by their respective Party, to enter into and perform under this Agreement. Such signatory further represents that he or she has fully reviewed and understands the terms and conditions set forth in this Agreement, including exhibits, and fully intends to abide by and comply with all of the terms and conditions set forth herein.

**38. COUNTERPARTS, ELECTRONIC TRANSACTION, AND ELECTRONIC SIGNATURES.** This Agreement may be electronically executed by the Parties in counterparts, up to but not exceeding the number of Parties, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. Each Party may deliver its executed signature page by email transmission to the other Party at the email addresses set forth herein. Delivery shall be effective and complete upon completion of such email transmission. The Parties agree that electronic signatures may be used in the execution of this Agreement, in accordance with Parts I and II of Chapter 668, Florida Statutes.

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[SIGNATURES ON PAGE THAT FOLLOWS]

IN WITNESS WHEREOF, the Parties hereby, by their duly authorized representatives, have executed this Agreement on the dates set forth below.

USSI, LLC, a Florida limited liability company

By: [Signature]  
Printed Name: Dion Vlasak  
Title: CEO  
Date: \_\_\_\_\_

Attest:  
By: [Signature]  
Printed Name: Eric M. Roberts  
Address: 752 Commerce Drive  
Venice FL 34292

STATE OF Florida  
COUNTY OF Sarasota

The foregoing instrument was executed before me by means of  physical presence or  online notarization this 1 day of MAY, 2023, by Dion Vlasak, as CEO of USSI, LLC, a Florida limited liability company, on behalf of the company, who is  personally known to me or has  produced Driver License as identification.

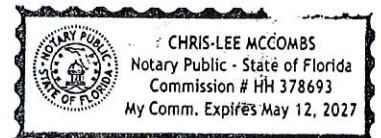
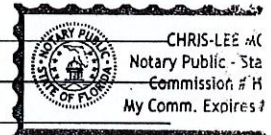
TOHOPEKALIGA WATER AUTHORITY

By: [Signature]  
Henry Thacker, Chairman  
Board of Supervisors  
Date: MAY 10, 2023

Attest: [Signature]  
By: [Signature]  
William Land, Secretary  
Address: 951 Martin Luther King Blvd.  
Kissimmee, Florida 34741

[Signature]  
Notary Public

Printed Name or Stamp:  
My Commission No.:  
My Commission Expires:



**EXHIBIT "A"**

IFB-20-076 Solicitation

**EXHIBIT "B"**

**Unit Price List**

	<b>Item / Description</b>	<b>Qty.</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Extended Price</b>
1	Mobilization & Demobilization	1	Lump Sum	\$1,605.00	\$ 1,605.00
2	Indemnification	1	Lump Sum	\$ 107.00	\$ 107.00
3	General Requirements, Bonds, Permits	1	Lump Sum	\$ 107.00	\$ 107.00
4	Maintenance of Traffic	1	Lump Sum	\$ 107.00	\$ 107.00
5	Smoke Testing and Report Preparation	160,000	Linear Foot	\$ 0.36	\$ 57,600.00
6	Seal Manhole Chimneys	801	Each	\$ 353.10	\$282,833.00
7	Insert Dishes into Manholes	801	Each	\$ 37.98	\$ 30,421.00
8	Replace Cleanout Caps				
	8a. 6-inch cleanout riser pipes	80	Each	\$ 10.70	\$ 856.00
	8b. 4-inch cleanout riser pipes	721	Each	\$ 5.35	\$ 3,857.35
9	Install Cleanout Pipes				
	9a. 6-inch cleanout riser pipes	67	Each	\$ 138.03	\$ 9,248.01
	9b. 4-inch cleanout riser pipes	608	Each	\$ 92.02	\$ 55,948.16
10	LS Basin Report	160,000	Linear Feet	\$ 0.27	\$ 43,200.00
11	Lift Station Area Infiltration Investigation	80,000	Linear Feet	\$ 0.14	\$ 11,200.00
	<b>TOTAL BASE BID</b>				<b>\$ 497,090.50</b>



**EXHIBIT "C"**

**Contractor Certification Regarding Scrutinized Companies  
(Agreements of \$1,000,000.00 or more)**

CONTRACTOR Name: USSI

CONTRACTOR FEIN: 65-0891727

CONTRACTOR's Authorized Representative Name: Dion Vlasak

Title: CEO

Address: 752 Commerce Drive Suite 15

City: Venice State: Florida Zip: 34292

Phone Number: 941-408-5091

Email Address: Dion@USSIUSA.COM

Section 287.135, Florida Statutes, prohibits local governments from contracting with companies, for goods or services of One Million and 00/100 Dollars (\$1,000,000.00) or more that are on Scrutinized Companies Lists enumerated in Section 287.135, Florida Statutes.

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[SIGNATURES ON FOLLOWING PAGE]

EXHIBIT "C"

As the person authorized to sign on behalf of the CONTRACTOR, I hereby certify that the company identified above in the section entitled "CONTRACTOR Name" is not listed on the Scrutinized Companies Lists. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the CONTRACTOR to termination of the Agreement, civil penalties, attorney's fees, and/or costs.

CERTIFIED BY: [Signature] Date: 5-1-2023  
Authorized Signature

Print Name: Dion Ulasak

Print Title: CEO

STATE OF Florida

COUNTY OF Sarasot

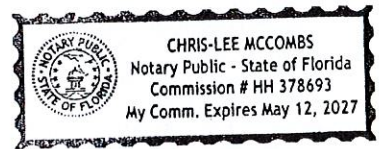
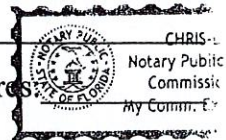
The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this (date) by (name of officer or agent, title of officer or agent) of (name of company or corporation acknowledging), a (company or corporation), on behalf of the (company or corporation). He/she is [ ] personally known to me or [x] has produced (type of identification) as identification.

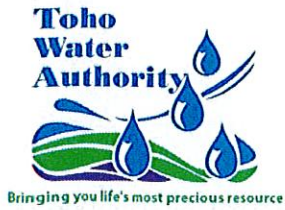
[Signature]  
Notary Signature

Printed Name: Chris-Lee Mccombs

My Commission No.:

My Commission Expires





**Document Processing Form**  
 (This form should remain with the document throughout processing)

Date: 5/9/2023

Requestor's Name: Jill Selby

Department: Procurement

Extension: 3831

Title of Document: Approval of Amended and Restated Agreement

Project Number: IFB-20-076

Project Name: IN-FLOW ABATEMENT SERVICES

Requested Processing:	
<b>Check all that apply</b>	
<input checked="" type="checkbox"/>	Board Signature: Board Meeting Date: <u>5/10/23</u>  Agenda Item No.: <u>7N</u>
<input type="checkbox"/>	Executive Director's Signature
<input type="checkbox"/>	Notary
<input type="checkbox"/>	Forward to Legal Administrative Assistant for Recording
<b>Check all that apply</b>	
<input type="checkbox"/>	Forward to County Clerk for Recording. Select the applicable County or Counties: <input type="checkbox"/> Osceola <input type="checkbox"/> Orange <input type="checkbox"/> Polk
<input type="checkbox"/>	Scan to Laserfiche & Notify Requestor
<input checked="" type="checkbox"/>	Return to Requestor
<input type="checkbox"/>	Dispose of Original

To be Completed by Processor	
Processed By: (Initial)	Date:
<b>Executive Assistant to process:</b>	
<b>Legal Administrative Assistant Notes:</b>	

Comments:

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**FIRST AMENDMENT  
to  
AGREEMENT  
for  
IN-FLOW ABATEMENT SERVICES  
(IFB-20-076)**

**THIS FIRST AMENDMENT TO AGREEMENT FOR IN-FLOW ABATEMENT SERVICES (IFB-20-076)** is made by and between Tohopekaliga Water Authority, an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, whose mailing address is 951 Martin Luther King Boulevard, Kissimmee, Florida 34741 (the “AUTHORITY or TOHO”) and USSI, LLC, a Florida limited liability company, whose mailing address is 752 Commerce Drive, Suite 15, Venice, Florida 34292 (the “CONTRACTOR”). The AUTHORITY and the CONTRACTOR may individually be referred to as a “Party” and collectively as the “Parties.”

***WITNESSETH:***

**WHEREAS**, on May 27, 2020, the Board of Supervisors (the “Board”) approved an agreement with the CONTRACTOR for the provision of in-flow abatement services (the “Services”) under Agreement IFB-20-076 (the “Original Agreement”); and

**WHEREAS**, the AUTHORITY desires to continue receiving the Services provided by the CONTRACTOR under the Original Agreement; and

**WHEREAS**, pursuant to Section 25, entitled “Modifications,” the Original Agreement may be modified by way of a written instrument, mutually accepted by the Parties; and

**WHEREAS**, the Parties have agreed to enter into this First Amendment to amend the Original Agreement, as more specifically set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and provisions contained herein, the Parties agree as follows:

1. The unit price list set forth in the Exhibit “B” to the Original Agreement shall be repealed and replaced with the revised Exhibit “B,” a copy of which is attached and incorporated herein by reference.
2. Section 30, entitled “Employment Eligibility Verification (E-Verify),” shall be repealed and replaced to read as follows:

**SECTION 30. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)**

- a) As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Florida Statutes, the CONTRACTOR and its subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
  - b) The CONTRACTOR shall require each of its subcontractors to provide the CONTRACTOR with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with any unauthorized alien. The CONTRACTOR shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the record retention requirements of this Agreement.
  - c) The CONTRACTOR or any subcontractor who has a good faith belief that a person or entity with which it is contracting knowingly violated Section 448.09(1), Florida Statutes, or the provisions of this section, shall terminate the contract with the person or entity.
  - d) The AUTHORITY upon good faith belief that a subcontractor knowingly violated the provisions of this section, but the CONTRACTOR otherwise complied, shall promptly notify the CONTRACTOR and the CONTRACTOR shall immediately terminate the contract with the subcontractor.
  - e) A contract terminated under the provisions of this section is not a breach of contract and may not be considered as such. Any contract terminated under the provisions of this section may be challenged pursuant to Section 448.095(2), Florida Statutes. The CONTRACTOR acknowledges that upon termination of this Agreement by the AUTHORITY for a violation of this section by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for at least one (1) year. The CONTRACTOR further acknowledges that the CONTRACTOR is liable for any additional costs incurred by the AUTHORITY as a result of any contract for a violation of this section.
  - f) **Subcontracts.** The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
  - g) Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security website: <http://www/dhs.gov/E-verify>.
3. The changes set forth herein shall become effective upon this First Amendment being executed by both Parties.

4. All of the terms and conditions of the Original Agreement, not otherwise revised or amended in this First Amendment, and any subsequent amendment(s) shall remain in full force and effect. To the extent of any conflict between this First Amendment and the Original Agreement, the terms of this First Amendment shall prevail.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this First Amendment effective the 11 day of May, 2022.

USSI, LLC, a Florida limited liability company

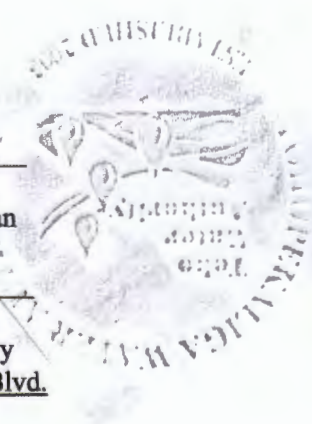
By: [Signature]  
Print Name: Dion Vlasak  
Title: CEO

Attest: [Signature]  
Print Name: Eric McRobert  
Title: VP Sales + Marketing  
Address: 752 Commerce Drive NW  
Venice FL 34292

TOHOPEKALIGA WATER AUTHORITY

By: [Signature]  
Print Name: Hector Lizasuain  
Title: Board of Supervisors, Chairman

Attest: [Signature]  
Print Name: William Land  
Title: Board of Supervisors, Secretary  
Address: 951 Martin Luther King Blvd.  
Kissimmee FL 34741



STATE OF Florida  
COUNTY OF Sarasota

The foregoing instrument was executed before me by means of  physical presence or  online notarization, this 02 day of May, 2022 by Wendy Bautista as Dion Vlasak of USSI, LLC, a Florida limited liability company, on behalf of the company, who is  personally known to me OR  has produced Florida Driver license identification.

[Signature]  
Notary Public, State of Florida

(Stamp)

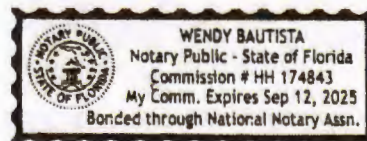


EXHIBIT "B"

Revised Unit Price List



**EXHIBIT B  
SECTION 6  
REVISED BID FORM**

DATE: April 19, 2022

Have you supplied all the Submittal Requirements outlined below?

- One (1) completed original and two (2) copies of the Bid submittal, plus CD or memory stick
- Any addenda pertaining to this solicitation
- Drug Free Certification
- List of five (5) References
- List of Possible Subcontractors (**Not allowed for this bid.**)
- Certificate(s) of Insurance (evidencing coverage as required)
- Copy of proper professional licenses or credentials including your local business tax

receipt

- Bidder Qualifications per Section 3.4

**All costs related to the performance of all the work outlined, excluding permits and fees, shall be included in the bid pricing.**

	Item/Description	Qty.	Unit	Unit Price	Extended Price
1	Mobilization & Demobilization	1	Lump Sum	\$ 1,605.00	\$ 1,605.00
2	Indemnification	1	Lump Sum	\$ 107.00	\$ 107.00
3	General Requirements, Bonds, Permits	1	Lump Sum	\$ 107.00	\$ 107.00
4	Maintenance of Traffic	1	Lump Sum	\$ 107.00	\$ 107.00
5	Smoke Testing and Report Preparation	160,000	Linear Foot	\$ .36	\$ 57,600.00
6	Seal Manhole Chimneys	801	Each	\$ 353.10	\$ 282,833.00
7	Insert Dishes into Manholes	801	Each	\$ 37.98	\$ 30,421.98
8	Replace Cleanout Caps				
	8a. 6-inch cleanout riser pipes	80	Each	\$ 10.70	\$ 856.00
	8b. 4-inch cleanout riser pipes	721	Each	\$ 5.35	\$ 3,857.35
9	Install Cleanout Pipes				
	9a. 6-inch cleanout riser pipes	67	Each	\$ 138.03	\$ 9,248.01
	9b. 4-inch cleanout riser pipes	608	Each	\$ 92.02	\$ 55,948.16
10	LS Basin Report	160,000	Linear Feet.	\$ .27	\$ 43,200.00
11	Lift Station Area Infiltration Investigation	80,000	Linear Feet	\$ .14	\$ 11,200.00
	<b>TOTAL BASE BID</b>				<b>\$ 497,090.50</b>

Total Base Bid in Words:

Four Hundred Ninety Seven Thousand Ninety Dollars and Fifty Cents

The Undersigned Agrees:

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

**Failure of the Bidder to provide pricing for all unit priced items and/or the Base Bid and ALL requested Additive/Deductive bid items, or alternate bids, may be cause for rejection of the bid as non-responsive.**

We do not take exception to the Scope of Work

We take exception to the Scope of Work as follows:

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The Authority reserves the right to reject any or all bids, to waive informalities, and to accept all or any part of any bid as they may deem to be in the best interest of the Authority.

The Undersigned Agrees:

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

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

Address: \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Print Name \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Federal Tax ID: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**IFB-20-076**  
**AGREEMENT**  
**for**  
**IN-FLOW ABATEMENT SERVICES**

**THIS AGREEMENT FOR IN-FLOW ABATEMENT SERVICES** (the "Agreement") is made and entered between Tohopekaliga Water Authority, an independent special district established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, 951 Martin Luther King Boulevard, Kissimmee, Florida 34741 (the "AUTHORITY" or "TWA") and USSI, LLC, a limited liability company, whose mailing address is 752 Commerce Drive, Suite 15, Venice, FL 34292 (the "CONTRACTOR"). The AUTHORITY and CONTRACTOR may be individually referred to as a "Party" or collectively as the "Parties."

***WITNESSETH:***

**WHEREAS**, the AUTHORITY has competitively solicited for in-flow abatement services pursuant to IFB-20-076 (the "Solicitation"); and

**WHEREAS**, the CONTRACTOR has exhibited by its response to the Solicitation, a copy of which is attached and incorporated by reference as Exhibit "A," that it is capable of providing the required services; and

**WHEREAS**, the Parties hereto have agreed to the terms and conditions, as set forth herein based on the Solicitation.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and provisions contained herein, the Parties agree as follows:

**SECTION 1.**            **TERM.**

The term of this Agreement shall become effective on May 13, 2020 and continue through May 12, 2023, unless otherwise terminated by either Party. This Agreement may be renewed for one (1) additional two (2) year period, subject to written agreement executed by both Parties.

**SECTION 2.**            **SCOPE OF SERVICES.**

The CONTRACTOR shall provide the services and accessories, as more specifically listed in **Exhibit "A"** (collectively the "Services") based upon the unit prices, as set forth in the CONTRACTOR's original bid, a copy of which is attached and incorporated by reference as Exhibit "B" (the "Original Bid").

**SECTION 3.**            **OBLIGATIONS OF THE CONTRACTOR.**

Obligations of the CONTRACTOR shall include, but not be limited to, the following:

- A. The CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the Services requested by the AUTHORITY. The CONTRACTOR shall not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the AUTHORITY, or any property owned by the AUTHORITY. Any such lien, attachment, or encumbrance, until removed, shall preclude any and all claims or demands by the CONTRACTOR for any payment expected by virtue of this Agreement.
- B. The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set forth herein, when providing Services for the AUTHORITY under this Agreement.
- C. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to complete the work, properly and fully, as set forth in the Scope of Services.
- D. The CONTRACTOR shall maintain an adequate and competent staff, and shall remain authorized to do business within the State of Florida for the term of this Agreement, including renewals. The CONTRACTOR may subcontract the services requested by the AUTHORITY, with prior written approval from AUTHORITY; however, the CONTRACTOR shall remain fully responsible for the satisfactory completion of all subcontracted work.

**SECTION 4. STANDARD OF CARE.**

- A. The CONTRACTOR has represented to the AUTHORITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the Services provided under this Agreement. By executing this Agreement, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill, and ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONTRACTOR shall perform the requested Services in an efficient manner, consistent with the AUTHORITY's stated Scope of Services and industry standards.
- B. The CONTRACTOR covenants and agrees that it and its employees, agents, sub-contractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

**SECTION 5. COMPENSATION.**

- A. The amount paid under this Agreement for acceptable performance of in-flow

abatement services, as described in **Exhibit "A"**, shall not exceed Five Hundred Thousand Dollars (\$500,000.00) for the term of this Agreement, based on the unit prices specified in Original Bid (**Exhibit "B"**).

- B. Compensation for Services completed by the CONTRACTOR shall be paid in accordance with section 218.70, Florida Statutes, Florida's Prompt Payment Act.
- C. Services performed in accordance with this Agreement are subject to the annual appropriation of funds by the AUTHORITY. The AUTHORITY reserves the right, in its sole discretion, to forego use of the CONTRACTOR for any project that may fall within the Scope of Services listed herein. In the event the AUTHORITY is not satisfied with the Services provided by the CONTRACTOR, the AUTHORITY will hold any amounts due until the CONTRACTOR has appropriately addressed the problem to the satisfaction of the AUTHORITY.

**SECTION 6.            TERMINATION.**

The AUTHORITY may terminate this Agreement, with or without cause, upon thirty (30) days written notice to CONTRACTOR prior to the effective date of such cancellation.

**SECTION 7.            TERMINATION FOR CAUSE.**

The AUTHORITY may terminate this Agreement, without further obligation, upon written notice to the CONTRACTOR if the CONTRACTOR breaches any material term of the Agreement and such breach remains uncured for thirty (30) days after receipt of said notice.

**SECTION 8.            PAYMENT WHEN SERVICES ARE TERMINATED.**

- A. In the event of termination of this Agreement by the AUTHORITY, and not due to the fault of the CONTRACTOR, the AUTHORITY shall compensate the CONTRACTOR for all authorized Services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the AUTHORITY shall compensate the CONTRACTOR for all authorized Services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the AUTHORITY. All such payments shall be subject to an offset for any damages incurred by the AUTHORITY resulting from any delay occasioned by early termination. The CONTRACTOR shall in no way construe this provision as the AUTHORITY's sole available remedy in the event of breach by the CONTRACTOR.

**SECTION 9.            INSURANCE.**

- A. The CONTRACTOR shall procure and maintain the following types of insurance,

with the respective limits, and shall provide proof of the same to the AUTHORITY, in the form of a Certificate of Insurance prior to the start of any work hereunder:

**1. Worker's Compensation:** The CONTRACTOR shall provide Worker's Compensation coverage for all employees at the site location and in the case any work is subcontracted, shall require the subcontractor to provide Worker's Compensation for all its employees. The limits shall be statutory for Worker's Compensation and \$1,000,000.00 for Employer's Liability.

**2. Commercial General Liability:** The CONTRACTOR shall provide for all operations including, but not limited to, Contractual and Products Completed Operations. The limits shall not be less than \$1,000,000.00.

**3. Comprehensive Automobile Liability:** The CONTRACTOR shall provide coverage for all owned and non-owned vehicles with limits not less than \$1,000,000.00.

**4. Umbrella Liability:** The CONTRACTOR shall provide an umbrella policy in excess to the coverage provided for in the above paragraphs of not less than \$1,000,000.00.

- B. The CONTRACTOR shall name "Tohopekaliga Water Authority" as a certificate holder and as additional insured, to the extent of the Services provided hereunder, on all required insurance policies, except for Worker's Compensation policy, and provide the AUTHORITY with proof of the same.
- C. The CONTRACTOR, and any authorized sub-contractor(s), shall provide the AUTHORITY's Procurement Services with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. The Certificate of Insurance shall be dated and show:
1. The name of the insured CONTRACTOR;
  2. The specified job by name and job number;
  3. The name of the insurer;
  4. The number of the policy;
  5. The effective date;
  6. The termination date;
  7. A statement that the insurer will mail notice to the AUTHORITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy; and
  8. A waiver of subrogation in favor of the AUTHORITY.
  9. Coverage shall be primary and non-contributory.
- D. Receipt of certificates or other documentation of insurance or policies, or copies of policies by the AUTHORITY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the CONTRACTOR's obligation to fulfill the insurance requirements specified herein.

- E. The CONTRACTOR shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of this Agreement, procure and maintain the same insurance requirements set forth herein. In addition, the CONTRACTOR shall maintain proof of the same on file and make readily available upon request by the AUTHORITY.

**SECTION 10. AUTHORITY OBLIGATIONS.**

At the CONTRACTOR's request, the AUTHORITY agrees to provide, at no cost to the AUTHORITY, all pertinent information known to be available to the AUTHORITY to assist the CONTRACTOR in providing and performing the required Services.

**SECTION 11. DOCUMENTS CONSTITUTING ENTIRE AGREEMENT.**

The following documents are hereby incorporated and made part of this Agreement:

1. Exhibit A – Solicitation document IFB-20-076.
2. Exhibit B – Original bid submitted by Contractor

In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and Exhibit "A," the provisions of this Agreement shall take precedence.

**SECTION 12. APPLICABLE LAW, VENUE, JURY TRIAL.**

The laws of the State of Florida shall govern all aspects of this Agreement. In the event it becomes necessary for either Party to initiate legal action regarding this Agreement, venue shall lie in Osceola County, Florida. The Parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the Parties hereto.

In all respects, this Agreement is governed by and construed in accordance with the laws of the State of Florida without giving effect to any choice of law rules thereof that may direct the application of the laws of another jurisdiction.

**SECTION 13. PUBLIC RECORDS COMPLIANCE.**

- A. If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this Agreement, contact the custodian of public records at the following:**

**Records Retention**

**951 Martin Luther King Blvd.  
Kissimmee, Florida 34741  
(407) 483-3822  
[publicrecordsrequests@tohowater.com](mailto:publicrecordsrequests@tohowater.com)**

- B. The CONTRACTOR understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If CONTRACTOR shall act on behalf of the AUTHORITY, as provided under section 119.011(2), Florida Statutes, as amended, the CONTRACTOR, subject to the terms of section 287.058(1) (c), Florida Statutes, as amended, and any other applicable legal and equitable remedies, shall:
- 1) Keep and maintain public records that ordinarily and necessarily would be required by the AUTHORITY in order to perform the Service; and
  - 2) Provide the public with access to public records on the same terms and conditions that the AUTHORITY would provide the records and at a cost that does not exceed the cost provided by Florida law; and
  - 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
  - 4) Meet all requirements for retaining public records and transfer, at no cost, to the AUTHORITY all public records in possession of the CONTRACTOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirement. All records stored electronically must be provided to the AUTHORITY in a format that is compatible with the information technology systems of the AUTHORITY; and
  - 5) If the CONTRACTOR does not comply with a public records request, the AUTHORITY shall enforce the contract provisions in accordance with the Agreement.

**SECTION 14. INDEPENDENT CONTRACTOR.**

This Agreement does not create an employee/employer relationship between the Parties. It is the Parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor, and not an employee of the AUTHORITY for all purposes including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments; the Federal Insurance Contribution Act; the Social Security Act; the Federal Unemployment Tax Act; the provisions of the Internal Revenue Code; the State of Florida revenue and taxation laws; the State of Florida workers' compensation laws; the State of Florida unemployment insurance laws; and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder.



**SECTION 15.**            **APPLICABLE LICENSING.**

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required for successfully providing the Services set forth herein.

**SECTION 16.**            **COMPLIANCE WITH ALL LAWS.**

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, AUTHORITY, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

**SECTION 17.**            **INDEMNIFICATION.**

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the AUTHORITY, its officials, agents, and employees from, and against, any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees, and costs at all administrative, Pretrial, trial, and appellate levels) of any kind or nature whatsoever, arising directly or indirectly out of or caused, in whole or 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.

**SECTION 18.**            **SOVEREIGN IMMUNITY.**

The AUTHORITY expressly retains all rights, benefits and immunities of sovereign immunity, in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article, or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of the sovereign immunity or the limits of liability, which may have been or may be adopted by the Florida Legislature, and the cap on the amount and type of liability of AUTHORITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, which shall not exceed the dollar amount for tort, as set by the Florida Legislature. Nothing in this Agreement shall inure to the benefit of any third party for allowing any claim against the AUTHORITY, otherwise barred under the Doctrine of Sovereign Immunity or operation of law.

**SECTION 19.**            **BANKRUPTCY OR INSOLVENCY.**

If the CONTRACTOR shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court; or if a receiver of the property of the CONTRACTOR shall be appointed in any proceeding brought by or against the CONTRACTOR; or if the CONTRACTOR shall make an assignment for the benefit of creditors; or proceedings shall be commenced on or against the CONTRACTOR's operations of the premises, the AUTHORITY may terminate this Agreement immediately notwithstanding the notice requirements of Section 6 hereof.

**SECTION 20.**            **BINDING EFFECT.**

This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, personal representatives, successors, and/or assigns.

**SECTION 21.**            **ASSIGNMENT.**

This Agreement shall only be assignable by the CONTRACTOR upon the express written consent of the AUTHORITY.

**SECTION 22.**            **SEVERABILITY.**

All clauses found herein shall act independently of each other. If any provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by a court of competent jurisdiction, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**SECTION 23.**            **WAIVER.**

Failure of the Parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement, or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, which same shall remain in full force and effect.

**SECTION 24.**            **NOTICE.**

The Parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the AUTHORITY and the CONTRACTOR. All notices required and/or made pursuant to this Agreement, given to the AUTHORITY and the CONTRACTOR, shall be in writing and provided by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

AUTHORITY:    Toho Water Authority  
                         Attention : Procurement Services (Warehouse)  
                         1628 S. John Young Parkway  
                         Kissimmee, Florida 34741

CONTRACTOR:  USSI, LLC  
                         752 Commerce Drive Suite 15  
                         Venice, FL 34292

**SECTION 25.**            **MODIFICATION**

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the Parties hereto. In the event of a conflict between the

covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

**SECTION 26. HEADINGS.**

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.

**SECTION 27. ADMINISTRATIVE PROVISIONS.**

In the event the AUTHORITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the AUTHORITY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon.

**SECTION 28. CONFLICT OF INTEREST.**

The CONTRACTOR warrants that the CONTRACTOR has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Section, the AUTHORITY shall have the right to terminate this Agreement immediately, without liability and without regard to the notice requirements of Section 6 hereof.

**SECTION 29. PUBLIC ENTITY CRIMES.**

As required by section 287.133, Florida Statutes, the CONTRACTOR warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The CONTRACTOR further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list.

**SECTION 30. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)**

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program"), as set forth in 48 CFR 52.222-54 (as amended), incorporated hereby this reference, which was developed by the federal government to verify the eligibility of individuals to work in the United States. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition

Register, the CONTRACTOR must comply with the following: (1) enroll in the E-Verify Program; (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR is a state or local government, the CONTRACTOR may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontract, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

### **SECTION 31. JOINT AUTHORSHIP**

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the Parties hereto.

### **SECTION 32. EQUAL OPPORTUNITY EMPLOYER**

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the Services required under this Agreement will comply with all equal opportunity employment laws.

### **SECTION 33. AUDITING, RECORDS, AND INSPECTION**

In the performance of this Agreement, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the AUTHORITY, and shall be retained by the CONTRACTOR for a period of three years after termination or completion of the Agreement, or until the full Authority audit is complete, whichever comes first. The AUTHORITY shall retain the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The AUTHORITY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction of the AUTHORITY. The AUTHORITY has the right to terminate this Agreement based upon its findings in this audit without regard to the termination provision set forth herein.

### **SECTION 34. PROJECT MANAGERS**

The AUTHORITY and the CONTRACTOR have identified individuals as Project Managers, listed below, who shall have the responsibility for managing the work performed under this Agreement. The person or individual identified by the CONTRACTOR to serve as its Project Manager for this Agreement, or any replacement thereof, is subject to prior written approval and acceptance by the AUTHORITY. If the AUTHORITY or CONTRACTOR replace their current Project Manager with another individual, an amendment to this Agreement shall not be required. The AUTHORITY will notify the CONTRACTOR, in writing, if the current AUTHORITY Project Manager is replaced by another individual.

A. The contact information for the AUTHORITY's Project Managers is as follows:

Tim Noyes  
Asset Manager, Engineering  
Toho Water Authority  
407-944-5040  
[tnoyes@tohowater.com](mailto:tnoyes@tohowater.com)

B. The CONTRACTOR Project Manager's contact information is as follows:

Eric McRoberts  
USSI, LLC  
752 Commerce Drive Suite 15  
Venice FL 34292  
941-725-2123  
[eric@ussiusa.com](mailto:eric@ussiusa.com)

**SECTION 35. SIGNATORY**

Each signatory below represents and warrants that he or she has the full power, and is duly authorized by their respective Party, to enter into and perform under this Agreement. Such signatory further represents that he or she has fully reviewed and understands the terms and conditions set forth in this Agreement, including exhibits, and fully intends to abide by and comply with all of the terms and conditions set forth herein.

**SECTION 36. COUNTERPARTS, ELECTRONIC TRANSACTION, AND ELECTRONIC SIGNATURES**

This Agreement may be electronically executed by the Parties in counterparts up to but not exceeding the number of Parties, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. Each Party may deliver its executed signature page by email transmission to the other Parties at the email addresses set forth herein. Delivery shall be effective and complete upon completion of such email transmission. The Parties agree that electronic signatures may be used in the execution of this Agreement in accordance with Parts I and II of Chapter 668, Florida Statutes.

[THIS SPACE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement effective the 27<sup>th</sup> day of May, 2020.

USSI, LLC

By: [Signature]  
Print Name: Dion Vlasak  
Title: CEO

Attest: [Signature]  
Print Name: Eric McRoberts  
Address: 752 Commerce Drive Suite 15  
Venice FL 34292

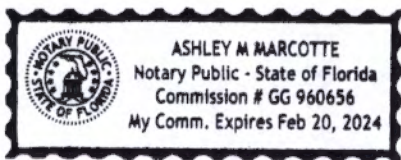
TOHOPEKALIGA WATER AUTHORITY

By: [Signature]  
Print Name: Fodd P. Swingle  
Title: Executive Director

Attest: [Signature]  
Print Name: Anthony J. Cotter  
Title: General Counsel  
Address: 951 Martin Luther King Blvd.  
Kissimmee, Florida 34741

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was executed before me by means of [ ] physical presence or [ ] online notarization this 7 day of MAY, 2020, by DION VLASAK as CEO of USSI, LLC., a Florida limited liability company, on behalf of the company who is personally known to me OR has produced FLORIDA DRIVER'S LICENSE as identification.



Signature: [Signature]  
Print Name: ASHLEY M MARCOTTE  
NOTARY PUBLIC, State of FLORIDA  
My Commission Expires: FEB. 20, 2024

(Stamp)