



Agreement Incorporating Piggyback Agreement for Data Communication Products and Services between the State of Florida Department of Management Services and Cisco Systems, Inc.

This Agreement Incorporating Piggyback Agreement for Data Communication Products and Services between the State of Florida, Department of Management Services and Cisco Systems, Inc. (the "Agreement") is entered into between the 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 Blvd., Kissimmee, Florida 34741 ("Toho") and Cisco Systems, Inc., a foreign profit corporation authorized to do business in the State of Florida, with offices located at 170 W. Tasman Drive, San Jose, CA 95134 (the "Contractor"). Toho and the Contractor may individually be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the State of Florida, Department of Management Services ("Department") entered into an agreement with the Cisco Systems, Inc. ("Cisco") for the performance of certain Data Communications Products and Services, as more specifically identified as the Alternate Contract Source (ACS) Contract No. 43220000-NASPO-19-ACS ("ACS Contract"), attached hereto and incorporated in its entirety by this reference as Exhibit "A"; and

WHEREAS, the Presidio Networked Solutions LLC, a Florida limited liability company, as an authorized reseller and subcontractor of Cisco Systems, Inc., authorized to do business in the State of Florida, with offices located at 5337 Millenia Lakes Boulevard, Suite 300, Orlando, Florida 32839 under the ACS Contract to provide services on behalf of Cisco; and

WHEREAS, Toho has determined that it is in its best interest to procure the data communications products and services provided by the Contractor on behalf of Cisco under the ACS Contract (collectively referred to as "Services") by piggybacking the ACS Contract; and

WHEREAS, the Department and Contractor have agreed to permit Toho to piggyback the ACS Contract, for the provision of such Services, under the same terms and conditions set forth in the ACS Contract, and as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the Parties agree as follows:

- 1. Recitals.** The Parties agree that the recitals above are true and correct and are hereby incorporated as a material part of this Agreement.
- 2. Acceptance.** The execution of this Agreement by the Contractor shall constitute the Contractor's acceptance of Toho's request to utilize the ACS Contract with all of the same terms, conditions, and pricing contained therein. For tracking purposes, Toho shall refer to this Agreement, including the attached ACS Contract, as PBA-22-004
- 3. Identification of Parties.** For the purposes of this Agreement, the Parties acknowledge that any reference to Government in the ACS Contract shall be replaced with Toho.
- 4. Term and Renewal.** The term of this Agreement shall begin upon full execution of this



Agreement by both Parties through September 30, 2024, unless otherwise terminated by the Department or either Party. Renewal of this Agreement shall be contingent upon the renewal of the ACS Contract. Termination of this Agreement shall be in accordance with Exhibit "A", under Special Contract Conditions, Section 2, Contract Term and Termination, of the ACS Contract.

5. **Ordering Against Contract.** The obligations under this Agreement shall be subject to Toho's needs and availability of funds.
6. **Contract Award.** The contract award for this Agreement is \$79,654.75 annually, for a total not-to-exceed amount of \$238,964.30 for the three-year term.
7. **Execution of Documents.** The Parties agree to execute all such other documents and to take any such additional actions as may be reasonably necessary to affect the purpose of this Agreement.
8. **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 Toho, in the form of one or more Certificates of Insurance, prior to the start of any work provided under this Agreement.
 1. **Commercial Automobile Liability.** The Contractor shall maintain coverage for all owned, non-owned and rented vehicles for limits of \$1,000,000 per accident and annual aggregate.
 2. **Umbrella Liability.** The Contractor shall maintain an umbrella policy in excess to its Employer's Liability insurance, Commercial General Liability insurance and Automobile Liability insurance, with limits of \$1,000,000 per occurrence and annual aggregate.
 3. **Cyber Liability.** The Contractor shall maintain third party cyber liability insurance coverage including, but not limited to, Network and Security Breach, Privacy Breach, Data Personal Injury and Advertising Injury with combined limited of not less than \$2,000,000 per claim and annual aggregate. It is agreed that Contractor may satisfy this Cyber Liability insurance requirement and any other professional liability/errors and omissions liability insurance requirement, if any, set forth in the State contract, with one and the same insurance policy, provided that the limits of such insurance policy are not less than \$5 million per claim and annual aggregate.
 - B. The required General Liability, Automobile Liability and Umbrella Liability insurance shall include Tohopekaliga Water Authority as an additional insured for liabilities that fall within the Contractor's indemnity obligations under this Agreement and that are covered by such insurance.
 - C. The Contractor shall provide Toho's Procurement Services with one or more Certificates of Insurance, using standard ACORD forms of certificates, evidencing such coverage for the duration of this Agreement.



In the event any of the insurance required herein is cancelled or nonrenewed, the Contractor shall replace such insurance so that no lapse in coverage occurs, and shall provide Toho's Procurement Services with revised Certificates of Insurance evidencing same. Coverage territory for all insurance coverage identified above shall include the United States.

- D. Receipt of certificates of insurance by Toho, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the Contractor's obligations to fulfill the insurance requirements specified herein.
- E. If Contractor uses a subcontractor in connection with this Agreement, Contractor shall require such subcontractor to maintain the types and amounts of insurance that Contractor deems reasonable in light of the products and/or services to be provided by such subcontractor.
9. **Compensation.** Compensation for Services provided by the Contractor under this Agreement shall be paid in accordance with the Florida Prompt Payment Act, as set forth in section 218.70, Florida Statutes. Notwithstanding the foregoing, the Contractor acknowledges Toho's tax exemption status. Evidence of such tax exemption status will be provided by Toho upon request. Cisco authorizes Toho to receive invoices and issue payments to any named and authorized Cisco reseller under the ACS Contract on behalf of Cisco.
10. **Governing Law and the Venue.** This Agreement shall be governed by the laws of the State of Florida. In the event it becomes necessary for either Party to initiate legal action regarding this Agreement or the performance or Services contemplated herein, venue shall lie in Osceola County, Florida. 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 laws or rules thereof that may direct the application of the laws of another jurisdiction.
11. **No Waiver of 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 section, article, or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of Toho's sovereign immunity or the limits of liability, which may have been or may be adopted by the Florida Legislature. The cap on the amount of liability of Toho for damages and attorney fees and costs, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the Florida Legislature in tort. 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.
12. **Project Managers.** The Parties have identified individuals listed below as Project Managers 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 Toho. If Toho or the Contractor replace their current Project Manager with another individual, an amendment to this Agreement shall not be required. Toho will notify the Contractor, in writing, if the current Project Manager is replaced.
- A. The Project Manager's contact information for Toho is as follows:



Maria Aviles, IT Director
Toho Water Authority
951 Martin Luther King Blvd.
Kissimmee, Florida 34741
(407) 944-5197
mrrios@tohwater.com

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

Cody Lynch, Contract Manager
Cisco Systems, Inc.
170 W. Tasman Drive
San Jose, CA 95134
604-647-2343
codlynch@cisco.com

13. Public Records.

A. Pursuant to section 119.0701, Florida Statutes, the Contractor must:

1. Keep and maintain public records required by Toho to perform the Services.
2. Upon request from Toho, provide Toho with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by Toho.
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, for the duration of this Agreement's term and following completion of this Agreement if the Contractor does not transfer the records to Toho.
4. Upon completion of the Agreement, transfer, at no cost, to Toho all public records in possession of the Contractor or keep and maintain the public records required by the Contractor to perform the Services.
5. If the Contractor transfers all public records to Toho upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains the public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records.
6. All records stored electronically must be provided to Toho, upon request from Toho, in a format that is compatible with the information technology systems of Toho.

B. 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 PUBLIC RECORDS COORDINATOR AT:

Records Retention
951 Martin Luther King Blvd.
Kissimmee, Florida 34741
(407) 483-3822
publicrecordsrequests@Tohowater.com

14. **Counterparts, Electronic Transaction, and Electric 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.
15. **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.
16. **Employment Eligibility Verification (E-Verify).**
 - A. As a condition precedent to entering into this Agreement, and in compliance with section 448.95, 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 records 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 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 Toho 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 Toho 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 with 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>

[SIGNATURES ON FOLLOWING PAGE]



EXHIBIT "A"

State of Florida, Department of Management Services Contract No. 43220000-NASPO-19-ACS



IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

CISCO SYSTEMS, INC.

By: Jenn Pate
Print Name: Jenn Pate
Title: Authorized Signatory
Date: November 9, 2021

Attest: Steve Kite
Print Name: Steve Kite
Authorized Signatory November 9th, 2021
Address: 170 West Tasman Drive
San Jose, CA, 95134

APPROVED BY LEGAL

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this _____ day of _____, 2021, by _____ as _____ of Cisco System, Inc., a Foreign Profit Corporation, on behalf of the company, who is personally known to me OR has produced _____, as identification.

TOHOPEKALIGA WATER AUTHORITY

By: Hector Lizasuain
Print Name: Hector Lizasuain
Title: Board of Supervisor Chairman
Date: _____

Attest: William Land
Print Name: William Land
Title: Board of Supervisor Secretary
Address: 951 Martin Luther King Blvd.
Kissimmee, Florida 34741

Notary Signature
Printed Name: _____
Title: _____
My Commission Expires: _____
(Stamp)