

Meeting Date
November 7, 2017



AGENDA	
Section	Consent
Item No.	II. C. 1.

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Permission to advertise request for bids for lease of equipment and services for odor and corrosion control for Lift Stations and Wastewater Treatment Plants
DEPT/OFFICE:	Central Services on behalf Utility Services Department

**Requested Action:**

It is requested that the Board of County Commissioners authorize staff to advertise a request for bids to lease odor and corrosion control equipment and services; authorize the Purchasing Department to award the bid to the lowest responsive bidder; authorize the Chairman to execute the initial agreement; authorize the County Manager to execute renewal options; and any necessary budgetary changes.

**Summary Explanation & Background:**

Utility Services has the need for odor and corrosion control systems to serve wastewater applications such as lift stations and pretreatment structures. Utility Services previously utilized piggyback contracts for odor and corrosion control services. The Department now desires to solicit bids to meet the specific requirements at the County operated facilities.

The County will lease the equipment from the awarded vendor for a 3-year term with 2 additional 1-year renewal options. The Vendor will install all equipment and will include all maintenance, servicing and nutrients required for a complete and operable system. The Vendor will provide continuous hydrogen sulfide monitoring and respond to any citizen odor complaints within 24 hours.

**Fiscal Impact:** Approximately \$80,000-\$100,000 annually.

Funds available & budgeted in various Countywide and Barefoot Bay Systems fund/accounts.

Contact: Teresa Camarata, Central Services Director, 321-637-5492, [Teresa.Camarata@brevardfl.gov](mailto:Teresa.Camarata@brevardfl.gov)  
 Jim Helmer, Utility Services Director, 321-633-2091, [Jim.Helmer@brevardfl.gov](mailto:Jim.Helmer@brevardfl.gov)

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney    Yes  No     PR

County Manager Frank Abbate <i>[Signature]</i>	Assistant County Manager John Denninghoff <i>[Signature]</i>	Department Director / Extension <i>[Signature]</i> Teresa Camarata, Central Services Director / x55492
	Interim Assistant County Manager Jim Liesenfelt	<i>[Signature]</i> Jim Helmer, Utility Services Director / x52091

NOV 16 2017

UTILITY SERVICES

**FLORIDA'S SPACE COAST**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

November 8, 2017

MEMORANDUM

TO: Jim Helmer, Utility Services Director      Attn: Teresa Camarata

RE: Item II.C.1., Permission to Advertise Request for Bids for Lease of Equipment and Services for Odor and Corrosion for Lift Stations and Wastewater Treatment Plants

The Board of County Commissioners, in regular session on November 7, 2017, authorized staff to advertise a request for bids to lease odor and corrosion control equipment and services; authorized the Purchasing Department to award the bid to the lowest responsive bidder; authorized the Chairman to execute the initial agreement; authorized the County Manager to execute renewal options; and approved any necessary budgetary changes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

cc: Assistant County Manager Liesenfelt  
Finance  
Budget

UTILITY SERVICES ODOR CONTROL EQUIPMENT AND SERVICES LEASE  
CONTRACT AGREEMENT

**THIS AGREEMENT** made this 9th day of March, 2018 by and between BREVARD COUNTY, a political subdivision of the State of Florida (the "County") and Heyward Florida, Inc. (the "Vendor").

WITNESSETH:

**WHEREAS**, the County is desirous of establishing an Agreement with the Vendor for the lease of odor and corrosion control services on a monthly basis at Brevard County Utility Services Department lift stations and treatment plants and

**WHEREAS**, the provision of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida.

**NOW THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

**1. SCOPE OF THE SERVICES:** The Vendor shall furnish, install, monitor and maintain Biotrickling Filter Odor Control Systems (hereinafter "BFOCS") for identified locations and on an as-needed basis, as more specifically defined herein. The Vendor shall supply all equipment necessary to provide the County with completely operational BFOCS. The County shall provide all connections for electrical, potable water, drain, and concrete slab within forty (40) feet of the proposed odor control unit.

a. Locations: The Vendor will replace three (3) existing odor control devices and install two (2) additional BFOCS. The Vendor will also provide additional BFOCS and Temporary Odor Control Devices at future locations as requested by the County. The locations are as specified in Section 3.2 of Exhibit A titled "Invitation to Bid."

b. Repair/Maintenance: The Vendor is responsible for insuring that the Odor Control Equipment and all operating apparatus is physically and mechanically sound to perform the specified services for the entire thirty-six (36) month period.

a. The Vendor shall provide a service/maintenance program which will include routine gathering of dissolved and atmospheric hydrogen sulfide data and provide written reports to the County.

b. The Vendor shall provide maintenance service within twenty-four (24) hours of notification of equipment failure. The Vendor shall be capable of installing temporary odor control devices within two (2) days of notification by the County. Vendor/owner must submit a 24-hour a day, seven days per week contact information in the event the County needs service on the equipment.

c. The Vendor shall in addition to all other guarantees, be responsible for faulty labor or quality of work and shall promptly correct improper work, without cost to the County, within twenty-four (24) hours after the receipt of notification of such faulty labor or quality of work. If the Vendor fails within twenty-four (24) hours to correct defects the County shall be entitled to have such work remedied and the Vendor shall be fully liable for all costs and expense reasonably incurred by the County, which may be set-off against monthly rental payments. Payments in full or otherwise do not constitute a waiver of this guarantee. The guarantee period for corrective work performed in accordance with this paragraph shall be effective for one (1) year after acceptance of work by the County.

d. The Vendor shall be responsible and liable for the actions taken by its subcontractors, agents, employees, persons, and entities of a similar type and nature.

e. The Vendor shall replace the equipment, at no cost to the County, if it is determined to be unsafe for its intended use by the County or any regulatory agency.

**2. EQUIPMENT SPECIFICATIONS:** The Vendor shall supply and the County will lease equipment that meets the requirements in Sections 4, 5, and 6 of Exhibit A. The BFCOS must be designed for the operating conditions and criteria as specified in Section 1.3 of Exhibit A.

**3. TERM:** Subject to the termination for convenience provisions in paragraph 14, the term of the Agreement shall be three (3) years beginning upon the date of execution of this Agreement by the last party to the Agreement. This Agreement may be extended for an additional two (2), one (1) year periods with the option to negotiate pricing, terms and conditions.

**4. PAYMENTS:** Payment shall be made by the County to the Vendor for:

- a. Installation of odor control units as specified in ITB #B-7-18-21, attached as Exhibit A at the South Central Wastewater Treatment Plant, 10001 N. Wickham Rd., Melbourne, FL 32940 and the South Beaches Wastewater Treatment Plant, 2880 S. Highway A1A, Melbourne Beach, FL 32951.
- b. Field evaluation, sizing recommendations and installation of odor control units at Lift Station T16, Lift Station W15, Lift Station M20.
- c. Monthly lease payments, shall be all inclusive of total monthly maintenance, servicing, reporting, site visits, nutrients, and all other items necessary to ensure performance of the odor control system. Payment will be made by the County to the Vendor as specified in the Invitation to Bid #B-7-18-21 award tabulation.

Vendor shall provide the County with monthly invoices for services rendered. Subject to the dispute resolution procedures specified below, the County shall remit payment in accordance with the Florida Prompt Payment Act, Florida Statute section 218.70, et seq. For contracts in which the total County expenditure will be less than \$100,000 over the term of the contract, within 45 days after the date a payments request or proper invoice is received by the County, any dispute over payment shall be submitted to the Assistant County Manager responsible for the supervision of purchasing. Within 60 days after the payment request or proper invoice is received by the County, the Assistant County Manager shall review the invoice and make a final decision as to whether the County will tender payment. In the event payment is denied, the Assistant County Manager will specify, in writing, reasons for denial that are supported by the contract or by Florida law. Disputed payments under contracts involving the expenditure of in excess of \$100,000 over the term of the contract shall be referred to the County Manager following the same procedure described above.

**5. VENDOR RESPONSIBILITIES:** The Vendor is solely responsible for traffic control and safety measures for both the public and employees. The Vendor is solely responsible for the control of the environment of the work site during on-site operations. The Vendor is solely responsible for conforming to all OSHA regulations and any other regulations mandated by Federal, State, or County Governments. Damage to public and/or private property is the responsibility of the Vendor and shall be repaired and/or replaced at no additional cost to the County.

**6. INDEMNIFICATION:** To the extent permitted by law, the Vendor shall indemnify and hold harmless the County and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the Vendor, or anyone directly or indirectly employed by the Vendor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified

thereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by the Vendor, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under worker's compensation acts, or other related policies of insurance.

**7. INSURANCE:** The Vendor, at its own expense, shall maintain necessary insurance coverage and keep required limits in force and at all times during the term of this agreement for damage.

a. **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies and in a form acceptable to the County, protecting and insuring against all the foregoing with combined singles limits of One Million Dollars (\$1,000,000) for Bodily Injury, Property Damage, and/or Fire per person or per occurrence.

b. **Comprehensive Coverage:** This means we cover most direct, sudden and accidental physical losses like: fire, lightning, explosion, vandalism, landslide, falling objects, attempted or actual burglary or robbery, water damage from bursting pipes, damage by wild or stray animals, and wind or hail damage.

c. **Insurance Certificates:** The Vendor shall provide the County will Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said General Liability policy shall provide that the County be an additional insured. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

**8. TAXES:** The Vendor shall be responsible for payment of all applicable taxes provided under this contract.

**9. ATTORNEY'S FEES:** In the event of any legal action to enforce the terms of this contract each party shall bear its own attorney's fees and costs.

**10. GOVERNING LAW:** This agreement shall be governed, interpreted and construed according to the ordinances and laws of Brevard County and the State of Florida.

**11. COMPLIANCE WITH STATUTES AND SEVERABILITY:** It shall be the Vendor's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable. In the event a court of competent jurisdiction determines any sentence, provision, paragraph, or section of this agreement to be null and void, the remaining parts of this agreement shall continue in full force and effect as though such sentence, provision, paragraph, or section had been omitted from said agreement.

**12. VENUE:** Venue for any legal action by any party to this agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury.

**13. ASSIGNMENTS:** Vendor shall not assign any portion of this agreement without the written consent of the County.

**14. TERMINATION FOR DEFAULT:** If either party fails to perform under any provisions of this contract with due diligence or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the non-defaulting party may notify the other party in writing of the delay or non-performance and if not cured within 10 (ten) days or any longer time specified in

writing by the County, the non-defaulting party may terminate the contract. In the event of termination in whole or part by the County, the County may procure similar supplies or services in a reasonable manner and upon reasonable terms deemed appropriate by the County. In the event of termination due to default of the Vendor, the Vendor shall be liable for excess costs incurred in procuring similar goods or services by the County. Subject to reasonable adjustment in price to be determined by the County, should public necessity demand it, the County reserves the right to utilize services or use and/or consume articles delivered by the Vendor which are substandard in quality.

**15. TERMINATION FOR CONVENIENCE:** The County reserves the right, in its best interests as determined by the County, to cancel this agreement with or without cause by giving written notice, by regular mail, to the Vendor thirty (30) days prior to the effective date of such cancellation. Upon such cancellation, the Vendor shall be responsible for picking up the leased unit and the County will relinquish possession of that unit to the Vendor. Upon termination for convenience by the County, the County shall pay any current month's invoices that are due.

**16. INDEPENDENT CONTRACTOR:** The Vendor shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this agreement shall be interpreted to or construed to constitute the Vendor or any of its agents or employees to be the agent, employee or representative of the County.

**17. RIGHT TO AUDIT RECORDS:** The County shall be entitled to audit the books and records of the Vendor to the extent that such books and records relate to the performance of this Agreement. Such books and records shall be maintained by the Vendor for a period of three (3) years from the date of final payment under this agreement unless a shorter period is otherwise authorized in writing.

**18. NON-APPROPRIATIONS:** If this contract extends beyond the fiscal year in which it is executed, Brevard County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Board of County Commissioners.

**19. PUBLIC ENTITY CRIMES:** The Vendor must provide a fully executed Public Entity Crimes Affidavit in accordance with F.S. 287.133(3)(a) within ten (10) days of the date of this Agreement and prior to commencing any work under this Agreement.

**20. FEDERAL TAX ID NUMBER:** The Vendor shall provide to the County their Federal Tax ID Number or, if the Vendor is a sole proprietor, a Social Security Number.

**21. CIVIL RIGHTS ACTS:** The Vendor warrants that no individuals will be denied work or subjected to different treatment on the grounds of race, color, or national origin and that it will comply with the provisions of the Civil Rights Act of 1964 (P.L. 88-352; 78 Stat. 252) and the regulations of the Department of Health, Education and Welfare which implement that Act.

**22. EMPLOYMENT:** The Vendor shall not engage the services of any person or persons now employed by the County, including any department, agency, Board of Commission thereof, to provide services relating to this contract without written consent from the County.

**23. CONSTRUCTION OF AGREEMENT:** The parties hereby acknowledge that they fully reviewed this agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this Agreement.

24. NOTICE: Notice under this agreement shall be given to the County Manager at 2725 Judge Fran Jamieson Way, Melbourne, FL, 32940 and Notice shall be given to the Vendor Heyward Florida, Inc. by mailing written notice, postage prepaid to 415 Country Club Dr., Winter Park, FL 32789.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA



Scott Ellis  
Scott Ellis, Clerk

Rita Pritchett  
Rita Pritchett, Chair  
As approved by the Board on: 11/7/2017

VENDOR

Gregory J. Chomic  
Signature  
GREGORY J. Chomic, Vicepresident  
Name & Title, Typed or Printed

WITNESS

By: Alexander Maus  
Signature  
Alexander Maus, Sales Representative  
Name & Title, Typed or Printed  
Heyward Florida Incorporated  
Name of Company, Corp., etc.  
415 Country Club Dr., Winter Park, FL 32789  
Address  
407 / 628 - 1880  
Area Code/Telephone Number