

**INVITATION TO NEGOTIATE
NATURAL GAS SUPPLY SERVICE**



SOLICITATION NUMBER: ITN-OP2009-01

RESPONSE DEADLINE: Friday, January 8, 2010

@ 3:00 P.M. (CST)

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Okaloosa Gas District (the "District") announces it is seeking responses from qualified natural gas suppliers. This is a two-phase solicitation. The first phase is to determine which vendors responding to the solicitation have the necessary qualifications to move to the second phase. Only those vendors determined to be qualified by Okaloosa Gas District will enter the second phase of the solicitation. The second phase allows rates to be negotiated with the qualified proposer(s) that were selected to enter the second phase. At the end to the second phase of the process, a successful proposer will be selected.

Copies of the ITN package for this project may be obtained from Okaloosa Gas District Purchasing , 364 Valparaiso Parkway, Valparaiso, FL 32580; Phone (850) 729-4890 or from the Florida Online Bid System web site located at the following address: <http://www.govbids.com/scripts/panhandle/public/home1.asp>. For additional information, please contact Mr. Gordon King, Vice President of Operations at (850) 729-4861, or Mr. David Underwood, District Procurement Official at (850) 729-4824.

Selection will be pursuant to Okaloosa Gas District purchasing policy. Firms desiring consideration should obtain a copy of the ITN package and furnish all information requested in this ITN.

Okaloosa Gas District reserves the right to award the contract to the firm submitting a responsive Proposal judged to provide the best value to the District that resulted in a negotiated agreement which is most advantageous and in the best interest of the District. The District reserves the right to waive any irregularity or technicality in proposals received. Okaloosa Gas District shall be the sole judge of qualifications, the proposal content, and the resulting negotiating agreements that are in its best interest. The District's decision will be final.

WARNING TO VENDORS: Do not proceed without an approved agreement/contract.

All responses for the first phase of this solicitation should be delivered to the Okaloosa Gas District Purchasing at the address listed below no later than **3:00 p.m. (CST), Friday, January 8, 2010** in order to be considered.

All Proposals should be addressed as follows:

Okaloosa Gas District
Attn: Purchasing Department
P.O. Box 548
364 Valparaiso Parkway
Valparaiso FL 32580

Okaloosa Gas District appreciates your response.

DAVID K. UNDERWOOD
Vice President, Corporate Services

Date

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SCOPE OF WORK/OBJECTIVES

INTRODUCTION

Okaloosa Gas District is seeking a qualified firm to provide the natural gas supply necessary to support daily business operations.

BACKGROUND

Okaloosa Gas District is an Independent Special District created by a Special Act of the Legislature of The State of Florida, with its headquarters located at 364 Valparaiso Parkway, Valparaiso, Florida 32580-0548.

The District currently provides natural gas service throughout our service territory communities by purchasing gas from a third-party supplier, and the supplier, as agent, uses the District's no-notice bundled transportation and storage service ("NNS") on Gulf South Pipeline Company ("Gulf South") and firm service ("FTS") from Florida Gas Transmission (FGT) to deliver full requirements, firm gas to the District's city gates. Additionally the District supplies natural gas to other off-system utilities who purchase gas directly from the District or deliver gas to the District for delivery to their prospective systems.

The District has previously entered into agreements with suppliers to have its gas supply service managed on an aggregated basis. Within this solicitation, the District is seeking a full requirements supply including aggregation and assistance in capacity management.

The District is issuing this ITN to identify potential suppliers to provide the supply of natural gas necessary to serve the needs of our consumers.

SCOPE / OBJECTIVES

The District is soliciting proposals from interested suppliers of natural gas that can provide reliable gas sales service and utilize the District's NNS Rate Schedule service on Gulf South and FTG's FTS Rate Schedule to transport such gas to its city gates. The District intends to determine which entities submitting responses to this ITN qualify as the most attractive potential long-term suppliers, to establish a short list of one or more of the most attractive potential suppliers, and to negotiate a gas supply agreement with prospective suppliers.

After determining which vendors are qualified to provide natural gas supply services to the District, a minimum of two qualified vendors will be invited to provide oral presentations and to negotiate rates and services. Our objective is to award this ITN to a vendor than can provide essentially the same operating relationship the District presently enjoys, including aggregation of requirements and assistance in management.

The District intends to take advantage of its requirements to the maximum extent possible: (i) to enter into a competitive gas supply agreement; and (ii) to balance receipts, deliveries, and storage quantities without impairing the reliability of service to the District.

Upon source selection, the District intends to enter into a full requirements firm natural gas supply and asset management contract that would include a variety of pricing options.

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**SCHEDULE OF EVENTS, SELECTION CRITERIA, EVALUATION
PROCESS**

SCHEDULE OF EVENTS

- A. Tuesday, December 1, 2009:** ITN posted and available on Florida's Online Bid System at: <http://www.govbids.com/scripts/panhandle/public/home1.asp>.
- B. Friday, December 11, 2009 by 5:00 p.m. CST:** Written questions from proposers due.
- C. Tuesday, December 15, 2009 by 5:00 p.m. CST:** Questions and answers posted on Florida Online Bid System.
- D. Friday, January 8, 2010 by 3:00 p.m. CST:** Proposal submission deadline.
- E. Friday, January 22, 2010:** Vendor short-list notification posted on Florida Online Bid System (First Phase of ITN Complete)
- F. Tuesday, January 26, 2010:** Negotiation Phase with short-listed vendor(s) begin.
- G. Monday, February 15, 2010:** Negotiations Complete (Second Phase of ITN Complete)
- H. Thursday, February 25, 2010:** Upon Board approval, Intent to Award posted on the Florida Online Bid System.
- I. Thursday, April 1, 2010:** Projected Commencement of Agreement Completed through the ITN Process

EVALUATION/SELECTION OF PROPOSALS

The evaluation team will evaluate the responses for purposes of selecting a single proposed supplier, or a short list of potential suppliers, with which to negotiate gas supply agreements using the following criteria (in no particular order):

1. Reliability, location and quality of natural gas supply and/or reserves, including (i) the ability to supply gas from a number of alternative receipt points and supply areas; (ii) the ability of the District to avoid capacity bottlenecks and to minimize transportation costs; (iii) quality of the current or anticipated contractual rights to gas supply and/or ownership of gas reserves.
2. Quality of the supply assurances or warranty provided, including the financial ability of the prospective supplier to meet the contractual requirements and to pay penalties, damages (liquidated or otherwise), and/or corporate guaranty.

3. Experience in serving local distribution companies of similar size and load characteristics. Providing fixed price gas to commercial/industrial utility customers.
4. Overall cost of gas supply under the proposal. Proposed costs will be evaluated not only to determine the “best” price, but to determine if the price proposal is reasonable, realistic, and cost effective. The District will also take into account the potential supplier’s demonstrated ability to live up to all promises made regarding the price of supply.
5. The completeness of a prospective supplier’s response to this ITN and the flexibility and completeness of its proposed gas supply terms and conditions.
6. Financial stability and trade credibility of the prospective supplier’s organization and its staff, as demonstrated through appropriate documentation.
7. Recommendations of other natural gas distributors receiving satisfactory natural gas supply services from the potential supplier.
8. Ability to respond in a timely manner to changes in the regulatory structure of pipelines and to changes in the service offered by FGT and Gulf South.
9. Familiarity and experience with the FGT and Gulf South systems, their Operating procedures, physical characteristics, and market.

If other important factors evolve or surface during the evaluation process that bear on a prospective supplier’s ability to meet the requirements for inclusion in the group of qualified suppliers, those factors will also be given the appropriate consideration

PROPOSAL OPENING

Proposal opening shall be public on the date and time specified on the Proposal form. It is the Proposer’s responsibility to assure that their Proposal is delivered at the proper time and place. Offers by telegram, facsimile, or telephone are **NOT** acceptable. **Note:** Valparaiso, FL is “**not a next day guaranteed delivery location**” by delivery services.

RESERVATIONS

The District reserves the right: (i) to discontinue the evaluation process contemplated by this ITN at any stage if the only responses received are unacceptable or insufficient in the sole judgment of the District; (ii) to waive non-compliance with technical aspects of this RFQ; and (iii) to reject any and all responses to this ITN is the sole discretion of the District.

INCURRED COST

The District will not be liable for and do not intend to reimburse any costs incurred by prospective suppliers in responding to this ITN.

NON-DISCLOSURE OF CONTENT OF RESPONSES

If a response contains information that the prospective supplier does not want disclosed to the public, or used for any purpose other than the evaluation of the response, all such information must be indicated with the following statement:

"[NAME OF SUPPLIER] requests that the information contained on pages _____, _____, and _____, not be duplicated, used in whole or in part for any purpose other than to evaluate this response; provided, however, that if a contract is eventually awarded to [NAME OF SUPPLIER], as a result of the submission of such information, Okaloosa Gas District shall have the right to duplicate, use, or disclose this information, to the extent provided in the contract."

The District will attempt to honor such a prospective supplier's request; however, prospective suppliers should be aware that Okaloosa Gas District records are subject to public disclosure under Chapter 119, Florida Statutes. This may preclude confidential treatment of responses to this ITN. All such non-disclosure items specified in the proposal shall accordingly be subject to disclosure if required by local or state laws.

The District reserves the right to copy all or any portion of a submitted response for internal distribution to and use by the District.

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PROPOSAL SUBMITTAL REQUIREMENTS

Prospective suppliers must submit a complete and concise response to this ITN if they wish to be considered. Proposals included with your response must remain valid until close of business at **5:00 p.m. Central Standard Time (CST)** on **Thursday, April 15, 2010**. All responses received in response to this RFQ will be retained by Okaloosa Gas District.

The proposed terms and conditions and service options for the service are outlined below. Responses should specifically address and/or include the following:

A. Prospective Supplier Information

1. Full company name and address
2. Name, title and address of contact person(s) that will represent the supplier in the evaluation process and that of the contact that administers the agreement if one is entered into. Also include a short biography of each contact
3. Telephone number, facsimile number and email addresses
4. Enclose a company organizational chart and listing of affiliated companies (if not contained in the annual report)
5. Enclose a company annual report for the most current period.
6. Enclose relevant documentation of the prospective supplier's financial ability to meet its obligations under any gas supply agreement with the District, *e.g.*, information on bank credit lines, bank references, supplier references, *etc.* Disclose any pending liquidation, litigation, or regulatory proceedings in any state or federal court that could cause a substantial deterioration in the prospective supplier's financial condition, a condition of insolvency, or its ability to exist as an ongoing entity. Disclose any significant collection lawsuits or judgments that could affect the prospective supplier's ability to remain solvent. Disclose whether the prospective supplier is or ever has been a debtor in possession under Chapter 11 of the Federal Bankruptcy Act.
7. Enclose a brief history of company activities in the natural gas business. Include a listing of major past and current FTS, NNS and firm customers served, including those on Gulf South and Florida Gas Transmission, if any. If possible, provide references from those customers, or names of at least four persons which the Procuring System can contact to verify the prospective gas supplier's past performance. Provide a description of the prospective gas supplier's past experiences with curtailment or interruption of gas supply service including experiences on FGT and Gulf South systems, if applicable. Disclose whether the prospective supplier has been sued by gas supply customers for

nonperformance; provide details of any such suit, and the resolution of such suit(s), if any.

8. Enclose a description of the prospective supplier's natural gas dispatching system and procedures and the location where such activities are undertaken. Include the names of personnel that would administer the District's contracts and the personnel responsible for nominating, scheduling, and managing the business with Okaloosa Gas District.
9. Enclose any other relevant information demonstrating the prospective supplier's familiarity with the Gulf South system, and its prior experience serving local distribution companies of the size and type of the Procuring Systems, and its ability to successfully supply Okaloosa Gas District's natural gas needs.

B. Proposals

Proposers are encouraged to submit a proposal that not only addresses **gas supply**, but in addition, **management of the District's pipeline capacity, receipt points and gas storage** to generate cost savings for the District.

The District also provides our commercial customers the opportunity to purchase natural gas at a **fixed rate for a term period**. Proposers should address the concept or capability to deliver this service in their proposal. If the service is not available, please make this statement.

Each response shall include a comprehensive proposal showing **how that prospective gas supplier would meet the annual and peak day natural gas supply needs of the District, and how these supplies would be provided and reliably delivered using the District's FTS and NNS Rate Schedule service on FGT and Gulf South**. To assist in the preparation of proposals, information is included in Exhibits A-C to provide the monthly gas deliveries off FGT and Gulf South to the District in a recent twelve-month period.

Each proposal should address the following details:

1. Gas Supply Sources: Describe the prospective gas supplier's current or anticipated gas supplies in the production areas served directly or indirectly by FGT and Gulf South or by an upstream pipeline connecting to FGT and Gulf South. Enclose a brief description detailing ownership or control of production reserves and/or contractual arrangements for gas supply that would be committed to serve Okaloosa Gas District. The proposer shall source the gas that would result in the least cost to the District.
2. Receipt Points: Prospective suppliers should discuss the receipt points on FGT and Gulf South system at which they propose to tender gas to the Procuring System. If transportation on an upstream pipeline would be required, the prospective supplier should explain what contractual arrangements the prospective supplier will make to ensure firm deliveries to the FGT and Gulf South systems. Prospective suppliers should be aware that the District expects the chosen gas supplier to be responsible for obtaining firm transportation on any upstream pipelines necessary to deliver gas into FGT and Gulf South's system, for arranging any gathering services required, and for payment of all associated

upstream and gathering rates and penalties (including the costs of using receipt points that are subject to incremental charges on either system.). Prospective suppliers should also be aware that additional charges may be levied for supplies acquired outside the zone of the Procuring System's primary receipt and delivery points.

3. Term: Prospective suppliers should discuss the maximum and minimum term of any agreement to which they would be willing to commit, as well as the term they would prefer. The District would prefer a five-year term commencing April 1, 2010, with an annual renewal option and termination based on a minimum of 90-days advance notice prior to the annual anniversary date. Potential suppliers should indicate whether they would be willing to agree to this term provision and include it in the proposed contract.
4. Price: Prospective suppliers shall propose and describe in detail pricing mechanism(s). Prices may vary monthly or may remain fixed for the period covered, up to five (5) years but if the price would vary, the mechanism for setting or adjusting the price must be fully explained, including identification of the published indices proposed to be used.

Gas Supply pricing shall include any of the following:

- a. First of the month Inside FERC indices to be used; for first of the month nominations based on monthly balance.
- b. Gas Daily indices to be used; for incremental during month nominations.
- c. NYMEX pricing accessibility
- d. Other new (not available yet) HUB pricing

Asset Management proposals will address:

- a. Pipeline capacity arbitrage share of profits
- b. Storage arbitrage share of profits
- c. Discount without share of profits
- d. Other concepts the proposer determines worthy of District examination

If prospective suppliers wish to provide an alternative pricing structure or to propose first-of-the-month pricing based concept, they may do so.

Under the commodity-only pricing option, the price would default to the *Inside FERC* first-of-the-month price but the District also desires an option to purchase fixed price gas in future months based on agreed upon prices (*e.g.*, a NYMEX price with a volume commitment).

In addition to the day-to-day use of capacity as Okaloosa Gas District's agent, potential suppliers should discuss their views of how the District may best use their NNS capacity on Gulf South and how the prospective supplier can assist in the management of the District's capacity to maximize the economic benefits for the District. In this regard, if the prospective supplier has a specific proposal, it should describe and present its proposal regarding how these economic benefits would be shared.

5. Contact Entitlements (Quantities): See the attached Exhibit A for the proposed contract entitlements in Maximum Daily Quantities ("MDQ") by month.

6. Service Obligation: Prospective supplier(s) shall sell and deliver gas to the Procuring System at its city gates on any day as required to meet the requirements of the District delivered off the FGT and Gulf South. On any day, the District may purchase up to the full MDQ. Recent monthly usage of the District is shown on the attached Exhibit B, Annual Gas Usage Delivered From Pipeline Operations. Exhibit C, Primary Receipt Point Entitlements, provides receipt point MDQs by winter, shoulder and summer. Proposers should be aware the District reserves the right to participate in future pre-pay or possible reserve acquisitions from third parties. The recognition of this right should be addressed in your draft contract.
7. Storage and Transportation Agency/Mutual Aid: The prospective supplier will be authorized as District's agent to control and utilize their service under Gulf South's No-Notice Rate Schedule to deliver the gas being sold. NNS service is a bundled transportation and storage service with varying seasonal contract entitlements. The District's NNS storage entitlements are shown on Exhibit A, Contract Entitlements. Prospective supplier(s) shall be authorized and shall act as the District's agent to nominate gas for delivery under their FTS and NNS service agreements and into the storage component of the NNS service. The District will bear the costs of pipeline reservation and commodity charges for their FTS and NNS agreements, provided, however that incremental transportation costs associated with use of supplemental receipt points. The prospective supplier will be responsible for transportation surcharges and penalties (except for penalties associated with overruns of the NSS agreement). In addition, the District expects the prospective supplier, as agent, to manage the FTS and NNS agreements and gas supply commitments to the District.
8. Warranty/Indemnification If the prospective supplier fails to perform its obligations under the gas supply agreement the prospective supplier will be required to reimburse the District for the costs incurred in securing alternative supplies (including the cost of any imbalance charges and/or overrun penalties) in replacing supplies plus a reasonable administrative fee. Because the District intend to use a substantial portion of the contracted gas supplies to serve high priority consumers, all gas supplies shall be warranted or have equivalent protections provided to assure deliveries. If the District's chosen gas supplier default on their deliveries during a winter peak period, the District may have to divert gas from the FGT and Gulf South systems intended for other shippers to ensure service to the District. In such event, the District might ultimately be held liable for damages (including consequential damages) to shippers whose gas is diverted. Prospective suppliers therefore should discuss in detail the specific warranty they would offer to assure the availability of their gas to the District and the indemnification from liability or damages which they would provide to the District in the event of their default. If a prospective supplier believes it may be unable to provide such a warranty or indemnification, it may propose alternative arrangements to assure deliveries, e.g., the posting of a performance bond. Potential suppliers, however, should be aware that their inability to agree to a satisfactory warranty/indemnification may adversely affect the evaluation of their proposal.
9. Corporate Guarantee: Prospective suppliers should provide security for non-performance in the form of a corporate warranty of performance satisfactory to the District. If the prospective supplier is a subsidiary or an affiliate of a larger

company with assets based upon substantial oil and gas holdings, or other substantial assets, that larger company should guarantee the performance of the prospective supplier. Failure to provide such a corporate may adversely impact evaluation of a potential supplier's response to the ITN. If a corporate guarantee is not satisfactory to the District then some alternative form of security may be required.

10. Cash out and Penalties: Prospective supplier shall accept full responsibility for all cash-out and imbalance penalties except those caused by the District.
11. Taxes: Any applicable Federal, State, local, sales, use, receipt, energy, transportation, or consumption taxes shall be paid by District if levied downstream of the delivery point (the city gate). Such taxes shall be paid by prospective supplier if levied prior to delivery at the delivery point.
12. Assumptions: In providing its response to the ITN, Prospective supplier should state specifically any assumptions that underlie its proposals that either differ from those contained in the ITN or that are not addressed by this ITN and that have an effect on the prices that are being quoted.
13. Additional Services: Prospective suppliers should discuss any additional services which they could render to the District beyond those described in this solicitation.

C. Draft Gas Supply Contract: Prospective suppliers will attach a draft gas supply contract to their response. The District reserves the right to further negotiate the terms of any such contracts submitted. The particular paragraphs addressing the concepts and services from your proposal should be pointed out in within the draft gas supply contract. The terms and conditions presented by the District in this document should be integrated into your draft contract. Exceptions or changes to the District's terms and conditions should be pointed out in your proposal and within the draft contract.


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PROPOSAL PREPARATION REQUIREMENTS

Your proposal package for this ITN must include the following items:

- Signed Proposal
- Draft Supply Contract and Exception Requests to Stated Terms and Conditions
- Indemnification and Hold Harmless Agreement
- Conflict of Interest Disclosure Form
- Drug-Free Workplace Certification
- ITN Questionnaire
- Proposer Statement of Understanding
- Proposer Acknowledgement for Receipt of Amendments
- Insurance exemption (if an exemption from the amounts listed in this ITN is sought) (Narrative, no form)
- Financial Statement Information

Cut along the outer border and affix this label to your sealed envelope to identify it as a “Sealed Proposal”. Neither faxed nor electronically submitted proposals will be accepted. Be sure to include the name of the company submitting the proposal where requested.

DELIVER TO:	PURCHASING Okaloosa Gas District 364 Valparaiso Parkway P.O. Box 548 Valparaiso, FL 32580-0548	
SEALED PROPOSAL PROPOSAL NO.: PROPOSAL TITLE: DUE DATE/TIME:	DO NOT OPEN ITN-OP2009-01 NATURAL GAS SUPPLY SERVICE January 8, 2010 @ 3:00PM (CST)	
SUBMITTED BY:	<hr/> <i>Name of Company</i>	

Please Note:

From time to time, addenda may be issued to this proposal. Any such addenda will be posted on the same web site from which you obtained this notice. Vendors receiving notifications via US mail will be sent notification of all addenda. If you downloaded the notification from Florida Online Bid System, you will need to check the web site to see if there are any addenda that have been posted.

Interested vendors must have a completed Vendor Application on file with the Okaloosa Gas District prior to contract approval. Our initial vendor registration is accomplished through the Florida Online Bid System web site located at: <http://www.govbids.com/scripts/panhandle/public/home1.asp>

Click on “Vendor Registration” from the menu at the top of the screen and follow the instructions. If your proposal is accepted by the District a full Vendor Registration form will be furnished along with the notice for submittal of a W-9 form after contract signing.

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**EXHIBIT A
CONTRACT ENTITLEMENTS**

**Gulf South Contract Entitlements (Dth)
MDQ= Maximum Daily Quantity**

Nov.-Mar. MDQ	Apr.-Oct. MDQ	May-Sept. MDQ
20,000	10,000	7,000

Current NSS Storage Maximum Contract Quantities (in Dth)

Max. NSS Capacity	Peak NSS Deliverability	Max. NNS Injection
200,000	10,000	5,000

Florida Gas Transmission Contract Entitlements (Dth)

OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY-SEP\
5,000	8,562	8,417	8,477	8,492	8,567	5,000	1,523

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**EXHIBIT B
ANNUAL GAS USAGE DELIVERED FROM PIPELINE OPERATIONS**

Values are in DTh (Dekatherms)

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Gulf South	197,059	161,337	132,164	139,082	129,506	123,331	127,555	152,114	178,985	185,875	181,897	146,815
FGT	29,982	26,826	26,499	27,260	27,729	26,908	89,676	166,275	188,330	247,478	181,937	147,270
Total	227,041	188,163	158,663	166,342	157,235	150,239	217,231	318,389	367,315	433,353	363,834	294,085

**Peak Day
4 Feb 2009
27,912**

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**EXHIBIT C
PRIMARY RECEIPT POINT ENTITLEMENTS**

MDQ= Maximum Daily Quantity

Primary	Winter (Nov.-Mar.)	Shoulder (Oct./Apr.)	Summer (May-Sept.)
<u>Rec. Pts.</u>	<u>Receipt Point MDQs</u>	<u>Receipt Point MDQs</u>	<u>Receipt Point MDQs</u>
Okaloosa Gas			
Centerville (ANR)	5,000	2,500	1,750
Erath (Sea Robin)	5,000	2,500	1,750
Erath (NGPL)		5,000	3,500

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EXHIBIT D

TERMS AND CONDITIONS

GENERAL

INVOICING AND PAYMENT

Submit invoices to Okaloosa Gas District, P.O. Box 548, Valparaiso FL 32580-0548. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 729-4732 Monday through Friday to inquire about the status of payments by the District. The District is responsible for all payments under the Contract. The District's delay in payment shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the District.

LIABILITY & INDEMNIFICATION

To the fullest extent permitted by law, Contractor selected shall protect, defend, indemnify and hold Okaloosa Gas District, its Board of Directors and employees completely harmless from and against any and all liabilities, demands, suits, claims, losses, fines or judgments arising by reason of the injury or death of any person or damage to any property, including all reasonable costs from investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), of any nature whatsoever arising out of or incident to this Agreement or contractor's officers, employees, agents, contractors, subcontractors, licensee or invitees, regardless of where the injury, death or damage may occur; unless such injury, death or damage is caused by the sole negligence of the District. The District shall give Contractor reasonable notice of any such claims or actions. Contractor, in carrying out its obligations hereunder, shall use counsel reasonably acceptable to the District. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

1. **Termination, Force Majeure and Delays.** The District, by written notice to the Contractor, may terminate the Contract in whole or in part when the District determines in its sole discretion that it is in the District's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.
2. **Termination for Cause.** The District may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default

of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the District. The rights and remedies of the District in this clause are in addition to any other rights and remedies provided by law or under the Contract.

3. **Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the District in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the District. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the District for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the District determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the District, in which case the District may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to the District with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

CONFLICT OF INTEREST

The award hereunder is subject to the provisions of Chapter 112, Florida Statutes. All respondents must disclose with their proposals the name of any officer, director, or agent who is also a public officer or an employee of the Okaloosa Gas District.

Furthermore, all respondents must disclose the name of any District officer or employee who owns, directly or indirectly, an interest of five percent (5%) or more in the firm or any of its branches.

IDENTICAL TIE PROPOSALS

Per Florida Statutes, preference shall be given to businesses with drug-free workplace programs. Whenever two or more Proposals which are equal with respect to price, quality and service are received by the District for the procurement of commodities or contractual services, a Proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process (see attached certification form).

PUBLIC ENTITY CRIME INFORMATION

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Proposal on a contract to provide any goods or services to the District, may not submit a Proposal on a contract with the District for the construction or repair of a public building or public work, may not submit Proposals on leases of real property to the District, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the District, and may not transact business with the District excess of the threshold amount provided in Section 287.017, for **CATEGORY TWO** for a period of 36 months from the date of being placed on the convicted vendor list.

EXEMPTIONS

The engagement of certain services and commodities, including those required by this Invitation to Negotiate, may be exempt from the provisions of the Administrative Procedure Act, Chapter 120, Florida Statutes, as amended, and therefore are not to be subject to the appeal process therein described at any time during the solicitation of selection period.

Exemptions exist for:

- | | |
|-----------------------------------|---|
| 1. Commodities for resale | 8. Health services |
| 2. Prescriptive assistive devices | 9. Training for injured employees |
| 3. Artistic services | 10. Services from regulated utilities and governments franchised services |
| 4. Academic program reviews | 11. Regulated public communications (except long distance) |
| 5. Lectures | 12. Membership dues |
| 6. Auditing services | |
| 7. Legal services | |

AUTHORITY TO PIGGYBACK

All Proposers submitting a response to this Request for Proposal agree that such response also constitutes a Proposal to all governmental agencies within the State of Florida under the same conditions, for the same contract price, and for the same effective period as this Proposal, should the Proposer feel it is in their best interest to do so.

Each governmental agency desiring to accept these Proposals and make an award thereof shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for materials and/or services ordered and received by it, and no agency assumes any liability by virtue of this Proposal.

This agreement in no way restricts or interferes with the right of any governmental agency to propose any or all items.

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EXHIBIT E

INSURANCE REQUIREMENTS

CONTRACTOR'S INSURANCE

1. The Contractor shall not commence any work in connection with this agreement until the business has obtained all required insurance and such insurance has been approved by Okaloosa Gas District, nor shall the Contractor allow any subcontractor (approved by Okaloosa Gas District) to commence work in this subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
2. The insurance definition of Insured or Additional Insured shall include subcontractor, sub-subcontractor and any associated or subsidiary companies of the Contractor that are involved and which are part of the contract.
3. The Okaloosa Gas District reserves the right during the term of this contract to request additional certified copies of any insurance contracts to support any Certificates of Insurance. At any time the insurance coverage is unacceptable to Okaloosa Gas District, the District reserves the right to terminate this contractual agreement.
6. The designation of Contractor shall include any associated or subsidiary company which is involved and is a part of the contract and such, if any associated or subsidiary company involved in the project must be named in the workers compensation coverage.
7. All policies shall be written so that Okaloosa Gas District will be notified of cancellation or restricted amendments at least thirty (30) days prior to the effective date of such cancellation or amendment, such notice to be given directly to the District representative.
8. All insurance contracts should list Okaloosa Gas District as an Additional Insured. The Contractor shall provide the District current Certificates of Insurance for all policies.

WORKERS' COMPENSATION INSURANCE

1. The Contractor shall secure and maintain during the life of this agreement Workers' Compensation insurance for all of his employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the Okaloosa Gas District, the Contractor shall require the Subcontractor

similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished Okaloosa Gas District not less than ten (10) days prior to the commencement of any and all sub contractual agreements which have been approved by Okaloosa Gas District. Such insurance shall comply with the Florida Workers' Compensation Law.

BUSINESS AUTOMOBILE AND PUBLIC LIABILITY INSURANCE

1. The Contractor shall maintain Business Automobile Liability insurance coverage throughout the life of this Agreement.
2. All liability insurance shall be written on an occurrence basis and shall not be written on a claim-made basis. If the insurance is issued with an aggregate limit of liability, the aggregate limit of liability shall apply only to the locations included in this Agreement. If, as the result of any claims or other reasons, the available limits of insurance reduce to less than those stated in the Limits of Liability, the Contractor shall notify the District representative in writing. The Contractor shall purchase additional liability insurance to maintain the requirements established in this Agreement. Umbrella or Excess Liability insurance can be purchased to meet the Limits of Liability specified in this Agreement.

LIMITS OF LIABILITY

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

	<u>LIMIT</u>
1. Worker's Compensation	
a) State	Statutory
b) Employer's Liability	\$1 million each accident
2. Business Automobile & Commercial General Liability Insurance	\$1,000,000 each occurrence (A combined single limit)
3. Professional Liability	\$1,000,000 each occurrence
4. Personal and Advertising Injury	\$250,000

NOTE: If the amounts of insurance carried by your business is not in the amount requested, your business should provide a summary of your coverage and ask for the District to consider for exception the amount listed on your submittal.

NOTICE OF CLAIMS OR LITIGATION

The Contractor agrees to report any incident or claim that results from performance of this Agreement. Within ten (10) days of the Contractor's knowledge, the District representative shall receive written notice describing the incident or claim. In the event such incident or claim involves injury or property damage to a third party, verbal

notification shall be given the same day the Contractor becomes aware of the incident or claim. A detailed written report is to be made within ten (10) days.

CERTIFICATES OF INSURANCE

1. All insurance shall include the interest of all entities names in and its respective agents, consultants, servants and employees of each and all other interests as may be reasonably required by Okaloosa Gas District as Additional Insured. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
2. Certificates of insurance, in duplicate, indicating the job site and evidencing all required coverage must be submitted to and approved by Okaloosa Gas District prior to the commencement of any of the work. The certificate holder(s) shall be as follows:

Okaloosa Gas District
Attn: Contracting
P.O. Box 548
Valparaiso, Florida 32580-0548

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EXHIBIT F

INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless OKALOOSA GAS DISTRICT, its Board of Directors, officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement.

Proposer's Company Name

Authorized Signature

Physical Address

Printed Signature

Mailing Address

Title

Phone Number

Fax Number

Date

E-mail address

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EXHIBIT G

CONFLICT OF INTEREST DISCLOSURE FORM

For purposes of determining any possible conflict of interest, all bidders/quoters/proposers, must disclose if any Okaloosa Gas District officer(s), employee(s), board member(s), if any of its agencies is also an owner, corporate officer, agent, employee, etc., of their business.

Indicate either "yes" (a District employee, elected official, or agency is also associated with your business), or "no". If yes, give person(s) name(s) and position(s) with your business.

_____ YES

_____ NO

NAME

POSITION

Proposer's Company Name

Authorized Signature

Physical Address

Printed Signature

Mailing Address

Title

Phone Number

Fax Number

Date

E-mail address

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EXHIBIT H

DRUG-FREE WORKPLACE CERTIFICATION

THE BELOW SIGNED PROPOSER CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

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

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

Proposer's Company Name

Physical Address

Mailing Address

Phone Number

Date

Authorized Signature

Printed Signature

Title

Fax Number

E-mail address

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EXHIBIT I

ITN QUESTIONNAIRE

Proposer's Name _____

Principal Office Address _____

Official Representative _____

Circle one: Individual Partnership Corporation

If a Corporation, answer this section:

When Incorporated _____

In what State _____

If a Foreign Corporation:

Date of Registration with Florida Secretary of State _____

Name of Resident Agent _____

Address of Resident Agent _____

President's Name _____

Treasurer's Name _____

If a Partnership:

Date of Organization _____

General or Limited Partners _____

Name and Address of Each Partner (*Designate general partners in a Limited Partnership)

Name

Address

1. Number of years of relevant experience in operating similar business _____

2. Have any similar agreements held by Proposer ever been canceled? ____ Yes ____ No
If yes, give details on a separate sheet.

3. Has the Proposer or any principals of the applicant organization failed to qualify as a responsible Proposer, refused to enter into a contract after an award has been made, failed to complete a contract during the past five (5) years, or been declared to be in default in any contract in the last 5 years? ____ Yes ____ No

If yes, please explain:

4. Has the Proposer or any of its principals ever been declared bankrupt or reorganized under Chapter 11 or put into receivership? ____ Yes ____ No

If yes, on a separate sheet give date, court jurisdiction, action taken, and any other explanation deemed necessary.

5. Person or persons interested in this bid and Qualification Form have () have not () been convicted by a Federal, State, District or Municipal Court of any violation of law, other than traffic violations. Include stockholders over ten percent (10%).

Explain any convictions:

6. Lawsuits (any) pending or completed involving the corporation, partnership or individuals with more than ten percent (10%) interest:

A. List all pending lawsuits:

B. List all judgments from lawsuits in the last five (5) years:

C. List any criminal violations and/or convictions of the Proposer and/or any of its principals:

7. Conflicts of Interest. The following relationships are the only potential, actual or perceived conflicts of interest in connection with this proposal: (If none, state same)

8. Public Disclosure. In order to determine whether the members of the Evaluation Committee for this Request for Proposals have any association or relationships which would constitute a conflict of interest, either actual or perceived, with any Proposer and/or individuals and entities comprising or representing such Proposer, and in an attempt to ensure full and complete disclosure regarding this contract, all Proposers are required to disclose all person and entities who may be involved with this Request for Proposal. This list shall include public relation firms, lawyers and lobbyists. The Okaloosa Gas District Corporate Services Department shall be notified in writing if any person or entity is added to this list after receipt of Proposals. (Use additional sheet if needed).

9. References. The following references are provided to allow Okaloosa Gas District to contact the businesses or other governmental entities to assess the proposers performance:

Business or Governmental	Name	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

The Proposer understands that information contained in this Questionnaire will be relied upon by the District in awarding the proposed Agreement and such information is warranted by the Proposer to be true. The undersigned Proposer agrees to furnish such additional information, prior to acceptance of any proposal relating to the qualifications of the Proposer, as may be required by the District Manager.

WITNESS:

Signature

Print Name

IF INDIVIDUAL:

Signature

Print Name

WITNESS:

Signature

Print Name

IF PARTNERSHIP:

Print name of Firm

Address

By: _____
General Partner

Print Name

WITNESS:

Signature

Print Name

IF CORPORATION:

Print Name of Corporation

Address

By: _____
President

(CORPORATE SEAL)

Attest: _____

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EXHIBIT J

PROPOSER STATEMENT OF UNDERSTANDING

It is understood and agreed by Proposer that Okaloosa Gas District (the "District") reserves the right to reject any and all Proposals, to make awards on all items or any items according to the best interest of the District, and to waive any irregularities in the ITN or in the Proposals received as a result of the ITN. It is also understood and agreed by the Proposer that by submitting a Proposal, Proposer shall be deemed to understand and agree that no property or interest or legal right of any kind shall be created at any point during the aforesaid evaluation/selection process until and unless a contract has been agreed to and signed by both parties.

Proposer's Company Name

Authorized Signature

Physical Address

Authorized Signature – Typed

Mailing Address

Title

Phone Number

Fax Number

Cellular Number

E-Mail Address

Date

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EXHIBIT K

PROPOSER ACKNOWLEDGEMENT FOR RECEIPT OF AMENDMENTS

We hereby acknowledge receipt of the following Amendments as part of the proposal submission requirements for solicitation ITN-OP2009-01.

No.

Title

Proposer's Company Name

Authorized Signature

Physical Address

Authorized Signature – Typed

Mailing Address

Title

Phone Number

Date