

*“Proprietary and Confidential Document”*



**Woodard  
& Curran**

**OPERATIONS AND MAINTENANCE AGREEMENT**

**September 1, 2022**

**Lake County Water Authority  
Nutrient Reduction Facility (NuRF)  
and  
Woodard & Curran, Inc.**

# Contract Operations and Maintenance Agreement

This Agreement describes mutual responsibilities, overall objectives, and performance expectations of the operational partnership entered into here by Woodard & Curran, Inc. (W&C), a Maine corporation, whose Principal Place of Business is based at 41 Hutchins Drive, Portland, ME 04102, Tax I.D. No. 01-0363222, and LAKE COUNTY WATER AUTHORITY NUTRIENT REDUCTION FACILITY (hereinafter referred to as the "the Client"), a municipal corporation, 27351 SR19, Tavares, FL and its successors and assigns.

## RECITALS

WHEREAS, the Client owns the Treatment Facilities (hereinafter referred to as the "FACILITIES") that are described in Exhibit A to this Agreement.

WHEREAS, the Client desires to engage W&C to operate and maintain the FACILITIES on behalf of the Client and W&C desires to accept such engagement, all upon the terms and conditions hereafter set forth; and

WHEREAS, W&C is experienced and capable of providing certain operation and maintenance services for the FACILITIES; and

WHEREAS, the Client is authorized by law to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

## ARTICLE I - RESPONSIBILITIES OF WOODARD & CURRAN

1.01 Commencing on September 1, 2022, or such other mutually acceptable date agreed to in writing between W&C and the Client (the "Effective date"), W&C will provide all routine operation and maintenance of the Client's FACILITIES (as described in Exhibit B of the Agreement- "Woodard & Curran Scope of Services") on a seven day per week basis within the design capabilities of the FACILITIES. Basic Design Data is provided in Exhibit A to this Agreement ("Design Capabilities for Treatment FACILITIES")

1.02 W&C shall communicate with the designated Client liaison as described in Article 2.01 (g) of this Agreement, regarding decisions and other matters related to the operation of the FACILITIES. In addition, W&C shall advise the Client and serve as the Client's liaison to regulatory agencies and consumers in matters related to the operation of the FACILITIES.

1.03 Additional operation and maintenance services not considered routine (as listed in Exhibit B of the Agreement), or which are required as a result of an "Act of God" or force majeure, including but not limited to flood, abnormal weather conditions, natural catastrophes, fire, civil disturbance, terrorism, interruption of electric or other utility service, equipment failure or equipment deficiency due to design defect or failure of Client to make necessary investments in the equipment, or any other reason beyond W&C's control ("Force Majeure"), are not covered within the scope of this Agreement and W&C shall be excused from any performance due to Force Majeure. If requested and practicable, W&C will assist the Client in obtaining or providing the operation and maintenance so required and W&C will be paid for such assistance in accordance with Article III, Compensation of this Agreement. W&C shall make reasonable efforts to secure the FACILITIES at appropriate times, within the limits of the security devices provided by the Client, to protect against vandalism and intrusion. To the extent possible, W&C shall keep buildings and gates locked and will have on-site staff coordinate with public safety officials on behalf of client with respect to security for buildings and property, in so doing making reasonable efforts to prevent break-ins and vandalism. W&C shall rely on client's security and electronic surveillance for ultimate control and responsibility for the security of property and equipment.

## ARTICLE II - RESPONSIBILITIES OF THE CLIENT

2.01 As part of this Agreement, the Client agrees to assume the following responsibilities:

- (a) Client shall maintain in full force and effect, in accordance with its respective terms, all guarantees, warranties, easements, permits, licenses, and other similar approvals and consents received or granted to the Client as Owner of the FACILITIES and component parts thereof;
- (b) The Client will be responsible for payment of capital costs as described in Exhibit B. Client shall also be responsible for expenditures for any capital repairs or replacement required as the result of a W&C health & safety inspection; W&C will provide justification and review of the related factors for such expenditure; Client will make capital repairs or replacement within a timely correctional period consistent with the recommendations of the W&C health & safety inspection.
- (c) Client shall at all times provide access to the FACILITIES for W&C, its agents and employees and shall assure that security and public safety officials responsible for the community and area coordinate their activities and patrols to protect personnel and property on-site; W&C will provide access to the FACILITIES for Client and its employees.
- (d) Client shall provide W&C with the use of all existing equipment and associated parts currently in stock owned by the Client, necessary for the operation and maintenance of the FACILITIES;
- (e) Client shall be responsible for damage and liability to the FACILITIES or components thereof and public health caused by flood, fire, Acts of God or other Force Majeure, civil disturbance, terrorism or misuse of property; unless and to the extent that such damage or liability is caused by the negligence of W&C.
- (f) Client shall designate an individual to act as authorized representative overseeing W&C in connection with the performance of services by W&C under this Agreement;
- (g) Client shall provide all criteria and full information as to the Client's requirements for W&C's services, including without limitation, objectives, constraints, standards or budgets including any limitations thereof;
- (h) Client shall give prompt written notice to W&C whenever the Client observes or otherwise becomes aware of any development that affects the scope or timing of W&C's services or any failure of W&C to perform in accordance with the terms and conditions of the Agreement;
- (i) Client shall be responsible for all fines imposed by OSHA for any capital repairs or replacement related to health & safety not made in accordance with Part (b) of this Article 2.01;

2.02 Client will purchase and maintain at its sole expense property and structure liability insurance and flood and fire insurance policies, including extended coverage, plus coverage for vandalism and malicious mischief for the full and insurable value of the facilities and insurance for bodily injury or death to the Client's employees, agents or invitees. In addition, the Client will name W&C as additionally insured on the above policies. Client and W&C waive all rights against each other and any persons for organizations for which either is responsible for bodily injury, death, or property damages to the extent covered by the insurance's maintained by each party pursuant to this Article or other applicable insurance, except such rights as they have to proceeds of such insurance held by the Client as fiduciary. This waiver of subrogation shall be effective as to a person or entity even though that person or entity did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest.

2.03 Client agrees to compensate W&C in a timely way as provided in Article III, Compensation.

## ARTICLE III - COMPENSATION

3.01 Compensation to W&C for services performed shall be the Cost-Plus-Fixed Fee Method as described herein.

- a. Cost Component.** During the first thirteen months of this Agreement, the Client shall pay W&C, as compensation for the Cost Component of the W&C Services (Exhibit B), an estimated Annual Budget of \$1,289,186 (Exhibit C), adjusted as detailed in Section 3.01g. below covering the period of September 1, 2022 through September 30, 2023. The Cost Component shall be Direct Salary & Benefits Costs, Overhead Costs, Maintenance and Repair Costs (as described in Article 3.01(i-1), Laboratory Costs, Miscellaneous Office Supplies, Miscellaneous Office Equipment, Utility Costs, and Other Operating Costs defined in scope of work description in Exhibit B. The Cost Component will be negotiated annually as part of a budget review session. The initial Cost Component for the first year of the contract is outlined in Exhibit C, and shall be payable in equal monthly installments, subject to further annual adjustments as specified below. The Client will have thirty (30) days in which to pay the W&C invoice. Late payments shall accrue interest at the then current prime rate plus two (2%) percent per annum on the unpaid balance.
- b. Fixed Fee Component.** During the first thirteen months of this Agreement, the Client shall pay W&C, as compensation for the Fixed Fee Component of the W&C Services (Exhibit B), an estimated Annual Budget of \$103,135 (Exhibit C), adjusted as detailed in Section 3.01f. below covering the period of September 1, 2022 through September 30, 2023. During the year, the Client shall pay W&C a Fixed Fee, as set forth in the approved Annual Budget (Exhibit C). In subsequent years, the Fixed Fee shall be eight percent (8.0%) of the sum of the Cost Component plus any additional cost's payable to W&C hereunder. The Fixed Fee is subject to review or modification only as otherwise provided in this Agreement. The Fixed Fee for the Agreement will be due to W&C payable in equal monthly amounts. The Client will have thirty (30) days in which to pay the W&C invoice. Late payments shall accrue interest at the then current prime rate plus two (2%) percent per annum on the unpaid balance.
- c. Transition Fee Component.** The Client shall pay W&C, as Compensation for the Transition Fee Component a total amount of \$145,998. This amount shall be amortized over a sixty-one (61) month period, with a monthly amount of \$2,393 being paid by the Client to W&C. This Transition Fee Component will not be adjusted annually. If the Client should terminate this Agreement prior to repayment of the full transition fee component, then the Client will be responsible for the prorated balance (as described in Exhibit C-1).
- d. Chemical Water Treatment Chemicals Costs.** W&C shall pay the cost of all chemicals used in the water treatment process ("Chemical Costs"). Adjustments to the Chemical Costs will be made in accordance with Article 3.01g. and Exhibit C. The annual Chemical Costs and Chemical Provider will be reviewed, discussed and agreed to in writing by the Parties.
- e.** In addition to the invoices associated with the Cost Component and Fixed Fee (Section 3.01a. and b. above), W&C shall submit the following to the Client each month: (1) an invoice for the preceding month's Chemical Costs, (2) a detailed accounting of Chemical Costs for the preceding month. Accompanying these invoices shall be the fees associated with administrative charges. The administrative charges shall be a percentage of the actual costs of the chemicals. The bracket for the administrative charges can be found in Exhibit C. The invoices for Chemical Costs and administrative charges will be billed at the beginning of the following month for which the chemicals were purchased. The Client will have thirty (30) days in which to pay the W&C invoice. Late payments shall accrue interest at the then current prime rate plus two (2%) percent per annum on the unpaid balance.

f. **Residuals Disposal Cost Component.** W&C shall be responsible for paying for the sludge disposal costs required to operate the Client FACILITIES. The costs for the sludge disposal during the first year of the agreement shall be passed along to the Client with an administrative charge of 3% of the actual costs for sludge disposal. The Client will receive a separate monthly invoice with the detailed accounting for the monthly sludge disposal costs. The Client will have thirty (30) days in which to pay the W&C invoice. Late payments shall accrue interest at the then current rate plus two (2%) percent per annum on the unpaid balance.

g. **Annual Adjustments.** By the date of execution of this Agreement and by each June thereafter, an Annual Budget, as defined in Exhibit C, including all costs plus W&C's Fixed Fee will be negotiated. Negotiations shall begin and an initial budget shall be submitted by June 1<sup>st</sup> of each year and finalized by June 30<sup>th</sup> each year of the contract. This method will enable Client and W&C to evaluate any deficiencies and/or changes in Scope of Services to establish the new Annual Budget in each successive year of the Agreement. If negotiations have not been completed prior to a contract year, the Annual Budget including Fixed Fee should be set at one hundred percent (100%) of the previous Annual Budget including Fixed Fee on a preliminary basis until negotiations are completed and the Annual Budget including Fixed Fee is adjusted, and credits made for any differences between the one hundred percent (100%) amount and the Annual Cost Budget including Fixed Fee agreed upon within thirty (30) days after the Annual Budget is approved.

h. **Adjustments Based on Increased Operating Costs.** In the event that any change in the scope of the operations of, or regulations applicable to, the Facility shall occur from and after the Effective Date, including, but not limited to, changes in governmental regulations or reporting requirements, effluent quality standards, monitoring requirements, level of treatment, personnel qualifications, staffing rules or changes in the scope of the W&C Services (as set forth in Exhibit B) which increase or decrease the cost of operating the Facility, then, in that event, the Client shall provide for an increase or decrease in the W&C Compensation, as reasonably determined by W&C and agreed to by the Client, retroactive to the date of such notification by W&C (which shall include a reasonably detailed explanation for the increase to the W&C Compensation).

**i. Maintenance and Repair Costs.**

i-1. **Costs up to \$4,999.** W&C shall pay the costs of all individual repair parts, maintenance materials, supplies and outside maintenance service items (collectively, "M&R Items") under \$4,999 per event, excluding W&C labor costs, during the term of this Agreement. The annual budget for such M&R Items costing less than \$4,999 is included in the annual fees to be paid to W&C and is initially established at \$202,500. This budget will be negotiated annually and upon any such change, a like amount change will be made to the W&C Compensation. Any amount less than the established threshold not expended by W&C for maintenance during a given contract year shall be reimbursed to the Client in full within sixty (60) days of the end of the contract year. During any contract year, amounts expended by W&C which aggregate to a total greater than the benchmark for maintenance and repair items will be reimbursed to W&C by the Client. M&R expense items will be tracked monthly and communicated directly with the client. Meetings between W&C and the Client will occur to develop a strategy as the annual M&R budget approaches the benchmark as outlined in Exhibit C. The Client shall approve in advance and pay for M&R Items that exceed the annual budget.

i-2. **Costs \$5,000 and above.** Any M&R Item which costs in excess of \$5,000 per event, excluding W&C labor costs, shall be approved by the Client and paid for in its entirety directly by the Client. Notwithstanding anything to the contrary in this Section 3.01i, W&C shall have the right, in emergency situations, to authorize the expenditure of monies for M&R Items up to \$9,999 where the failure to do so would have an adverse effect, as determined by W&C, on employee safety, the FACILITIES or the Client Equipment.

3.02 In the event that the Annual Budget less the M&R is exceeded in any given contract year, excluding the reasons listed above within Article III, Section 3.01 (i), the amount exceeded shall be the responsibility the Client, settled at the end of the then current contract year. The Client will also receive a rebate in the event that the Budget comes in below that described in Article III, Section 3.01 a-b.

3.03 W&C shall submit the following to the Client each month: (1) an accounting summary of actual costs for the

preceding month, (2) and accounting summary of actual costs versus budget year to date, and (3) overtime justification. At year's end, W&C shall submit a final detail of costs versus budget, including a month-by-month tabulation for the contract year ending in September of each contract year subject to audit by client.

3.04 Contingency or Out-of-Scope Services includes funds for projects and services that have not been included elsewhere in the annual budget and are not clearly defined. Expenditures under this category will need prior written approval by the Client. A Fixed Fee rate of 5% will be added to all Contingency or Out-Of-Scope Services expenses. Contingency or Out-Of-Scope Services expenses will be billed on a monthly basis.

3.05 W&C shall provide a narrative statement, in a Monthly Operating Report (MOR), to the Client on a monthly basis. The MOR shall describe the work accomplished, any problems encountered, and their resolution by W&C during the period by reference to the tasks described in the Scope of Services.

3.06 Invoices received by the Client will be paid as described within Article III Sections 3.01a, 3.01b, 3.01c, 3.01d, 3.01e and 3.01f. W&C will be notified of any questionable items contained in invoices submitted by W&C within ten (10) days of receipt by the Client with an explanation of the deficiencies. W&C will make every effort to resolve all questionable items contained in the W&C invoice within thirty (30) days of review by the Client. At the end of the thirty (30) day period, the Client shall pay to W&C the invoice amount less any unresolved questionable items. If a dispute on the invoice cannot be resolved by the parties, then the parties shall submit the dispute to a mutually acceptable third party (Facilitator) having expertise in the subject matter of the dispute. The site of the mediation will be in Lake County, FL, unless otherwise mutually agreed between the parties. The expense of the Facilitator would be shared equally by the parties involved in the Dispute. The parties may present evidence or arguments to the Facilitator. This mediation process would involve a minimum of two face-to-face meetings within a sixty (60) calendar day period, beginning on the date of the Facilitator's assignment to the Dispute.

3.07 Any invoice dispute not resolved by mutual agreement or mediation as described above would be decided by binding arbitration in Lake County, FL, in accordance with the rules of the American Arbitration Association, the award of the arbitrator to be final and binding on the parties.

3.08 Invoices are to be forwarded directly to the following:

For Operations and Maintenance (O&M) Invoices

Client Address:

Lake County Water Authority  
27351 State Road 19  
Tavares, Florida 32778  
Attn. Accounts Payable

3.09 In the event that this Agreement is terminated or cancelled, or W&C's services are suspended on this Agreement, prior to completion, payment shall be made in accordance with the provisions of Article V, Termination.

#### **ARTICLE IV - TERM OF AGREEMENT**

4.01 This Agreement shall remain in full force and effect for sixty-one (61) months from the Effective Date.

4.02 The term of this Agreement may be extended for consecutive terms as mutually agreed by the Client and W&C.

#### **ARTICLE V - TERMINATION**

5.01 This Agreement may be terminated upon sixty (60) days written notice given by the Client to W&C for default by W&C or in the event a federal or state regulatory agency fines the Client, which fine W&C is required to pay by

the terms of Exhibit B (Item 1 below), and in the event of a default by W&C, should W&C fail to appropriately cure the default within an additional thirty (30) day period.

5.02 This Agreement may be terminated upon sixty (60) days written notice given by W&C to the Client for default by the Client and the Client's failure to appropriately cure the default within an additional thirty (30) day period.

5.03 This Agreement may be suspended indefinitely by W&C after forty-five (45) days for non-payment of invoices submitted to Client pursuant to Article 3.07. Failure to provide payment for sixty (60) days shall constitute a default and be subject to the terms stipulated in Article 5.02.

5.04 This Agreement may be terminated by either party without cause after providing the other party with one hundred and eighty (180) days' written notice. In the event the Client exercises this provision of the Agreement prior to execution of the full term as stipulated in Article IV above, Client shall owe W&C: all invoiced fees through the date of termination; and the prorated balance remaining on the original transition costs (Exhibit C-1).

## **ARTICLE VI - QUALITY OF PERFORMANCE**

6.01 W&C's objective is to provide its clients with quality operational services, consistent with industry standards. To that end, W&C seeks an operational partnership with the Client to achieve a level of performance consistent with industry standards and expects to be held accountable for delivering performance against such standards. If at any time the Client is less than fully satisfied, this should be communicated to W&C, and if the Client is ultimately not satisfied with W&C's performance, the Client may request a change in the management team overseeing its project.

## **ARTICLE VII - CHANGES**

7.01 Woodard & Curran or the Client may request, respectively, changes in the services authorized under this Agreement which are within the general scope of this Agreement, including without limitation, additional operational and maintenance services not considered "routine" (for example: construction and installation of capital projects and repairs caused by events outside W&C's control if these cannot be accommodated within normal operational hours and normal expense budgets), changes required by new or revised laws, rules, regulations or code requirements, or new or amended orders of any public authority or court, the happening of Force Majeure including without limitation, flood, fire, act of God, civil disobedience, terrorist acts, or other causes beyond W&C's reasonable control or which result from W&C encountering conditions or circumstances during performance of its services under this Agreement which are materially different from those described or represented by the Client regarding the operational or maintenance characteristics or circumstances of the FACILITIES. These changes may be made only by written work change orders, executed by the Client and W&C, unless accomplished under emergency conditions with verbal authorization.

7.02 In the event changes in the work result in increased work, the Client will pay W&C for hours worked, equipment used, and materials expended in accordance with Articles III, Compensation.

7.03 In an emergency affecting the safety of persons or property, W&C may act, at its discretion, to prevent threatened damage, injury or loss to spend up to \$9,999 on a remedy. Any increase in the monthly fee or extension of time claimed by W&C on account of acts taken in connection with such emergency shall be paid to W&C in accordance with Article 7.02 above.

## **ARTICLE VIII – INSURANCE AND LIMITATIONS**

8.01 W&C will provide and maintain at all times during the term of this Agreement the following minimum insurance coverage:

- (a) Workers compensation Insurance in compliance with the statutes of the state of Florida, which has jurisdiction of W&C employees engaged in the performance of services hereunder, to a limit of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)**,
- (b) Comprehensive General Liability Insurance with a minimum combined single limit of **FIVE MILLION DOLLARS (\$5,000,000.00)**, including the broad form property damage endorsement; and,
- (c) Automobile Liability Insurance (owned, non-owned, or hired units) minimum combined single coverage limit of **ONE MILLION DOLLARS (\$1,000,000.00)**.
- (d) Errors and omissions coverage under W&C's corporate professional liability insurance, with a minimum coverage of one year's fee, and up to W&C's professional liability insurance limit of **(ONE MILLION DOLLARS (\$1,000,000.00))**.

W&C will furnish the Client with Certificates of Insurance as evidenced that policies providing the required coverage's and limits are in full force and effect. In addition, W&C shall name the Client as additionally insured on the general liability policy and automobile liability policy. Such policies shall provide that no less than thirty (30) days advance notice of cancellation, termination, or alteration shall be sent directly to W&C and the Client.

8.02 Unless covered by insurance carried by W&C pursuant to Article 8.01 of this Agreement, in which case the coverage and limits specified to be maintained shall only apply to such covered liabilities, the aggregate liability of W&C for any and all claims, damages, costs, or expenses, including attorneys' fees resulting from W&C's performance or nonperformance of its obligations under this Agreement, whether based in breach of contract, breach of warranty, tort including negligence, strict liability or otherwise, shall not exceed the total annual compensation paid for the services out of which the claim or damage, costs, or expense arose, but in no event shall W&C be liable for any consequential or special damages such as loss of profits or revenue, or the loss of use of Client's FACILITIES or property.

8.03 W&C will supervise all regulatory compliance and financial transactions pertaining to the day-to-day operation of the FACILITIES. Subject to the limitations of this Article, W&C shall operate the FACILITIES in compliance with state and federal regulatory requirements.

- (a) Flows and raw water quality which are not within the design capabilities of the FACILITIES, including but not limited to soluble oil, heavy metals, other toxic substances, excessive suspended solids, and excessive organic loadings (see Exhibit A for design flows),
- (b) The malfunction or failure of equipment giving rise to the violation which is not due to the sole causation of W&C,
- (c) Failure by the Client to fulfill its obligations under this Agreement or other agreements with regulatory agencies.

## **ARTICLE IX - INDEMNIFICATION**

9.01 W&C agrees to indemnify and hold the Client harmless from any liability, claim, demand or cause of action resulting from bodily injury to or illness or death of any person or destruction or damage to any property to the extent caused by the negligence of W&C or its employees in the performance of the services of this Agreement.

9.02 Client agrees to indemnify and hold W&C harmless from any liability claim, demands or cause of action resulting from bodily injury to or illness or death of, any person or destruction of or damage to any property to the extent caused by the negligence of the Client or its employees.



9.03 In the event that both W&C and the Client are found by a finder of fact to be negligent, and the negligence of both is the proximate cause of the claim, damage, cost or expense, then in such event, each party shall be responsible for the portion of the liability equal to its comparative share of the total negligence.

9.04 Client acknowledges that, in seeking services of W&C in this Agreement, the Client is requesting W&C to undertake uninsurable environmental and other operational obligations for the Client's benefit. Therefore, the Client agrees that, except to the extent such liability may arise solely out of the negligence or willful misconduct of W&C or its employees and the performance of services under this Agreement, the Client shall defend, indemnify and hold harmless W&C, its officers and employees from and against any and all claims, losses, damages and liabilities, including but not limited to cost of defense and reasonable attorneys' fees, arising under local, state, or federal laws or regulations including but not limited to, the Clean Air Act, the Clean Water Act, CERCLA, RCRA, or analogous state or local laws directly or indirectly connected with the alleged or threatened discharge, dispersal, release, migration of pollutants (excluding excessive flow discharge), contaminants, or chemicals which may be present at or beneath the Facility's premises. Notwithstanding anything to the contrary in this Article, the Client shall not be under obligation to defend or indemnify W&C, its officers or employees from any criminal proceedings, fines, or sanctions unless they are attributable to those causes deemed as exceptions (Exhibit B, Item 1) to W&C's compliance obligations.

## **ARTICLE X - MISCELLANEOUS**

10.01 Any temporary or portable equipment which is provided by W&C during the term of this Agreement, and which is not deemed part of the FACILITIES shall remain the property of W&C upon termination of this Contract. W&C shall not make any capital replacements of the FACILITIES or any component thereof without the prior written approval of the Client.

10.02 This Agreement represents the entire Agreement of the parties and may only be modified or amended in writing, signed by both parties.

10.03 Written notices required to be given under this Agreement shall be deemed given when mailed by first class mail, to W&C, Attention: Brian Bzdawka, President of Operations & Maintenance, and to the Client, Attention: Ben Garcia, Executive Director, at the addresses set forth for each in the opening paragraph of this Agreement.

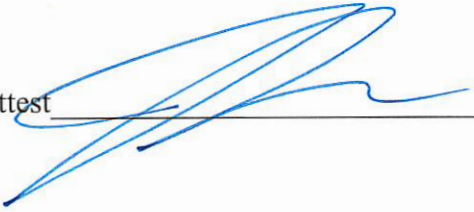
10.04 No waiver, discharge, or renunciation of any claim or right of W&C arising out of breach of this Agreement by the Client shall be effective unless signed in writing by W&C and supported by separate consideration.

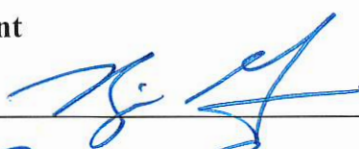
10.05 This Agreement shall be deemed to have been made in the State of Florida and shall be governed by and construed in accordance with the laws of the State of Florida.

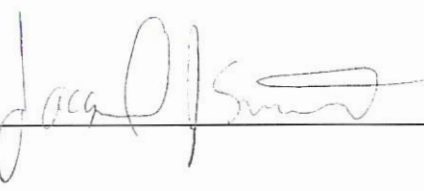
10.06 If a dispute arises pursuant to this Agreement and is not resolved by mutual agreement within sixty (60) calendar days and given written notice of the Dispute, a mutually acceptable third party (Facilitator) having expertise in the subject matter of the dispute would be engaged to mediate the Dispute. The expense of the Facilitator would be shared equally by the parties involved in the Dispute. The parties may present evidence or arguments to the Facilitator. This mediation process would involve a minimum of two face-to-face meetings within a sixty (60) calendar day period, beginning on the date of the Facilitator's assignment to the Dispute.

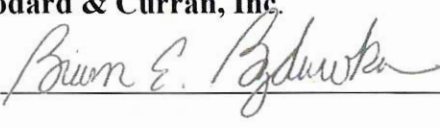
Any Dispute not resolved by mutual agreement or mediation as described above would be decided by binding arbitration in accordance with the rules of the American Arbitration Association, the award of the arbitrator to be final and binding on the parties.

IN WITNESS THEREOF, W&C, by its duly authorized Officer, and the Client, by its duly authorized Administrator, have executed this Agreement as to the date and year first above written.

Attest  L.S.

**Client**  
By:  L.S.  
BENJAMIN GARCIA  
(Printed or Typed Name)  
INTERIM EXEC. DIRECTOR  
(Title)  
8-2-22  
(Date)

Attest  L.S.

**Woodard & Curran, Inc.**  
By:  L.S.  
Brian E. Bzdawka  
(Printed or Typed Name)  
President of O & M  
(Title)  
August 1, 2022  
(Date)

## EXHIBIT A

### DESCRIPTION FOR TREATMENT FACILITIES

Subject to the terms and conditions of this Agreement, W&C will provide the W&C Services such that the Phosphorous Removal Facility; to include the solids handling facilities, are operated and maintained in accordance with all known BOPs (Best Operational Practices) and complies with applicable state water quality standards, including:

- a. 62-302.500 minimum criteria for all surface waters
- b. 62-302-500 Surface waters, general criteria
- c. 62-302-4 Class III Waters-Recreation-Propagation

Maintenance and Repair, General Housekeeping, Preventative and Predictive Maintenance and General Site Maintenance activities shall be performed, recorded, and reported as needed on:

- Removal of trash and debris
- Inspection of inlets and outlets
- Mowing
- Pest Control
- All on-site treatment equipment such as, but not limited to: pond dredging equipment, instrumentation, pumps, mixers, chemical feed systems, SCADA, solids handling equipment (centrifuge and peripheral equipment), etc.
- All Site Vehicles
- Maintain, upgrade, or install appropriate signage and lighting as necessary to maintain a safe work environment.

Apply alum, ferric chloride, or other Phosphorous precipitating chemistry to minimize the system's effluent Total Phosphorous discharge levels with a goal to maintain the pond's annual average discharge concentration levels to less than (<) 0.031 mg/l (ppm) of Phosphorus. The effluent goal of <0.031 mg/l (ppm) is based upon an annual average influent. To the best of the Contract Operator's ability; adequate volumes of Phosphorous precipitating chemicals used to treat the influent flow will be always maintained on-site.

The facility is designed to receive a peak daily flow of 300 cubic feet per second (134,649 GPM) not to exceed 35 days per year. Flow greater than 300 cubic feet/second (cfs) will be discharged through the existing dam. The annual average daily flows should be consistent with the Memorandum of Understanding for the Lake Apopka Discharge Protocol between the St. Johns Water Management District and the Lake County Water Authority last updated July 9, 2020. W&C will coordinate with SJWWMD to control flows entering the FACILITY.

Contractor will monitor and report daily influent/effluent for Phosphorus, Phosphorus as P, phosphate (PO<sub>4</sub>), aluminum, and turbidity concentrations as well as daily monitoring for flow and other currently monitored parameters. W&C will provide monthly reports and a dashboard available to Client for monitoring.

## EXHIBIT B

### WOODARD & CURRAN SCOPE OF SERVICES

The Services to be provided by W&C during the term of this Agreement shall include and be limited to the following:

**1. Nutrient Reduction Facility Operation (NuRF).** W&C shall operate and manage the FACILITIES per requirements established by the governmental authorities having jurisdiction over the FACILITIES and in accordance with the applicable industry standard of care. W&C shall comply with all applicable local, state and federal laws and regulations as they pertain to the FACILITIES. W&C shall pay all fines and fees which may be imposed by the regulatory agency having jurisdiction for water quality violations associated with the permits issued with respect to the FACILITIES; provided, however, that W&C shall have no such obligation if such violations are a result of the Client's negligence or intentional acts or the presence of hazardous or biological toxic substances. In the event the influent does exceed the design limitations set forth on Exhibit A, W&C shall be excused of its fine and penalty obligations, however, shall use commercially reasonable efforts to satisfy its commitments notwithstanding the condition of the influent.

**2. Project Management and Staffing.** W&C will maintain and manage the staffing of the FACILITIES.

**3. Project Support.** W&C shall, as required and determined by W&C, provide on-call, backup expertise in operations, management, and maintenance applications to ensure adherence with this CONTRACT.

**4. Maintenance Management.** W&C shall institute a preventative maintenance program for all provided Equipment and shall perform predictive, preventative, and corrective maintenance. Records maintained by W&C shall include the history of maintenance and the schedule of programmed maintenance throughout the Term of this Agreement for each item of the Client Equipment. Standard operations and maintenance procedures shall be established by W&C consistent with industry-wide practices for major piece of Equipment.

**a. Costs up to \$4,999.** W&C shall pay the costs of all individual repair parts, maintenance materials, supplies and outside maintenance service items (collectively, "M&R Items") under \$4,999 per event, excluding W&C labor costs, during the term of this Agreement. M&R expense items will be tracked monthly and communicated directly with the Client. Meetings between W&C and the Client will occur to develop a strategy as the annual M&R budget approaches the benchmark as outlined in Exhibit C. The Client shall approve in advance and pay for M&R Items that exceed the annual budget.

**b. Costs \$5,000 and above.** Any M&R Item which costs in excess of \$5,000 per event, excluding W&C labor costs, shall be approved by the Client and paid for in its entirety directly by the Client. Notwithstanding anything to the contrary in this EXHIBIT B (Item #4), W&C shall have the right, in emergency situations, to authorize the expenditure of monies up to \$9,999 for M&R Items where the failure to do so would have an adverse effect, as determined by W&C, on safety, the FACILITIES or the Client Equipment.

**c. W&C assumes that all costs associated with, but not limited to, the following priority items will be addressed by the Client in cooperation with W&C, after W&C's assumption of operation and the costs associated with them will be borne solely by the CLIENT:**

- Installation/Replacement of Channel Influent Ballasts to prevent large objects from entering the pond. All proposed designs should be reviewed and approved by W&C.
- Correct the drainage and berming issues to prevent localized flooding around the dewatering area/centrifuge building. This should also include jetting and cleaning of the drainage lines starting in the centrifuge building and surrounding areas.
- Modify or relocate the existing process water well system to correct for the currently known poor process water quality.
- Complete repair and upgrades of Alum Mixing Systems [Two (2) Injection Locations].
- Existing Sludge Storage Tank to be drained, cleaned and recoated/repared.

- Installation of the Phosphorous monitoring devices located at the influent and effluent water quality monitoring locations.
- Removal of existing thickened Alum Sludge residuals from the Sludge storage area in and around the facility.

**5. Information Systems.** W&C shall maintain computer software effective in the management of scheduled and preventive maintenance and process control.

**6. Operational Costs and Expenses.** W&C shall provide and pay all budgeted costs of W&C employees, utilities, laboratory supplies and equipment, office supplies, maintenance, and repairs (within the annual budget of \$1,289,186, See EXHIBIT C) and expendable supplies required in the normal operation and maintenance of the FACILITIES while it is responsible for the operation of the management of the FACILITIES, except to the extent otherwise provided in the Agreement. W&C shall also provide and pay for all chemical and sludge disposal costs associated with operations of the FACILITIES. The costs for chemicals and sludge disposal will be passed through to the Client at cost, with a fee as described in Exhibit C.

**7. Corrective Action.** In the event that the effluent water quality is not in compliance with regulatory requirements, W&C shall be responsible to implement corrective actions to bring the FACILITIES within compliance consistent with its obligations to operate and manage the FACILITIES as required herein.

**8. Hazardous Substance.** In the event that any Hazardous Substance is received at the FACILITIES, W&C shall notify the Client and assist the Client in the removal and/or reduction of such Hazardous Substance. In the event that any Hazardous Substance cannot be treated or removed using the processes and equipment provided, W&C shall not be responsible for additional Operational Costs and Expenses until the Hazardous Substance is removed from the FACILITIES and the FACILITIES are completely recovered. For all purposes of this Exhibit B and the Agreement to which it is attached, "Hazardous Substance" shall mean (a) any petroleum, petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials or polychlorinated biphenyls; or (b) any chemical, material or substance defined or regulated as hazardous or as a pollutant, contaminant or waste under any statute, law, ordinance, by-law, decree, regulation, code, order, rule or judgment of any governmental authority having the force of law.

**9. Biological Toxic Substance.** In the event that any Biological Toxic Substance is received at the Client FACILITIES, W&C shall notify the Client and assist the Client in the removal and/or reduction of such Biological Toxic Substance. In the event that any Biological Toxic Substance cannot be treated or removed using the processes and equipment provided, then, in that event, W&C shall not be responsible for additional Operational Costs and Expenses until the Biological Toxic Substance is removed from the FACILITIES and the FACILITIES are completely recovered. For all purposes of this Exhibit B and the Agreement to which it is attached, "Biological Toxic Substance" shall mean any substance or combination of substances contained in the FACILITIES' influent in sufficiently high concentrations so as to interfere with the biological processes necessary for the removal of the organic and chemical constituents of the wastewater. The Parties agree that the presumption shall be that any Biological Toxic Substance present in the Facility entered with the influent unless it can be demonstrated otherwise. Biological Toxic Substances include, but are not limited to, heavy metals, phenols, cyanides, pesticides, herbicides, acids, caustics, chlorine, quaternary ammonia and other cleaning or sanitizing compounds.

**10. Other Issues Outside the Control of W&C.** In the event that any influences outside the control of W&C cause operational issues W&C shall not be responsible for additional Operational Costs and Expenses until such time as those influences are stopped and the FACILITIES have had ample time to recover. W&C shall notify the Client of any flood, fire, Act of God or other Force Majeure, civil disturbance, terrorism, or other reasons beyond W&C's control within twenty-four (24) hours of the existence of such Force Majeure event and shall use its reasonable efforts to continue performance of its obligations under this Agreement and mitigate the impact of the event.

**11. Testing and Laboratory Analysis.** W&C shall perform the sampling and analysis as required to ensure proper operation of the FACILITIES. W&C shall prepare all permit monitoring and operations reports and submit them to the Client for final review and sign-off prior to submission to the appropriate regulatory agency having jurisdiction over the FACILITIES.

**12. Reporting.** W&C shall submit internal reports relating to the operations of the FACILITIES to the Client and assist the Client in the Client's reporting requirements to local, state and federal regulatory agencies, all in accordance with the mutually agreed upon procedures. W&C shall be responsible for representing the Client with the relevant regulatory agencies and advise the Client of all meetings, hearings and relevant related information for the FACILITIES. The Client shall participate in such meetings of regulatory or governmental agencies as the Client or W&C deems necessary.

**13. Records of Operation.** Records maintained by W&C shall be in compliance with all applicable law and regulations. These records, capable of providing historical data and trends, shall be the property of the Client. W&C shall maintain these records at the FACILITIES' sites, available during the term of this Agreement for use by authorized Client personnel. W&C agrees to provide the Client's officials with access to the FACILITIES at any time, upon reasonable prior notice.

**14. Safety.** W&C shall administer a site-specific safety program to include training, record keeping and safety meetings, all in conformance with any requirements of OSHA, NFPA and the State of Florida.

**15. Training.** W&C shall implement an on-going training program, with classroom and hands-on training for all FACILITIES' personnel. Training shall include FACILITIES operations and maintenance, laboratory operations and maintenance, supervisory skills, and energy management.

**16. Capital Budget Submission.** On an annual basis, W&C shall provide a formal report to the Client on the W&C's projection of capital needs and assist the Client with the preparation of the Client's annual budget. W&C shall annually submit its recommendations regarding additions to or deletions from the Client's scheduled program. W&C shall submit detailed rationale for any changes or additions, along with related preliminary cost estimates. Implementation of these recommendations by the Client, however, is not a condition of W&C's performance. Review and approval of these capital expenditures shall remain the responsibility of the Client.

**17. Emergency Response Plan.** W&C, in cooperation with the Client, shall maintain and implement an emergency response plan for the FACILITIES that shall be in compliance with all applicable regulations. The emergency response plan shall be reviewed and updated annually.

**18. Facilities Inventory.** W&C will prepare a complete inventory of spare parts, materials, and chemicals on site at the commencement of the term of this Agreement, to be submitted within two (2) months of the commencement date.

**19. Sludge Management and Sludge Disposal.** W&C shall be responsible for handling and disposing of sludge residuals generated by the Client FACILITIES in a manner consistent with all applicable regulations of the United States Environmental Protection Agency ("USEPA") and the FDEP, except to the extent of any compliance issues resulting from the presence of undetected hazardous substances introduced by the Client. W&C will perform all services and testing required in the Agreement and under current laws and regulations. W&C is not responsible for liability imposed by future changes in laws or regulations without an amendment to the Agreement. During the Term of the Agreement, W&C shall be responsible to monitor and advise the Client of any changes in the laws or regulations that might require an amendment to the Agreement in this regard. The Client will hold W&C harmless from liabilities that are inconsistent with the foregoing. W&C shall also provide and pay for all sludge disposal costs associated with operations of the facilities. The sludge disposal costs will be passed through to the Client at cost, with a fee as described in Exhibit C.

**20. Permits.** W&C shall submit permit applications for approval, and maintain and keep on file at the FACILITIES, all permits in the name of the Client to the extent required by law, to own, operate, and maintain the FACILITIES. W&C shall submit to the Client copies of reports submitted to regulatory authorities with respect to such permits. W&C shall pay fines, penalty, or damages resulting from W&C's non-compliance with or violation of any such permit, including cleanup expenses, except when such non-compliance or violation is caused or contributed to by the negligence or willful misconduct or fault of the Client or the failure of the Influent to meet the standards set forth in this Agreement.

**EXHIBIT C**

**COST LIMITATION BUDGET**

The table below reflects the First Year's Estimated Budget. The First Year's Estimated Budget includes an extra month to align with the fiscal year of the Client. Future year's will be aligned with an October 1<sup>st</sup>-September 30<sup>th</sup> fiscal year. The budget shall be negotiated and agreed to by both parties annually as described in Section 3. The line-item budget provided below shall be based upon the parameters outlined in Section 3 of this Agreement.

**Estimated Budget – First Contract Year (13 Months)**

	<b>W&amp;C</b>
Labor (Direct Labor + Fringe Benefits)	\$668,053
Overhead	\$203,848
Utilities	\$123,392
Chemicals Costs	Pass through + See Table Below
Maintenance & Repair Costs	\$ 213,958
Sludge Disposal Costs	Pass through + 3% for Year 1
Lab Supplies & Equipment	\$ 9,143
Office Supplies	\$ 1,110
Miscellaneous Expense	\$ 69,681
<b>Subtotal of Cost Components</b>	<b>\$ 1,289,186</b>
Fixed Fee for Year One (13 Months)	\$103,135
Transition Costs (\$145,998 / Amortized over 61 months)	\$ 31,114
<b>Total Budgeted Costs (for 13 Months)</b>	<b>\$ 1,423,435</b>

**Note:** In addition to the costs listed in the above table, W&C shall be responsible for ordering and paying for all chemicals costs required to operate the Client FACILITIES. The costs for the chemicals shall be passed along to the Client with a tiered administrative charge associated with the table below.

<b>Chemical Cost Range</b>	<b>\$0-\$1.5M</b>	<b>\$1.5M-\$2.5M</b>	<b>&gt;\$2.5M</b>
Administrative Charge as % of Costs	5%	4%	3%

**Example:**

If the annual chemical spend is \$1,499,999, then the administrative fee on chemicals is \$74,999.  
 $\$1,499,999 \times 0.05 = \$74,999$

If the annual chemical spend is \$1,500,001, then the administrative fee on chemicals is \$60,000.  
 $\$1,500,001 \times 0.04 = \$60,000$



The Client will receive a separate monthly invoice with the detailed accounting for the monthly chemical and sludge disposal spend.

**EXHIBIT C-1**  
**TRANSITION COST TERMINATION SCHEDULE**

<b>Termination Year</b>	<b>Amount Owed</b>
End of Year One	\$114,884
End of Year Two	\$86,163
End of Year Three	\$57,442
End of Year Four	\$28,721
End of Year Five	\$0

**EXHIBIT D**

**LCWA'S EQUIPMENT LIST (TO BE COMPLETED WITHIN FIRST 3 MONTHS OF THE AGREEMENT)**