



FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

January 18, 2024

Prospective Respondent,

Subject: Department Solicitation Number RFSOQBDC01-23/24
Request for Statements of Qualifications (RFSOQ) for
Statewide Architecture/Engineering Continuing Services

The RFSOQ package consists of this transmittal letter and the following attachments:

Attachment A	Department Solicitation Acknowledgement Form PUR 1000 and 1001
Attachment B	General Instructions for the Preparation and Submission of Statements of Qualifications
Attachment C	Scope of Services
Attachment D	Client Reference Form
Attachment E	Certification of Drug Free Workplace
Attachment F	Evaluation Criteria
Attachment G	RFSOQ Response Checklist
Attachment H	Sample Contract

Your response should comply fully with these instructions which stipulate what is to be included in the response. Prospective respondents submitting proposals for this solicitation shall identify the solicitation number, date, and time of opening on the sealed envelope or package transmitting their response. This information is used only to put the Department of Environmental Protection's (the Department's) mailroom on notice that the package received is a response to a Department solicitation and, therefore, should not be opened but delivered directly to the Bureau of Design and Construction Procurement Section.

This solicitation does not commit the Department to pay any costs incurred in the preparation and submission of a response in any form or to procure or contract for said services or supplies. The Secretary of the Department or his written designee are the only individuals who can commit the Department to the

expenditure of funds in connection with any contract resulting from this solicitation.

The designated Department, Bureau of Design and Construction, Contracts Section representative for this solicitation is the undersigned. All communications hereon should cite the subject solicitation number and be directed to my attention at the contact information provided in Attachment B, Item B.5.

Sincerely,

Laurinda Micheels
Contracts Specialist
Bureau of Design and Construction

Attachment A
Department Solicitation Acknowledgement Form



**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
REQUEST FOR STATEMENTS OF QUALIFICATIONS
STATEWIDE ARCHITECTURE/ENGINEERING CONTINUING SERVICES**

AGENCY RELEASE DATE: <u>January 18, 2024</u>	SUBMIT PROPOSAL TO: Department of Environmental Protection Bureau of Design and Construction, Contracts Section 3800 Commonwealth Blvd., MS #520 Tallahassee, FL 32399-3000		
SOLICITATION TITLE: Requests for Statements of Qualification for Statewide Architecture/Engineering Continuing Services		SOLICITATION NO: RFSOQBDC01-23/24	
PROPOSALS WILL BE OPENED February 20, 2024 at 4:00 pm (ET) and may not be withdrawn within 180 days after such date and time.			
VENDOR NAME:		*AUTHORIZED SIGNATURE (MANUAL) *AUTHORIZED SIGNATURE (TYPED), TITLE *This individual must have the authority to bind the respondent.	
VENDOR MAILING ADDRESS:			
CITY – STATE – ZIP:			
PHONE NUMBER:			
FREE NUMBER:			
FAX NUMBER:			
EMAIL ADDRESS:			
FEID NO.:			
TYPE OF BUSINESS ENTITY (Corporation, LLC, partnership, etc.):			
I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer and that the Proposer is in compliance with all requirements of the Request for Proposal, including but not limited to, certification requirements. In submitting a Proposal to an agency for the State of Florida, the Proposer offers and agrees that if the Proposal is accepted, the Proposer will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the Proposer.			
RESPONDENT CONTACTS: Please provide the name, title, address, telephone number and e-mail address of the official contact and an alternate, if available. These individuals shall be available to be contacted by telephone or attend meetings as may be appropriate regarding the solicitation schedule.			
PRIMARY CONTACT:		SECONDARY CONTACT:	
NAME, TITLE:		NAME, TITLE:	
ADDRESS:		ADDRESS:	
PHONE NUMBER:		PHONE NUMBER:	
FAX NUMBER:		FAX NUMBER:	
EMAIL ADDRESS:		EMAIL ADDRESS:	

Attachment A
PUR 1000 and 1001

PUR 1001 – GENERAL INSTRUCTIONS TO RESPONDENTS

1. **Definitions.** The definitions found in R. 60A-1.001, F.A.C., shall apply to this contract, and when not defined in said rule shall have the meanings provided in Ch. 287, F.S. The foregoing notwithstanding, the definitions for terms and phrases below shall apply unless specifically indicated otherwise; the definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
 - (1) "Associated Business Entity" shall mean a Business Entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the respondent; including, but not limited to, the following: i) a business entity 20 percent or more of whose outstanding voting securities, membership interests or partnership interests are directly or indirectly owned, controlled, or held with power to vote, by the respondent, ii) a business entity which directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of whose outstanding voting securities, membership interests or partnership interests are directly or indirectly owned, controlled, or held with power to vote, by the respondent.
 - (2) "Business Entity" includes firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, companies, fiduciaries, corporations, and all other groups or combinations
 - (3) "Buyer" means the entity that has released the solicitation. The term may also mean the "Customer" as defined in the General Contract Conditions (PUR 1000) published by the Florida Department of Management Services (DMS), if the entity meets the definition of both terms.
 - (4) "Control" means the ability, directly or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise, including through common officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of an entity.
 - (5) "Procurement Officer" means the Buyer's contracting personnel, as identified in the solicitation.
 - (6) "Respondent" means the entity that submits materials to the Buyer in accordance with the instructions provided in the solicitation, as well as the entity that is ultimately selected by the Buyer to provide the commodities, construction or services contemplated by the contract.
 - (7) "Response" means the materials submitted by the Respondent in accordance with the instructions provided in the solicitation.
 2. **General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.
 3. **Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:
 - an electronic signature on the response, generally,
 - an electronic signature on any form or section specifically calling for a signature, and
 - an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.
- NOTE: This section is superseded by a condition in Attachment B. Electronic submission of proposals is not required and will not be accepted.**
4. **Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:
 - Technical Specifications,
 - Special Conditions,
 - Instructions to Respondents (PUR 1001),
 - General Conditions (PUR 1000), and
 - Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response. **NOTE: This section is superseded by a condition in Attachment B.**
 5. **Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions. **NOTE: This section is superseded by a condition in Attachment B.**
 6. **Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.
 7. **Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:
 - submitting a bid on a contract to provide any goods or services to a public entity;
 - submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;

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- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- Transacting business with any public entity in excess of the Category Two threshold amount (\$35,000) provided in section 287.017 of the Florida Statutes.

8. Discriminatory Vendors. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or
- Transact business with any public entity.

9. Respondent's Representation and Certification. In submitting a response, each respondent understands, confirms and certifies that it has read each of the following statements, that the response to each statement is true and correct to the best of its knowledge and belief, and that it understands and acknowledges that the Buyer will rely on the accuracy of each statement in the award of any contract under the solicitation. If Respondent cannot so certify, it shall submit with its response a written explanation of the facts and circumstances which prevent it from doing so:

- a. Neither Respondent nor any Associated Business Entity thereof (or their respective employees) is currently under suspension or debarment by the State, any agency of the State, the United States or any agency thereof, or of any other governmental authority.
- b. Neither the Respondent nor any Associated Business Entity thereof (or their respective employees) is currently under investigation by any governmental authority or has, in the last ten (10) years, been convicted or found liable for any act prohibited by law in any jurisdiction that involves conspiracy or collusion with respect to the submission of a bid on any public contract.
- c. Neither the Respondent nor any Associated Business Entity thereof (or their respective employees) is delinquent or alleged to be delinquent in any [material][financial][contractual] obligation to the [State, or any agency of the State][the Buyer], including any pending litigation with or any claim by the [State or any agency of the State][Buyer] for penalties, damages, reimbursable costs, liquidated damages, violation of permit or breach of contract.
- d. Respondent's submission of materials in response to the solicitation is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- e. The prices and amounts submitted by Respondent have been determined independently and without consultation, communication or agreement with any other respondent or potential respondent, and none of the prices or amounts – actual or approximate – have been disclosed to any respondent or potential respondent and will not be so disclosed before the solicitation opening.
- f. The Respondent has fully informed the Buyer, in writing, of all convictions of Respondent, its Associated Business Entities, affiliates (as the term affiliates is defined in § 287.133(1)(a), F.S.), successors, assigns, and their respective employees (both current and former or while in the employ of another company) for violation of any state or federal antitrust or other law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public entity contract.
- g. Neither the Respondent or any Associated Business Entity, nor any person associated with the same in the capacity of officer, director, member, partner, employee, investigator, project director, manager, auditor or other position involved in the administration of federal or state funds:
 - i. Has, within the preceding three (3) years been convicted of or had a civil judgment rendered against it or is presently indicted for or otherwise criminally or civilly charged with commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - ii. Has, within a three (3) year period preceding this certification, had one or more federal, state or local government contracts terminated for cause or default.
- h. The product offered by the Respondent will conform to the specifications without exception.
- i. The Respondent has read and understands the contract terms and conditions, and this submission is made in conformance with those terms and conditions.
- j. If an award is made to the Respondent, it agrees that it will be legally bound to the contract that is formed with the State.
- k. The Respondent has reviewed its records and made a diligent inquiry of its employees and agents responsible for preparing, approving or submitting this Response and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this response.
- l. The Respondent agrees to indemnify and hold Buyer harmless against any cost, damage or expense which Buyer may incur or which may be caused by any error, omission or misstatement in Respondent's bid preparation.
- m. Neither the Respondent nor any Associated Business Entity is currently a party to any litigation (judicial or administratively) with the Buyer.

10. Performance Qualifications. The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

11. Public Opening. Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.07(3)(m), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

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- 12. Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.
NOTE: This section is superseded by a condition in Attachment B.
- 13. Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected. **NOTE: This section is superseded by a condition in Attachment B.**
- 14. Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.
- 15. Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.
- 16. Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.
- 17. Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.
- 18. Public Records.** Florida law generously defines what constitutes a public record; see, for example, section 119.07 of the Florida Statutes. If a respondent believes that its response contains information that should not be a public record, the respondent shall clearly segregate and mark that information (for example, placing the material in a separate electronic file, and including the word "Confidential" in the filename) and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption.
- 19. Protests.** Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

(PUR 1001 – 60A-1.002(7), F.A.C.)

PUR 1000 – GENERAL CONTRACT CONDITIONS

- 1. Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
- (a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
 - (b) "Customer" means the State agency or other entity that will order products directly from the Contractor under the Contract.
 - (c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.
 - (d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, or other authorized means).
- 2. Purchase Orders.** A Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes. **NOTE: This section is superseded by a condition in Attachment B.**
- 3. Product Version.** Purchase orders shall be deemed to reference a manufacturer's most recently released model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.
- 4. Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.

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- (a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
 - (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
 - (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
 - (d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.
 - (e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.
5. **Additional Quantities**. For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.
6. **Packaging**. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.
7. **Manufacturer's Name and Approved Equivalents**. Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Customer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Customer shall determine in its sole discretion whether a product is acceptable as an equivalent.
8. **Inspection at Contractor's Site**. The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
9. **Safety Standards**. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.
10. **Americans with Disabilities Act**. Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
11. **Literature**. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
12. **Transportation and Delivery**. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.
13. **Installation**. Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.
14. **Risk of Loss**. Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the

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premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

- 15. Transaction Fee.** The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering re-procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES SHALL BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

- 16. Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

- 17. Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer on a purchase order or other special contract condition.

- 18. Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

- 19. Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <https://dos.fl.gov/library-archives/records-management/general-records-schedules/>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

- 20. Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer. **NOTE: This paragraph is superseded by a condition in Attachment B.**

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue

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using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

21. **Limitation of Liability.** For all claims against the Contractor under any individual purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State. **NOTE: This section is superseded by a condition in Attachment B.**

22. **Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract. Suspension of work shall not entitle the Contractor to any additional compensation.

23. **Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State'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.

24. **Termination for Cause.** The Buyer may terminate the contract if the Respondent 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. In addition, the Buyer may terminate the contract if it discovers or determines that Respondent made a Misrepresentation in its response to the solicitation, which led to award of the contract to Respondent. In addition, the Buyer may terminate the contract if it discovers or determines that Respondent made a Misrepresentation in its response to the solicitation, which led to award of the contract to Respondent. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. 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 Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

25. **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 Customer 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 Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer 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 Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers 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.

26. **Scope Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

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27. **Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.
28. **Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.
29. **Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer; provided, the Contractor assigns to the State any and all claims it has with respect to the Contract under the antitrust laws of the United States and the State. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.
30. **Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within ten (10) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

31. **Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.
32. **Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the State and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.
33. **Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.
34. **Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida. **NOTE: This section is superseded by a condition in Attachment B.**
35. **Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
36. **Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.
37. **Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.
38. **Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

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39. **Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.
40. **Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.
41. **Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.
42. **Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.
- State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.
43. **Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
44. **Annual Appropriations.** The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.
45. **Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
46. **Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
47. **Special Conditions.** Pursuant to 60A-1.002(7), F.A.C., a Customer may attach additional contractual and technical terms and conditions. These "special conditions" shall take precedence over this form PUR 1000 unless the conflicting term in this form is statutorily required, in which case the term contained in the form shall take precedence.
48. **Misrepresentations:** All information submitted and representations made by the Respondent are material and important and will be relied upon by the Buyer in awarding the contract. Any misstatement or omission (a "Misrepresentation") shall be treated as a fraudulent concealment of the true facts relating to submission of the solicitation. A misrepresentation shall be a basis for Buyer to disqualify the Respondent from participating in this solicitation, and any re-solicitation pertaining to this subject matter (regardless of whether the re-solicitation resulted from Respondent's misrepresentation) and shall be punishable under law, including, but not limited to, Chapter 817, F.S.

(PUR 1000 – 60A-1.002(7), F.A.C.)

ATTACHMENT B

GENERAL INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF STATEMENTS OF QUALIFICATIONS FOR STATEWIDE ARCHITECTURE/ENGINEERING CONTINUING SERVICES

- B.1 Solicitation Number: **RFSQBDC01-23/24**
- B.2 Solicitation Type: Request for Statements of Qualifications (RFSOQ)
- B.3 Date of RFSOQ Issuance: **January 18, 2024** (date RFSOQ was advertised)
- B.4 Program Area: Bureau of Design and Construction (BDC)
Florida Department of Environmental Protection (The Department)
- B.5 Solicitation Submission/Timeline (**This section supersedes PUR1001.**):

By **January 30, 2024**, all questions from prospective contractors must be submitted in accordance with the directions in section B.6.

By **February 6, 2024**, the Department anticipates posting questions received and the Department's answers on the MyFloridaMarketPlace Next Generation Vendor Information Portal.

By **February 20, 2024, at 4:00 pm (ET)**, prospective respondents shall submit four (4) sets of their response to this solicitation: one (1) marked original, two (2) marked copies, and one (1) CD or USB storage drive containing a pdf format of their response. Electronic submission of responses is not required and will not be accepted for this solicitation. Responses may be sent by U.S. Mail, Courier, or Hand-Delivered. (Hand-delivered responses must be taken to the Carr Building Welcome Desk, 3800 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) **RESPONSES TRANSMITTED BY FACSIMILE OR EMAIL WILL NOT BE CONSIDERED.**

Responses must be received by:

Laurinda Micheels, Contracts Specialist
Bureau of Design and Construction
Florida Department of Environmental Protection
3800 Commonwealth Blvd., MS #520
Tallahassee, Florida 32399-3000
Telephone Number: (850) 245-2781
Email: BDC_Contracts@dep.state.fl.us

All responses must be submitted in a sealed package and shall be clearly marked on the outside with the solicitation number and date/time of solicitation opening for which the response is intended. The Department is not responsible for the opening of any solicitation package which is not properly marked. It is the respondent's responsibility to assure its response is submitted at the place and time indicated in this solicitation. Respondents are required to complete, sign, and return the "Department Solicitation Acknowledgement Form" with their response.

CAUTION: A response received at the designated office after the exact time specified for receipt will NOT be considered.

On or after **April 24, 2024**, the recommended short list of finalists selected to participate in oral discussions with the Department will be posted on the Florida Department of Management Services (DMS) MyFloridaMarketPlace (MFMP) Next Generation Vendor Information Portal (VIP). To access VIP, go to <https://vendor.myfloridamarketplace.com/>. Once at this site, follow these steps:

- Click on "Search Advertisements," in the bottom left corner of the screen.
- In the column at the left of the screen, under "Search Criteria," click on "Organization" and choose "Department of Environmental Protection."
- Scroll downwards to "Agency Advertisement Number," then enter "RFSOQBDC01-23/24."
- Scroll to the bottom and click on "Search."
- Under "Search Results," look through the titles listed and view the appropriate one by clicking on its "Number," to the right of the title.

For the oral discussions phase of this solicitation, all of the participating firms will start out on an equal basis.

These dates are to be used by the prospective contractor for planning purposes and are subject to change. The Department reserves the right to revise the solicitation timeline provided above.

Please notify the Department Contact person identified (see above) at least ten (10) days prior to the due date for responses if an accommodation because of a disability is required in order to participate in this procurement opportunity.

B.6 Questions (This section supersedes PUR1001):

Any questions from prospective contractors concerning this RFSOQ shall be submitted in writing, identifying the submitter, to Laurinda Micheels at the address specified in section B.5 or by email at BDC_Contracts@dep.state.fl.us no later than **January 30, 2024**. Email inquiries are preferred; however, a hard copy is acceptable.

All questions and answers/changes to the solicitation will be provided in writing and posted on MFMP Next Generation VIP. It is the prospective contractor's responsibility to check periodically for any information updates to the solicitation which are posted to the VIP. The Department bears no responsibility for any delays, or resulting impacts, associated with a prospective contractor's failure to obtain the information made available through the MFMP VIP.

INFORMATION WILL NOT BE AVAILABLE BY PHONE. Any information received through any oral communication shall not be binding on the Department and shall not be relied upon by an offeror.

Information on State Statutes or Rules, referred to in this solicitation, may be obtained at:

https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/purchasing_statutes_and_rules.

For the purposes of this solicitation, the terms respondent, offeror, consultant and contractor are used interchangeably and mean a person(s) or firm(s) submitting a response to this solicitation.

B.7 Restriction on Communication with Department Staff:

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in this solicitation. Violation of this provision may be grounds for rejecting a response.

B.8 Solicitation Response Contents (This section supersedes PUR1001.):

Regardless of whether Respondent is selected for award or successfully obtains any contract for work under this Solicitation:

A. Upon receipt by the Department, all material submitted by Respondent in response to the Solicitation shall be and become property of the Department and shall be a public record, as that term is defined in Chapter 119 Florida Statutes. Material submitted in response to the Solicitation shall be subject to disclosure and production by the Department as a public record, upon request of any person entitled thereto, thirty (30) days following the opening of the response or when the notice of intended award is posted, whichever occurs first.

B. Respondent agrees and does by submittal of materials in response to this Solicitation, transfer, convey and assign to the Department, without charge, a perpetual, non-exclusive, unlimited license to use, reproduce, publish or disclose any and all information contained therein; including, but not limited to, the right of the Department to incorporate the materials in any solicitation, negotiation, contract, agreement, purchase order, task order or other document, regardless of whether Respondent is a party thereto.

B.9 Notification (This section supersedes PUR1001.):

Tabulation of Results, with the recommended short list of finalists selected to participate in oral discussions with the Department, will be posted for review by interested parties at the location specified in Section B.5 above **on or after April 24, 2024**, and will remain posted for a period of seventy-two (72) hours, which does not include weekends or State observed holidays. Any respondent who desires to protest the recommended contract award must file a notice of intent to protest and formal protest with the Department, Office of General Counsel, MS #35, 3900 Commonwealth Boulevard, Douglas Building, Room 659, Tallahassee, Florida 32399-3000, within the time prescribed in Section 120.57(3), Florida Statutes, and Chapter 28-110, Florida Administrative Code.

B.10 Description of Work Being Procured:

The Department is requesting statements of qualifications from statewide architecture/engineering firms to provide continuing services for park development and improvements.

All services shall be performed in accordance with the Scope of Services outlined in Attachment C.

No minimum amount of work is guaranteed under the contract resulting from this solicitation.

B.11 Number of Awards:

The Department anticipates the issuance of multiple contracts for services under this solicitation. The Department, at its sole discretion, shall make this determination.

For the purposes of this solicitation, the term contract means multiple contracts awarded under this solicitation.

B.12 Contract Period:

The contract is anticipated to begin upon execution and remain in effect for a period of five (5) years from the date of execution.

The Department reserves the right to renew any contract resulting from this solicitation. Renewal shall be subject to the terms and conditions set forth in the existing contract and shall be limited to a period that may not exceed five (5) years or the term of the original contract, whichever period is longer. Renewal shall be based upon satisfactory performance by the contractor and the availability of funding.

B.13 Type of Contract Contemplated (This section supersedes PUR1000):

A fixed price contract/cost reimbursement is proposed. However, the Department reserves the right to award another contract type if such will be most advantageous to the Department and the State of Florida, price and other factors considered.

A copy of the proposed contract containing all requirements is included as Attachment H. The requirements contained in the proposed contract should be closely reviewed by the offeror since modifications proposed by the offeror may not be considered. The Department reserves the right to revise the proposed contract to include additional language required by the federal agency(ies) or other sources awarding the funding to the Department in support of this project.

The contracting agency may prepare an evaluation summarizing the consultant's performance on a contract. The performance evaluation should include, but not be limited to, an assessment of the timely completion of work, adherence to contract scope and budget, and quality of the work conducted. The contracting agency shall provide the consultant a copy of the performance evaluation and an opportunity to provide written comments to be attached to the evaluation. The contracting agency should prepare additional interim performance evaluations based on the scope, complexity, and size of the contract as a means to provide feedback, foster communication, and achieve desired changes or improvements. Completed performance evaluations should be archived for consideration as an element of past performance in the future evaluation of the consultant to provide similar services.

B.14 Offer Acceptance Period:

The Department expects to execute the contract(s) as soon as possible after the announcement of the award. The Department has the discretion to terminate negotiations if agreement is not reached within thirty (30) days of announcement of an award.

B.15 Firm Response (This section supersedes PUR1001):

Any submitted response shall remain valid for one hundred eighty (180) days after the response submission date.

B.16 Disclosure:

Information will be disclosed to respondents in accordance with State statutes and rules applicable to this solicitation after evaluations are complete.

B.17 Laws and Permits:

The selected contractor must comply with all local, state, and federal laws, rules, regulations and codes whenever work is being performed under the contract. All permits and licenses required for the selected contractor's company operations under the contract must be obtained by the selected contractor and maintained for the duration of the contract. The Department will not pay for the cost of licenses or permits required by the selected contractor for company operations.

B.18 Indemnification: (This section supersedes PUR1000.)

The selected contractor must agree to shall save and hold harmless and indemnify the State of Florida, the Department, and their respective officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the selected contractor and other persons employed or utilized by the selected contractor in the performance of the contract.

B.19 Insurance: (This section supersedes PUR1000.)

The contractor selected under this RFSOQ shall maintain during the life of the contract, Workers' Compensation Insurance for all of its employees connected with the contract. Such insurance shall comply fully with the Florida Workers' Compensation Law. In case any class of employee engaged in hazardous work under the contract is not protected under the Workers' Compensation statute, the selected contractor(s) shall provide adequate insurance, satisfactory to the Department, for the protection of its employees not otherwise protected.

The contractor selected under this RFSOQ shall maintain during the life of the contract, comprehensive general liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage; and comprehensive automobile liability coverage with limits of not less than \$2,000,000 combined single limit. The selected contractor shall also carry blanket professional liability insurance with a coverage amount of \$1,000,000.

The selected contractors' certificate of insurance shall contain a provision that the insurance will not be canceled or modified for any reason except after thirty (30) days written notice to the Department Contracts Administrator.

The selected contractor shall be required to submit insurance certificates evidencing such insurance coverage prior to the execution of a contract with the Department. Insurance certificates shall list the Department as an additional insured.

B.20 Subcontracting:

The selected contractor shall not subcontract, assign, or transfer any work identified under this solicitation, *with the exception of those subcontractors identified in the prospective contractor's response*, without the prior written consent of the Department.

~~Prospective contractors cannot respond to this solicitation as both a prime contractor and a subcontractor to other respondents. In the event that responses are received from firms with common ownership, officers or directors, to provide services as prime contractors, all such responses will be rejected. In the event that a firm who has responded as a prime contractor provides a letter of commitment to subcontract with another respondent, the response submitted as a prime contractor shall be rejected.~~

The Department supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this solicitation embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. Prospective contractors can contact the Office of Supplier Diversity at (850) 487-0915 for information on minority vendors who may be considered for subcontracting opportunities.

B.21 Limitation of Liability: **(This section supersedes PUR1000.)**

PUR1000, Condition #21, Limitation of Liability is deleted in its entirety. Liability will not be limited in any contract(s) resulting from this solicitation.

B.22 Conflict of Interest:

The respondent covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required to be performed under the contract.

B.23 Rights to Data and Copyright:

Writings, publications, films, videos, technical reports, equipment, computer hardware and software, recordings, computer programs, computerized data bases, data processing programs, pictorial reproductions, maps, drawings, specifications, graphical representations, and works of similar nature (whether copyrighted or not copyrighted), which are (1) submitted with a response, (2) specified to be delivered under a project contract, or (3) developed or produced and paid for in whole or in part by contract funds, except as may otherwise be provided in the contract, become the property of the Department.

B.24 Vendor Registration:

Prior to entering into a contract with the Department, the selected contractor must be registered with the Florida DMS MFMP VIP. Information about registration is available, and registration may be completed, at the MFMP website (<https://vendor.myfloridamarketplace.com/>). Prospective contractors who do not have internet access may request assistance from the MFMP Customer Service at (866) 352-3776.

B.25 MyFloridaMarketPlace Transaction Fee:

The State of Florida, through DMS, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(24), Florida Statutes (F.S.). All payments issued by Agencies to registered vendors for purchases of Commodities or Contractual Services under Chapter 287, F.S., shall be assessed the Transaction Fee of one percent (1.0%) of the total amount of the payments received from the State or Eligible Users, as prescribed by Rule 60A-1.031, Florida Administrative Code (F.A.C.), or as may otherwise be established by law. Vendors shall pay the Transaction Fee and are subject to automatic deduction of the Transaction Fee, when automatic deduction becomes available. Vendors shall submit any monthly reports required pursuant to Rule 60A-1.031, F.A.C. All such reports and payments are subject to audit. The Agency will have grounds for declaring the vendor in default if the vendor fails to comply with the payment of the Transaction Fee or reporting of payments, which may subject the vendor to being suspended from business with the State of Florida.

B.26 Force Majeure:

If a force majeure occurs which causes delays or the reasonable likelihood of delay in the achievement of the requirements of a contract resulting from this RFSOQ, the selected contractor shall promptly notify the Department orally and shall, within seven (7) calendar days, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay,

and the selected contractor's intended timetable for implementation of these measures. If the parties agree that the delay or anticipated delay has been or will be caused by a force majeure, time for performance under this contract may be extended, at the discretion of the Department, for a period of time equal to the delay resulting from the force majeure. Such agreement shall be confirmed by letter from the Department accepting, or if necessary modifying the extension. A force majeure shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary governmental or third party approvals, governmental restraint, and any other cause, whether of the kind specifically enumerated herein or otherwise, which is not reasonably within the control of the selected contractor. The selected contractor is responsible for the performance of all services issued under this contract. Failure to perform by a selected contractor's subcontractor shall not constitute a force majeure event.

B.27 Number of Copies to be Submitted:

Submit four (4) sets for Department review: one (1) marked "*ORIGINAL*" bearing original signatures, two (2) marked "*COPY*", and one (1) electronic copy on a CD or USB drive in PDF format of the response. Each paper copy is to be bound individually.

B.28 Elaborate Responses:

It is not necessary to prepare your response using elaborate brochures and artwork, expensive paper and bindings, or other expensive visual presentation aids. Your response shall be prepared in accordance with the instructions herein.

B.29 General Instructions for Preparation of the Response:

The instructions for this RFSOQ have been designed to help ensure that all responses are reviewed and evaluated in a consistent manner, as well as to minimize costs and response time. **ANY AND ALL INFORMATION SUBMITTED IN VARIANCE WITH THESE INSTRUCTIONS WILL NOT BE REVIEWED OR EVALUATED.**

The response shall consist of the following parts:

B. Acknowledgement Form:

The "Department Solicitation Acknowledgement Form" (original copy provided in solicitation package as Attachment A) shall be completed as instructed. The originally signed copy shall be submitted in one (1) copy of the response package marked "Original". Two (2) photocopies of the signed original Attachment A shall be

made, and one (1) copy shall be provided in each of the two (2) additional response packages submitted to the Department. If a respondent fails to submit a completed Acknowledgement Form with their response, the Department reserves the right to contact the vendor by telephone for submission of this document via fax or email with follow up via mail. This right shall be exercised when the response has met all other requirements of the solicitation.

In the event that respondents submit a response as a joint venture, each member of the joint venture must complete and sign a separate Acknowledgement Form.

B. Technical Response:

The Technical Response Package shall be prepared by each respondent in the format listed below utilizing 8.5" x 11" paper. **Each respondent shall limit the technical response package to no more than twenty-three (23) pages (not including the Standard Form 330, Past Performance References and Licenses), with the page limits for each section specified below.** Any photos, maps, diagrams, charts or other non-text material, which provides information about the respondent, shall be included in the page limitation of the technical response package.

If the specified page limit for a particular section or subsection is exceeded, the extra pages for that section or subsection will not be reviewed. Pages which are not used for a particular section or subsection cannot be added to the page allowance for another section. For example, if only eight (8) of the twelve (12) pages allocated for the Qualifications section of the technical response package are used, the number of pages cannot be increased for any other section in the technical response package. The total page count of the technical response package, in this example, would therefore be sixteen (16) pages.

Respondents are encouraged to prepare their Technical Response Package in the order outlined below for ease of the identification and review by the evaluation committee members. However, in no event shall the respondent use the tab pages to present additional information. **Tab pages which present information shall be counted in the page limit for that section.**

The Technical Response Package shall contain the following sections:

1. Introduction (1 page limit):

The content of this section shall be at the sole discretion of the respondent.

2. Company Background (2 page limit):

This section shall provide information on the historical background of the respondent and on the respondent's organizational structure. This should include years in operation and years involved in work related to this project.

3. Qualifications (15 page limit):

This section shall demonstrate the respondent's knowledge of each of the areas listed below. The responses shall be limited to the respondent's office (branch office) that will be directly managing the projects. Projects that other branch offices have completed will not be considered in the evaluation of the response. The Department will consider the experience and capabilities of the presenting office staff who will be directly managing the projects identified in this RFSOQ. Use of employees from other branch offices who will be providing labor on the project shall be noted along with their accomplishments and/or experience separately. Their experience will be represented in this section – for multi-discipline availability of staff and within the Standard Form 330s.

The Department will evaluate responses to the RFSOQ based upon the following criteria:

- A. Experience with accessible water recreation projects
- B. Recreational park development
- C. Experience with storm water retention systems
- D. Experience with environmentally sensitive projects
- E. Staff qualifications
- F. Multi-discipline availability
- G. Knowledge of Florida Department of Transportation (FDOT) Methodologies and Design

4. Project Management (5-page limit):

- a. The respondent shall describe in-house project organization and management methods which are most appropriate to perform the type services described in Attachment B, section B.11 and Attachment C. Contract managers and key personnel must be identified. Subcontractors shall be identified and their intended scope of work detailed. Office locations for key personnel **including personnel from other branch offices** and subcontractors must be identified.
- b. The respondent shall describe their office management process for tracking and maintaining the various types of documents that will be

associated with the project and how those documents will be transmitted to the various project participants.

1. The respondent shall explain their process for schedule controls.
2. The respondent shall explain their process for budget controls.
3. The respondent shall explain their Quality Assurance/Quality Control (QA/QC) process.

5. Personnel Assigned - Standard Form 330 (not included in page limit):

The respondent shall complete Part I (Sections A through E only) and Part II of the United States Department of General Services Standard Form 330 in accordance with the instructions provided therein. Part I (Sections A through E only) and Part II of the Standard Form 330 must be completed and submitted with the response package. Key personnel identified in Section E shall be those personnel directly responsible for daily project management to be assigned to the contract resulting from this solicitation. Specific project positions shall coincide with the personnel identified in the Project Management section of the response package (see Section B.4 above). An electronic version of the form may be obtained at the website <https://www.gsa.gov/system/files/SF330-21.pdf> under the **Standard-Std Contracting & Procurement** section. The Standard Form 330 should list additional projects of similar type that were not mentioned in earlier sections. Projects listed on the 330 must be relevant to the project requested in this RFSOQ and those that do not pertain to the types identified for this RFSOQ will not be considered.

Adequate number of personnel to complete the work in a timely manner shall be limited to those included in the response, not the number of personnel with the branch office or within the total organization. The availability of the respondent's personnel assigned to this contract is important. The Department expects personnel and subcontractors identified in the response package to be available to work on the project without interference from other contractual obligations which the respondent may have. The selected contractor may be performing work under several contracts simultaneously, and therefore should indicate how work overloads will be managed to prevent project delays.

6. Licenses (not included in page limit):

The respondent shall submit copies of professional licenses from the appropriate State of Florida board governing the services to show that the respondent is a licensed architecture/engineering firm registered in the State of Florida. In the event that respondents submit a response as a joint venture, it is not necessary for each member of the joint venture to have the license.

7. Past Performance (**Must use pages provided in Attachment D**):

In the space provided on Attachment D, the Respondent must list all names under which the Respondent and its Associated Business Entities have operated during the last eight (8) years (including predecessors by merger) and list any contracts which the Respondent or any of its Associated Business Entities has been a party to with the Department within the last eight (8) years, where either the Respondent or its Associated Business Entity was the prime contractor.

In the spaces provided on Attachment D, the respondent must provide the required information for a minimum of three (3) separate and verifiable projects which have been **completed** for clients of the respondent (**not intended subcontractors**) for projects similar in the RFSOQ. The projects listed must be for work similar in nature to that specified in this solicitation. Confidential clients shall not be included. **Do not list projects completed for the Department as a reference on this form.**

The same client may not be listed for more than one (1) reference (for example, if the respondent has completed a project for the Florida Department of Transportation (FDOT) – District One and one project for FDOT – District Two, only one of the projects may be listed because the client, FDOT, is the same).

Clients that are listed as subcontractors in the respondent's proposal will not be accepted as Past Performance references under this solicitation. Firms that are currently parent or subsidiary companies to the respondent will not be accepted as Past Performance references under this solicitation.

In the event that the respondent has had a name change since the time work was performed for a listed reference, the name under which the respondent operated at the time that the work was performed must be given, at the end of the project description for that reference, on Attachment D.

In the event that respondents submit a response as a joint venture, at least one (1) past performance client must be listed for each member of the joint venture. However, the total minimum number of clients to be listed remains three (3).

References should be available to be contacted during normal working hours. The Department will choose, at its own discretion, two (2) of the respondent's references to contact in order to complete an evaluation questionnaire as provided in Attachment F. In the event that the respondent or any of its Associated Business Entities has been a party to a contract with the Department within the last eight (8) years, the Department shall attempt to contact one Department and one non-Department reference. In addition to the information provided by respondent, the

Department may review its records to determine if there are any unlisted contracts to which respondent or an Affiliated Business Entity has been a party during the time frame specified above.

In the event that the neither the respondent nor any of its Associated Business Entities have been a party to a contract with the Department within the timeframe specified above, the Department shall attempt to contact two (2) non-Department references. The total number of clients who will be contacted to complete an evaluation for any response shall be two (2).

Evaluation questionnaires will be emailed to the selected references with a due date for responding. If questionnaires are not received by the due date the Department will attempt to contact each selected reference by phone up to two (2) times. In the event that the contact person cannot be reached following the specified number of attempts, the respondent shall receive a score of zero (0) for that reference evaluation. The Department **will not** attempt to correct incorrectly supplied information.

Failure to provide the required information for a minimum of three (3) separate and verifiable clients in the spaces provided on Attachment D, or failure to provide the required information for each reference shall result in the respondent receiving a score of zero (0) for the Past Performance section of the evaluation criteria.

Failure of the respondent to provide any of the information required in the technical response portion of the response package shall result in a score of zero (0) for that element of the evaluation.

8. Documentation Supporting Subcontract Arrangements:

All respondents shall supply written proof of subcontract arrangements for this solicitation. Documentation shall be supplied for each subcontractor which the respondent intends to utilize and for which the respondent has identified the qualifications and experience of in their response. The written documentation shall be a **one (1) page letter supplied by the subcontractor on its letterhead stationery**, clearly identifying the Department Solicitation Number "RFSQBD01-23/24," the project title "Statewide Architecture/Engineering Continuing Services" and the prime contractor with whom the firm intends to subcontract. **Failure to submit a letter of commitment from an intended subcontractor identified in the response shall result in the disallowance of the qualifications and experience of that subcontractor from consideration in the evaluation process.**

Note: Do not use this section to provide additional information about any proposed subcontractors. Any additional information provided

with these letters will not be reviewed.

9. State Project Plan:

The respondent shall submit a written plan addressing the State's five (5) objectives listed below, to the extent applicable to the items/services covered by this solicitation. Objectives not addressed in the selected contractor's response must be addressed prior to Contract execution. **The State reserves the right to negotiate mutually acceptable changes with the respondent selected for award, prior to execution of the contract.**

a. **Diversity:** The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The state is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the state is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the state's procurement process as both Contractors and sub-contractors in this solicitation. Small, minority-, women-, and service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises.

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at:

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE contractors (agents or subcontractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other eligible user) level.

b. **Environmental Considerations:** The State supports and encourages initiatives to protect and preserve our environment. The respondent shall submit as part of this plan, the respondent's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The respondent shall also provide a plan for reducing and/or handling of any hazardous waste generated by the respondent company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Department that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of the respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of waste.

c. **Certification of Drug-Free Workplace Program:** The State supports and encourages initiatives to keep the workplace of Florida's suppliers and contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie proposals are received, preference shall be given to a proposal received from a respondent that certifies it has implemented a drug-free workforce program. If applicable, the respondent shall sign and submit the "Certification of Drug-Free Workplace Program" Form, attached hereto and made a part hereof as Attachment E, to certify that the respondent has a drug-free workplace program.

d. **Products Available from the Blind or Other Handicapped (RESPECT):** The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

The respondent shall describe how it will support the use of RESPECT in offering the services/items being procured under this solicitation. Respondents proposing the use of RESPECT as a subcontractor shall be required to provide written proof of a subcontractor agreement for this solicitation with RESPECT with their response. The written documentation shall be a one (1) page letter supplied by the subcontractor on its letterhead stationery, clearly identifying the Department Solicitation Number, the project title, and the prime contractor with whom the firm intends to subcontract.

e. **Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE):** The State supports and encourages the use of Florida Correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this contract shall be purchased from the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the same procedures set forth in section 946.515(2) and (4), Florida Statutes; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

The respondent shall describe how it will support the use of PRIDE in offering the services/items being procured under this solicitation. Respondents proposing the use of PRIDE as a subcontractor shall be required to provide written proof of a subcontractor agreement for this solicitation with PRIDE with their response. The written documentation shall be a one (1) page letter supplied by the subcontractor on its letterhead stationery, clearly identifying the Department Solicitation Number, the project title, and the prime contractor with whom the firm intends to subcontract.

B.30 Scoring:

With the exception of the past performance reviews, each RFSOQ will be reviewed by at least three evaluators. Each of the evaluators will work independently using the evaluation criteria contained in Attachment F. A Department representative will contact references via email/telephone to obtain the past performance reviews. The average scores for the past performance reviews shall be provided to the evaluators for inclusion on their evaluation criteria score sheets, to calculate the total proposal evaluation scores. The Bureau of Design and Construction will add the total scores given by each evaluator, convert them to a ranking, and then calculate an average rank for each proposal by all evaluators. The Bureau of Design and Construction shall present the average rankings to the Director, Division of Recreation and Parks or his/her designee, who will then determine the short list of firms recommended to participate in oral discussions.

For example:

<u>Respondent</u>	<u>Raw Points Received</u>	<u>Rank</u>
Company A	200	2.00
Company B	210	1.00
Company C	180	3.50*
Company D	175	5.00
Company E	180	3.50*

In the event that multiple firms have the same raw point score, the rank places of those firms are averaged and each firm receives that rank. In this case, the third and fourth ranks are tied, so $3 \text{ (rank)} + 4 \text{ (rank)} = 7$; $7 \text{ divided by } 2 \text{ (firms)} = 3.50$. Each firm receives a rank of 3.50.

In determining vendor responsibility, the agency may consider any information or evidence which comes to its attention and which reflects upon a vendor's capability to fully perform the contract requirements and/or the vendor's demonstration of the level of integrity and reliability which the agency determines to be required to assure performance of the contract.

Prior to the oral discussions, when the short list of Respondents is selected, a letter will be provided to each Respondent which includes the oral discussions criteria. The Bureau of Design and Construction will add the total oral discussions scores given by each evaluator, convert them to a ranking, and then calculate an average rank for each Respondent.

If the Department's evaluation results in a Tie, the Department will request Form 1, Award Preference Form, from the vendors with Responses that resulted in the Tie. Based on Form 1, the Department will give the award to a Respondent if it is a minority-owned or veteran-owned business. If more than one Respondent is entitled to this preference, the preference will be given to the Respondent with the qualifying business with the smallest net worth, consistent with section 295.187(4)(b), F.S. In the event all preferences are equal or that none of the Respondents are entitled to a preference, the Tie will be broken using a coin toss.

B.31 Terms and Conditions (This section supersedes PUR1001):

All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Instructions for Preparation and Submission of Statements of Qualifications for Statewide Architectural/Engineering Services
- Scope of Services
- General Instructions to Respondents (Form PUR1001 – incorporated herein by reference). This form is a downloadable document which must be downloaded for review. This document need not be returned with the Respondent's Submission. Form PUR 1001 may be accessed at:
https://www.dms.myflorida.com/content/download/2934/11780/PUR_1001_General_Instructions_to_Respondents.pdf

In the event of any conflict between Form PUR 1001 and other instructions provided in this document, the additional instructions in this document shall take precedence over the Form PUR 1001 unless the conflicting term is required

by any section of the Florida Statutes (F.S.), in which case the statutory requirements shall take precedence.

-- General Conditions (PUR1000 – incorporated herein by reference). This document need not be returned with the Respondent's Submission. Form PUR 1000 may be accessed at:
https://www.dms.myflorida.com/content/download/2933/11777/PUR_1000_General_Contract_Conditions.pdf

In the event of any conflict between Form PUR 1000 and other instructions provided in this document, the additional instructions in this document shall take precedence over the Form PUR 1000 unless the conflicting term is required by any section of the Florida Statutes (F.S.), in which case the statutory requirements shall take precedence.

Note:

Any requirement of this solicitation which indicates the consequence of any noncompliance shall be strictly enforced.

ATTACHMENT C

SCOPE OF SERVICES

The Florida Department of Environmental Protection (the Department) is requesting statements of qualifications from statewide architecture/engineering firms licensed to work in the State of Florida.

Overview

The project provides continuing services for park development/ improvements. The statewide services may include, but are not limited to, the following:

- Experience with accessible water recreation projects
- Recreational park development
- Experience with storm water retention systems
- Experience with environmentally sensitive projects
- Staff qualifications
- Multi-discipline availability
- Knowledge of Florida Department of Transportation (FDOT) Methodologies and Design

Scope of Work

This is an RFSOQ for statewide architecture/engineering firms for continuing services for park development/improvements in the state of Florida. Pursuant to Executive Order 07-126 and Section 255.252(3), F.S., the Department requires the projects resulting from this RFSOQ to be designed and constructed in accordance with green building standards where applicable.

The estimated costs for each project will include planning, design, construction, monitoring, oversight, and contingency costs.

The respondent shall demonstrate that it has the technical expertise necessary to perform all of the services described herein. Joint ventures and/or subcontracting among firms may be considered to develop an optimum team approach that provides expertise in all of the required fields. However, the selected consultant will be responsible for the satisfactory completion of all tasked work.

The selected consultant shall advise the Department what the best use of the property can be to provide the safest planned recreational opportunities. The selected Consultant shall make an examination of the Description of Work Being Procured, as may be necessary to determine the extent of the work to be done. The selected consultant shall be responsible for obtaining all surveys, aerial photographs, maps, and any other data and information necessary to perform the work. The Department possesses information and data, which shall be provided for public review upon request. It is the responsibility of the selected consultant to determine if this data is accurate and sufficient for utilization within this project.

All of the above work shall be in accordance with all state, federal, regional, and local laws, regulations, ordinances, standards, and requirements that may apply.

Project Construction Documents

An original copy of all final design documents, drawings, and other articles to meet all requirements of this solicitation, the resulting contract, and any subsequent amendments, shall be provided to the Department upon completion of the work. These original articles shall contain all original signatures and professional seals, as necessary. At a minimum, the selected consultant shall provide all of the original documents required by the permitting authorities and submit a minimum of four (4) complete sets of all documents and drawings to the Department. In addition, the consultant shall provide to the Department one (1) complete set of documents, drawings, and other pertinent information articles in electronic (PDF) format at each milestone submittal date including the final document submittal. All documents shall be formatted as per the Department's guidelines (refer to Sample Contract Attachment B – AutoCad Drafting Standards).

No minimum amount of work is guaranteed under the contract resulting from this solicitation.

ATTACHMENT D

CLIENT REFERENCE FORM

In the space provided below, the Respondent must list all names under which the Respondent and its Associated Business Entities have operated during the last eight (8) years (including predecessors by merger) and list any contracts which the Respondent or any of its Associated Business Entities has been a party to with the Department within the last eight (8) years, where either the Respondent or its Associated Business Entity was the prime contractor. In addition to the information provided by the Respondent, the Department may review its records to determine if there are any unlisted contracts to which the Respondent or an Affiliated Business Entity has been a party during the time frame specified above.

On the following pages, the Respondent must provide the required information for a minimum of three (3) separate and verifiable projects. Information on each client must be provided on this Attachment. **Do not list projects completed for the Department as a reference on the following pages.** Any information not submitted on this attachment shall not be considered. All projects listed must be for work similar to that described in this solicitation. Confidential clients shall not be included. Any additional references listed, over the minimum of three required, will be considered in determining if the Respondent has satisfied the requirements for the three references as set out herein.

Projects that the Respondent has completed for organizations having any affiliation with the Respondent (i.e. under common ownership, having common directors, officers or agents, or sharing profits or liabilities) may not be used as Past Performance references under this solicitation.

The same client may not be listed for more than one (1) reference (for example, if the Respondent has completed for project for the Florida Department of Transportation – District One and one project for the Florida

Department of Transportation – District Two, only one of the projects may be listed because the client, the Florida Department of Transportation, is the same).

In the event that Respondents submit a response as a joint venture, at least one (1) past performance reference client must be listed for each member of the joint venture. However, the total minimum number of clients to be listed remains three (3). For example: ABC Corporation and XYZ Corporation are joint ventures. ABC supplies (1) project and XYZ supplies (2) projects for a total of three (3) projects.

Evaluation questionnaires will be emailed to the selected references with a due date for responding. If questionnaires are not received by the due date the Department will attempt to contact each selected reference by phone up to two (2) times. In the event that the contact person cannot be reached following the specified number of attempts, the Respondent shall receive a score of zero (0) for that reference evaluation. The Department will not attempt to correct incorrectly supplied information.

(Remainder of page left intentionally blank)

Client #1

Client Name:

Address:

Contact Person:

Phone Number: (____)_____

Email Address:

Project Performance Period:

_____ to _____

Dates should be in mm/yy format and must verify that project has been completed.

Location of Project:

Brief description of the services performed for this project:

Client #2

Client Name:

Address:

Contact Person:

Phone Number: (____)_____

Email Address:

Project Performance Period:

_____ to _____

Dates should be in mm/yy format and must verify that project has been completed.

Location of Project:

Brief description of the services performed for this project:

Client #3

Client Name:

Address:

Contact Person:

Phone Number: (____)_____

Email Address:

Project Performance Period:

_____ to _____

Dates should be in mm/yy format and must verify that project has been completed.

Location of Project:

Brief description of the services performed for this project:

ATTACHMENT E

CERTIFICATION OF DRUG-FREE WORKPLACE

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more responses which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie responses will be followed if none of the tied vendors have 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 the 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 bid 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 bid, 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 a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so 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 the statement, I certify that this firm complies fully with the above requirements.

(Signature)

(Type Name)

(Firm Name)

(Address)

ATTACHMENT F
PROPOSAL EVALUATION CRITERIA⁴

	Maximum Raw Score Possible		Weight Factor		Weighted Score Possible
A. Acknowledgement Form					
B. Technical Response					
1. Introduction ¹	5	X	1	=	5
2. Company Background	5	X	1	=	5
3. Qualifications					
a. Experience with Accessible Water Recreation Projects	5	X	4	=	20
b. Recreational Park Development	5	X	4	=	20
c. Experience with storm water retention systems	5	X	4	=	20
d. Experience with environmentally sensitive projects	5	X	4	=	20
e. Staff qualifications	5	X	4	=	20
f. Multi-discipline availability	5	X	4	=	20
g. Knowledge of FDOT Roadway Methodologies and Design	5	X	4	=	20
4. Project Management					
a. Project Organization	5	X	2	=	10
b. Management Methods	5	X	3	=	15
c. QA/QC Process	5	X	4	=	20
5. Personnel Assigned - Standard Form 330					
a. Qualifications and Experience of Personnel and Subcontractors	5	X	2	=	10
b. Adequate Number of Personnel to Complete Work in a Timely Manner	5	X	2	=	10
6. License					
7. Past Performance					
a. Client #1 ²	4	X	5	=	20
b. Client #2 (Department, if applicable) ²	4	X	5	=	20
C. Subcontractor Documentation Failure to submit subcontractor's documentation shall result in the disallowance of that particular subcontractor's qualifications from consideration in the SOQ package.					
D. State Project Plan					
Total Numerical Rating					255

Notes:

1. Evaluation points awarded for these components will be based on the following point structure:

Score

- 0 = This element of the evaluation criteria was **not addressed**.
 - 1 = This element of the evaluation criteria is **unsatisfactory**.
 - 2 = This element of the evaluation criteria is **below average**.
 - 3 = This element of the evaluation criteria is **average**.
 - 4 = This element of the evaluation criteria is **above average**.
 - 5 = This element of the evaluation criteria is **superior**.
2. Past performance will be scored based on answers to a standard group of questions (see page 5 of this Attachment) received from two (2) of the respondent's clients. A maximum of two (2) attempts by email will be made to contact the clients chosen for past performance evaluation. In the event that a chosen client cannot be contacted, a score of zero (0) will be given for that element of the evaluation.
 3. Failure of the respondent to provide any of the information required in the technical response portion of the response shall result in a score of zero (0) for that element of the evaluation.
 4. The Bureau of Design and Construction will use the total point scores from the Oral Discussions to convert to rank by each evaluator and then calculate an average rank for each Respondent. If the Department's evaluation results in a Tie, the Department will request Form 1, Award Preference Form, from the vendors with Responses that resulted in the Tie. Based on Form 1, the Department will give the award to a Respondent if it is a minority-owned or veteran-owned business. If more than one Respondent is entitled to this preference, the preference will be given to the Respondent with the qualifying business with the smallest net worth, consistent with section 295.187(4)(b), F.S. In the event all preferences are equal or that none of the Respondents are entitled to a preference, the Tie will be broken using a coin toss.

Attachment G
RFSOQ RESPONSE CHECKLIST

1. _____ The Department Solicitation Acknowledgement Form (Attachment A in the solicitation package) must be completed and signed. If a respondent fails to submit a completed Department Solicitation Acknowledgement Form with their response the Department reserves the right to contact the vendor by telephone for submission of this document via fax with follow up via mail. This right shall be exercised when the response has met all other requirements of the solicitation. The respondent completes the following on that form:
- a. Vendor Name
 - b. Vendor Mailing Address
 - c. City, State and Zip Code
 - d. Phone Number and Fax Number with Area Code
 - e. Email Address
 - f. F.E.I.D. Number
 - g. Type of Business Entity (Corporation, LLC, Partnership, etc.)
 - h. Signed Name (by individual authorized to bind company)
 - i. Typed Name of Signatory and Title
 - j. Primary and Secondary Contact Information
 - k. Signed Addenda, total = _____

In the event that respondents submit a response as a joint venture, each member of the joint venture must complete and sign a separate Acknowledgement Form.

2. _____ Technical Response, with page limits as specified below, which addresses the following subjects:
- a. Introduction (1page limit)
 - b. Company Background (2 page limit)
 - c. Qualifications (15 page limit)
 - d. Project Management (5 page limit)
 - e. Personnel Assigned - Standard Form 330 (no page limit)
 - f. Licenses (no page limit)
 - g. Past Performance **(must use pages provided as Attachment D, no page limit)**
 - h. Location (no page limit)

See Attachment B, Item B.30 for further information.

3. _____ State Project Plan, which addresses the following:
- a. Diversity
 - b. Environmental Considerations
 - c. Certification of Drug-Free Workplace (complete as sign Attachment E, if applicable)
 - d. Use of RESPECT
 - e. Use of PRIDE
4. _____ Submitted letters demonstrating subcontractor arrangements. Such letters must be written on the intended subcontractor's letterhead and must include the Department Solicitation Number RFSOQBDC01-23/24, the project title "Statewide Architecture/Engineering Continuing Services" and a clear agreement to provide services to the respondent's company. Failure to submit a letter of commitment from an intended subcontractor identified in the proposal shall result in the disallowance of the qualifications and experience of that subcontractor from consideration in the evaluation process.
5. _____ Four (4) complete copies (three hard copies, one CD or jump drive with a pdf) of the entire response must be submitted to the Department in accordance with Attachment B, Items B.5 and B.30.

This checklist (Attachment G) is provided merely for the convenience of the respondent and may not be relied upon in lieu of the instructions or requirements of this solicitation.

ATTACHMENT H

The proposed agreement language contained below should be reviewed by all prospective consultants. In responding to Department Solicitation No. RFSOQ01-23/24 a prospective consultant has agreed to accept the terms and conditions of the contract contained in this attachment. The Department reserves the right to make modifications to this agreement if it is deemed to be in the best interest of the Department or the State of Florida.

Department Agreement Number CNxxx

PROFESSIONAL SERVICES AGREEMENT

**

The parties, State of Florida Department of Environmental Protection, with headquarters at 3800 Commonwealth Blvd., Tallahassee, Florida, 32399-3000 (“Department”), and ***Consultant’s Name***, with headquarters at *Consultant’s Address*, a *Business Status* (*ex. Florida Profit Corporation*) (“Consultant”), enter into this Professional Services Agreement (“Agreement”), and in consideration of these mutual covenants, agree as follows:

1. General.

Consultant shall provide Department with professional engineering services (hereinafter referred to as “Professional Services”) within the State of Florida in accordance with the provisions of §287.055, Florida Statutes, on a task assignment basis. Department’s form, “*Consultant’s Task Assignment Notification*” (hereinafter referred to as “Task Assignment,” as more particularly defined in paragraph 1.14 below) and form “*Task Assignment Change Order Form*” (hereinafter referred to as “Change Order”) are attached hereto as Attachments C and D, respectively. Consultant does hereby agree to perform such Professional Services as outlined in the Department Solicitation No. **RFSOQBDCxx-xx/xx** (“RFSOQ”), Consultant’s response thereto, this fully executed Agreement, and the Attachments hereto. When called upon by Task Assignment, Consultant shall perform the Professional Services as expeditiously as is consistent with professional skill, and care, and in the orderly progress of the work. As consideration of the Professional Services rendered by Consultant under the terms of this Agreement, Department shall pay Consultant on a combination fixed fee/cost reimbursement basis as specified in each executed Consultant’s Task Assignment and as may be amended by any agreed Change Order(s).

1.1 Consultant’s Professional Services may include, but may not be limited to, initial design schematics, preparation of budgets, site and infrastructure design, surveys, elevations, soil reports, inspections, take-offs, estimating, design development documents, construction documents, bidding assistance, negotiated proposal evaluation, responses to submittals and requests for information, construction supervision, construction pay request evaluations and payment certifications. Consultant shall perform the Professional Services to the satisfaction of Department upon the terms and conditions set out, referenced, or included in [i] this fully executed Agreement, [ii] the RFSOQ, [iii] the Consultant’s response to the RFSOQ, [iv] the executed Task Assignment(s) and any Change Order(s) relating thereto authorizing work; and [v] all Attachments annexed hereto.

1.2 The term “Agreement” includes all items in [i] through [v] as enumerated in paragraph 1.1 and the same shall collectively constitute the entire agreement between the parties. The Agreement supersedes any other prior negotiations, representations, proposals, understandings, and purported agreements of any kind.

1.3 In the event of a conflict in terms between any of the components of the Agreement, the order of precedence for resolving such conflict shall be as follows, with [i] being the highest precedence):

- [i]** the body of this fully executed Agreement
- [ii]** Attachment A, Scope of Work
- [iii]** Attachments B through I of this Agreement
- [iv]** other documents, agreements and exhibits incorporated in the body of this Agreement by reference (as applicable)
- [v]** the RFSOQ, inclusive of all attachments, addenda and questions and answers to the RFSOQ
- [vi]** Consultant’s response to the RFSOQ.

1.4 This Agreement contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between Department and Consultant. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid if reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement. No oral agreements or representations shall be valid or binding upon Department or Consultant. No alteration or modification of the Agreement terms, including substitution of product, shall be valid or binding against Department, unless Department elects to agree to any such alteration or modification in writing. Consultant may not unilaterally modify the terms of this Agreement by affixing additional terms to a product upon delivery. For example, the inclusion or attachment of standard preprinted forms, product literature, or “shrink wrap” terms to a product, whether written or electronic, or the incorporation of such terms onto Consultant’s order or fiscal forms or other documents forwarded by Consultant for payment shall not modify the Agreement or its requirements. Further, neither the Department's receipt nor incorporation of a product, or the processing of documentation on forms furnished by Consultant for approval or payment, shall constitute an acceptance of any proposed modification to the Agreement’s terms and conditions.

1.5 To the extent permitted by Florida law, the Consultant shall be fully liable for the actions of its consultants, subconsultants, sub-subconsultants, materialmen, or agents of any tier, or their respective employees; and shall fully indemnify and hold harmless the State of Florida, the Department, and the State of Florida Board of Trustees of

the Internal Improvement Trust Fund, and their officers, agents, and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Consultant and persons employed or utilized by the Consultant in the performance of this Contract.

1.6 Further, to the extent permitted by Florida law, the Consultant shall fully indemnify and hold harmless the State of Florida, Department, and Board of Trustees, and their respective officers and employees, from any suits, actions, damages, and costs of every name, kind, and description, including attorneys' fees, arising from or relating to the Consultant's violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right. However, the foregoing obligation shall not apply to the extent such violation or infringement arises from Department's misuse or modification of Consultant's products, or Department's operation or use of Consultant's products in a manner not contemplated by this Agreement. If any product is the subject of an infringement suit or in Consultant's opinion is likely to become the subject of such a suit, Consultant may procure for Department, at its sole expense, the right to continued use of the product; or Consultant may modify the product to become non-infringing. If Consultant is not reasonably able to secure Department's right to continued use of the product, or otherwise suitably modify the product, Consultant shall remove the product and refund Department the amounts paid in excess of a reasonable rental for past use. Department shall not be liable for any royalties.

1.7 Consultant covenants that it presently has no interest and shall not acquire any interest, which would conflict in any manner or degree with the performance of the Professional Services required under this Agreement.

1.8 Department's delay or failure to exercise any right, power or remedy upon a breach or default under this Agreement shall not impair any right, power or remedy; nor shall any delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

1.9 This Agreement does not intend nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.

1.10 Consultant acknowledges and will comply with Section 216.347, Florida Statutes, which prohibits Consultant from using funds provided by this Agreement for the purposes of lobbying the Legislature, the judicial branch or a state agency.

1.11 Consultant's financial records shall be prepared in accordance with generally accepted accounting principles, consistently applied. Consultant shall preserve, protect, and maintain all such financial records, Task Assignment work notes, books, records, and all other documents of any kind (written or electronic) directly pertinent to this Agreement and the performance of this Agreement, for the "Records Retention Period." The "Records

Retention Period” commences with the execution of this Agreement (and includes all documents which constitute any part of this Agreement) and terminates at the expiration of five years following [i] the completion or termination of this Agreement, [ii] the last invoice submitted pursuant to this Agreement, or [iii] the resolution of any claim or litigation brought as a result of this Agreement, whichever date is the latest. Consultant shall maintain all other form(s) of records and supporting invoices pertinent to this Agreement and the overall performance under this Agreement for the Records Retention Period. Consultant shall provide Department, other appropriate state agencies or officers, and their respective authorized representatives, access to the documents and records for audit purposes during the Records Retention Period. In the event any work is subcontracted, Consultant shall similarly require each subconsultant to maintain and allow access to such records for audit or other lawful purposes for the Records Retention Period.

1.12 Consultant recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement.

1.13 The State of Florida, through their Department of Management Services, has instituted MyFloridaMarketPlace (“MFMP”), a statewide electronic procurement system. Pursuant to subsection 60A-1.031(3), Florida Administrative Code, the Contract shall be exempt from the MFMP transaction fee.

1.14 “Task Assignment” means a request from Department and acceptance by Consultant for specific professional services as evidenced by a freely executed Consultant’s Task Assignment Notification (Attachment C), as modified by any fully executed Change Order(s) (Attachment D).

2. Schedule.

Upon request, Consultant shall submit for Department’s approval a schedule for the performance of services that includes allowances for periods of time appropriate for the completion of reviews and for approval of submissions by authorities having jurisdiction over the project. Consultant shall not exceed time limits established by the approved schedule unless pre-approved, in writing, by Department for reasonable causes due to circumstances beyond Consultant’s control. Consultant shall complete performance of services within the period established in the executed Task Assignment, unless expressly modified by Department in an approved schedule and/or Change Order.

3. Term.

3.1 Initial Term. This Agreement shall be effective and shall begin upon execution by both parties, and the same shall authorize the issuance of Task Assignments by Department to Consultant for an initial five (5) year term beginning on the effective date established, inclusive. No Task Assignment or Task Assignment Change Order shall be issued which extends performance of services past the contract expiration date or the

expiration date of any subsequent contract renewal period.

3.2 Renewal term. Pursuant to Rule 60A-1.048(1), Department may renew this Agreement for the initial term or for a period that may not exceed five (5) years, whichever period is longer. All renewals are contingent upon satisfactory performance by Consultant and must be authorized by mutual agreement in writing. The renewal may be divided into successive increments, or for an entire five-year period. A renewal, if any, is subject to the same terms and conditions set forth in this Agreement, and Consultant has included the cost of any contemplated renewal(s) in its response.

3.3 Extension. Under limited circumstances, Department may permit a short-term extension of the Agreement per Rule 60A-1.048(2) and applicable mandates as amended from time to time.

3.4 Consultant shall not be compensated for any services rendered prior to the effective date established in paragraph 3.1 and the execution of a Consultant's Task Assignment Notification form.

4. Work.

Work issued under authority of this Agreement shall [i] cite this Agreement, [ii] be responsive to proposals submitted by Consultant, as may be modified during negotiation, [iii] describe the project for which professional services are required, and [iv] state the fixed fee/cost reimbursement price Department will pay to Consultant (which price shall be inclusive of and limited to all reimbursable costs, wages, and professional fees).

4.1 "Reimbursable costs" shall mean Consultant's actual, normal, and customary costs, including a fairly apportioned amount for allocable overhead, as proposed by Consultant and agreed to by Department during negotiations.

4.2 "Wages" shall mean the aggregate of time charges measured by hourly rates at a graded scale applicable to persons actually providing services, which shall include a reasonable estimate of Consultant's actual expenditures for items normally comprising a labor burden. Wage rates and related labor burden for this Agreement shall be agreed to by Department in the negotiation stage and are hereby incorporated as Attachment G to this Agreement. Wages for persons assigned to an ongoing project after the Agreement has been issued shall not be included on an invoice until approved by Department. All wage rates and related labor burden are subject to audit and adjustment by Department.

4.3 "Professional fees" shall be expressed as a fixed price and shall include all Consultant's non-reimbursable costs and profit. Task Assignment costs will be negotiated based on the fee guideline instituted by the State of Florida, Department of Management Services titled "Design Professional Fee Guidelines." Fee guideline instructions and formulas can be found at the following website:

Performance Measures: Consultant shall review all deliverables to ensure the same are accurate and complete at time of submittal to Department and meet or exceed the specified deliverable.

4.4 Department will pay for each approved deliverable upon its completion, submittal, and satisfactory review and acceptance, for the amount specified for that deliverable in the Task Assignment.

4.5 Financial Consequences for Unsatisfactory Performance: Department will not pay for any unsatisfactory deliverables. In the event Department deems a deliverable unsatisfactory, Consultant shall re-perform the services needed for submittal of a satisfactory deliverable at no additional cost to Department within 15 consecutive days. If Consultant fails to resubmit a satisfactory deliverable within the specified timeframe, Department, in its sole discretion, may terminate the Task Assignment and/or Agreement as a result of Consultant's failure to perform.

4.6 Consultant shall include with each invoice a completed "*Minority Participation Report*," in the form annexed hereto as Attachment F, regardless of participation.

4.7 Consultant shall submit invoices no less than monthly for Professional Services performed within the previous 30-day period, unless otherwise specified in a Task Assignment. Invoices submitted by Consultant shall be supported by [i] a certificate stating that wages and other factual unit costs supporting the payment requested are accurate, complete, and current, [ii] a certificate that travel expenses are invoiced in accordance with §112.061, Florida Statutes, and [iii] time and cost detail sufficient for preaudit and post-audit. Each invoice shall accurately and clearly summarize the Professional Services performed for that period, in logical order, identify the Task Assignment and the period to which the invoice applies, and include documents supportive of the payment requested.

4.8 Department shall process and pay such invoices within the times set out in §215.422, Florida Statutes.

4.9 THE STATE OF FLORIDA'S PERFORMANCE AND OBLIGATION TO PAY UNDER THIS AGREEMENT IS CONTINGENT UPON AN ANNUAL APPROPRIATION BY THE LEGISLATURE.

4.10 Consultants acting on the behalf of Department shall comply with the following:

4.10.1 Consultant shall keep and maintain public records required by Department to perform the services under this Agreement.

4.10.2 Upon request from the Department's custodian of public records, Consultant shall provide the Department 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 cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

4.10.3 Consultant shall ensure that all 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 the Agreement term and following completion of the Agreement if the Consultant does not transfer the records to the Department.

4.10.4 Upon completion of the Agreement, Consultant shall transfer, at no cost to Department, all public records in possession of Consultant or keep and maintain public records required by the Department to perform the services under this Agreement. If the Consultant transfers all public records to the Department upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to Department, upon request from the Department's custodian of public records, in a format that is accessible by and compatible with the information technology systems of Department.

4.10.5 This Agreement may be unilaterally canceled by Department for Consultant's failure or refusal to comply with any of the foregoing provisions, or to either provide to Department upon request, or to allow inspection and copying of, all documents, papers, letters, or other material made or received by Consultant in conjunction with this Agreement, unless the records are claimed and determined to be exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes. If Consultant fails to provide the public records to the Department within a reasonable time, the Consultant may be subject to penalties under s. 119.10, F.S. Section 119.071(3), Florida Statutes, provides exemptions for security systems or plans, emergency evacuation plans, manuals or training for security personnel, building plans, blueprints, schematic drawings and diagrams, including draft, preliminary, and final drawings, which depict the internal layout and structural elements of a building or other structure owned by a state agency.

4.10.6 IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS by telephone at (850) 245-2118, by email at public.services@FloridaDEP.gov, or at the mailing address below.

**Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Blvd., Mail Slot #49
Tallahassee, FL 32399**

4.11 Department may adjust downward the price in the Agreement and any Task Assignment following completion of Consultant's work to exclude any sums which Department determines exceed Consultant's actual costs plus fee, which contain errors in actual unit costs, or which include inaccurate, incomplete, or non-current wage rates.

5. Suspension, Termination.

5.1 Suspension. Department may in its sole discretion suspend any or all Professional Services under this Agreement or a Task Assignment, at any time, when in the best interests of the State to do so. Department shall provide Consultant written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, project re-evaluation, budgetary constraints, declaration of emergency, or other circumstances. After receiving a suspension notice, Consultant shall comply with the notice. Within ninety days, or any longer period agreed to by parties, Department shall either [i] issue a notice authorizing the resumption of work, at which time, Professional Services shall resume, or [ii] terminate the Agreement and/or a Task Assignment. Suspension of work shall not entitle Consultant to any additional compensation.

5.2 Termination for Convenience. Department may terminate this Agreement and/or a Task Assignment at any time, without cause, by delivering written notice to the other party.

5.2.1 Effective upon the date of receipt of such notice, Consultant shall cease performance, and within thirty (30) days thereafter shall invoice Department for all outstanding/unpaid Professional Services provided under this Agreement. Consultant shall not be entitled to recover any cancellation charges or lost profits.

5.2.2 Under no circumstances shall Department be liable for payment of any invoice if [i] the amount, when combined with all other payments, exceeds the Agreement price, and/or [ii] the invoice is received after the 30-day period stated in section 5.2.1.

5.3 Termination for Cause, with Notice and Opportunity to Cure. Department may terminate this Agreement and/or a Task Assignment if Consultant fails to: [i] perform this Agreement or a Task Assignment as agreed, within the time specified; [ii] maintain adequate progress, thus endangering the timely performance due under this Agreement or a Task Assignment; [iii] honor any term of this Agreement or Task Assignment; or [iv] abide by any statutory, regulatory, or licensing requirement.

5.3.1 Department shall notify Consultant in writing of an intent to terminate, for cause, due to a default specified in section 5.3. The foregoing default notice shall state the nature of the default and provide a 10-day cure period for Consultant to correct the failure of performance, and, to invoice all completed work.

5.3.2 During the 10-day cure period, Consultant will have an opportunity to cure its failure to perform. Upon Consultant's timely curing of the specified default(s) and satisfactory response to Department's default notice, Department will withdraw its intent to terminate. Should Consultant fail to cure the default within the 10-day cure period, however, Department may find Consultant in default, terminate this Agreement and any or all Task Assignments, and render Consultant ineligible to receive further work from Department. Consultant agrees to continue its work on any Task Assignment(s) not terminated, or as directed by Department.

5.3.3 Upon notice of Department's intent to terminate for cause, Consultant must deliver invoices for all completed and unbilled work within the 10-day cure period. Department will not authorize payment of invoices received after the expiration of the 10-day cure period.

5.4 Termination for Cause, without Notice or Opportunity to Cure.

5.4.1 Department may also terminate this Agreement and/or a Task Assignment for cause, and without notice or an opportunity to cure, if Consultant is adverse to Department in any litigation, administrative proceeding, or alternative dispute resolution, as more particularly set forth in section 28.

5.4.2 Department may terminate this Agreement without notice or opportunity to cure, upon Consultant's [i] breach of the warranties in sections 8 and 9 below; [ii] refusal to provide public records to the Department's custodian of public records, if requested, or allow public access to all records regardless of form made or received by Consultant in connection with its performance under this Agreement, unless such records are exempt from application of Art. I §24(a), Florida Constitution and §119.07, Florida Statutes; [iii] employment of an unauthorized alien; [iv] placement on the list of Scrutinized Companies (as more particularly described in section 20 below); and/or [v] failure to inform Department of any known noncompliance between the project work and the requirements of the contracting documents, the Professional Services and/or this Agreement.

5.5 The rights and remedies of Department set out in this section 5 are in addition to any other rights and remedies provided by law, in equity, or elsewhere in this Agreement.

5.6 If, after any termination, it is determined that Consultant was not in default, or that the default was excusable pursuant to applicable law or any provision specifically provided in this Agreement, then the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Consultant.

6. Notice.

6.1 All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, or a courier delivery service at the following addresses:

Department: _____, Agreement Manager, or
successor Florida Department of Environmental
Protection 3800 Commonwealth Blvd., MS #520
Tallahassee, Florida 32399
Phone: (xxx) xxx-xxxx
Email: xxxxx.xxxxxxx@xxxxxx

Consultant: _____, Agreement Manager, or Successor
Consultant's Name
Consultant's Address

Phone: (xxx) xxx-xxxx
Email: xxxxx.xxxxxxx@xxxxxx

6.2 Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt or when acknowledged by recipient.

6.3 Any change in address or substitution of designated representative shall be noticed to the other party within ten (10) days of its effective date.

7. Independent Contractor(s).

7.1 Consultant is neither an agent nor an employee of Department, but is an independent contractor/vendor to Department, and shall supply on its own account all personnel, equipment, software and materials necessary for the full performance of its duties hereunder.

7.2 Consultant is responsible for the professional quality, technical accuracy, timely completion and coordination of all design, drawings, specifications, reports, and other services Consultant furnishes and/or of those provided by Consultant's subconsultants providing Professional Services under this Agreement.

7.3 Consultant shall, without additional compensation and without limiting any other remedies of Department, correct or revise errors, omissions, or other deficiencies in designs, drawings, specifications, quantities, reports, and other submissions prepared by it or its subconsultants in the performance of this Agreement.

7.4 All final plans, documents, reports, studies and other data prepared by Consultant shall bear the professional's seal and signature in accordance with the applicable Florida Statutes and the Florida Administrative Code, and/or rules promulgated by the State of Florida Department of Business and Professional Regulation, in effect at the time of execution and as may be amended during the time of this Agreement.

8. Procurement of Agreement.

Consultant warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or procure this Agreement. In addition, Consultant warrants that it has not paid nor agreed to pay any person or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the execution of this Agreement.

9. Discrimination.

Consultant further warrants [i] that no person or firm shall be excluded on grounds of race, creed, religion, national origin, age, sex, or disability from participation, or otherwise be subjected to discrimination, in performance of this Agreement or any Task Assignment, and [ii] that neither Consultant nor any affiliate, supplier, subconsultant, or other subcontractor of Consultant, is or has been placed on the discriminatory vendor list maintained by the Florida Department of Management Services pursuant to Chapter 287, Florida Statutes.

10. Insurance.

10.1 Consultant shall secure and maintain during the term of this Agreement all of the following coverages:

[i] Errors and omissions coverage of not less than \$1,000,000 per occurrence;

[ii] Commercial general liability coverage, including bodily injury, property damage, products liability, completed operations, personal injury, and advertising injury, in the minimum limits of \$1,000,000 per occurrence, and \$2,000,000 general aggregate;

[iii] Commercial automobile liability insurance for all claims that may arise from the services and operations performed under this Agreement, whether by Consultant or by persons employed or retained directly or indirectly by it, with minimum limits of \$1,000,000 for automobile liability combined single limit for Consultant-owned vehicles, and \$1,000,000 for hired and non-owned automobile liability coverage. Coverage shall apply on an occurrence basis; and

[iv] This coverage shall meet all claims that may arise from performance of Professional Services and operations under this Agreement, whether by Consultant or by persons employed or retained directly or indirectly by Consultant.

10.2 Insurance required by paragraphs 10.1[ii] and 10.1[iii] shall include a hold-harmless provision in favor of Department and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, and the certificate(s) of insurance shall list Department and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida as additional insured.

10.3 In addition, to the extent required by law, Consultant will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation insurance for all of its employees connected with the work under the Agreement. If any work is subcontracted, Consultant shall require the subconsultant similarly to provide Workers' Compensation insurance for all of the subconsultant's employees unless such employees are covered by the protection afforded by Consultant. Any self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, Consultant shall provide, and cause each subconsultant to provide, adequate insurance satisfactory to Department for the protection of such employees.

10.4 Consultant shall also maintain any federal insurance required by federal law, such as Jones Act as Harbormasters and Longshoremen's coverage, if applicable.

10.5 All policies shall be issued by insurers licensed by or eligible to do business in the State of Florida.

10.6 Consultant's certificates of insurance shall be in form and content satisfactory to Department and shall provide that coverage under the policy(ies) shall not be cancelled for any reason during the term of this Agreement except upon 30-days advance written notice to Department at the address stated in section 6.

10.7 Consultant shall not amend nor cancel the required insurance coverages without Department's prior written approval. Should any cancellation occur, and new coverage is not immediately obtained, Department shall have the right to suspend Consultant's work until such coverage is obtained; Department shall not be deemed to cause any delay or incur any cost for such suspension.

11. Amendments and Change Orders

By written order, designated to be a Change Order, Department, at any time, may make a change within the general scope of this Agreement. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change order that causes an increase or decrease in Consultant's cost or time, excluding Task Assignment Change

Orders that modify the cost or time of work described in an executed Task Assignment, shall require formal amendment to this Agreement.

12. Time is of the essence.

Time is of the essence in the performance of all duties and the giving of all notices required under this Agreement. Unless otherwise specified herein, the term “days” means calendar days.

13. Non-Waiver of Rights.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

14. Claims and Disputes.

Disputes shall be resolved in the following manner:

14.1 All claims must be presented to Department within 30 days of the date the claim arises. Claims not presented within such 30 days shall not be paid by Department.

14.2 The parties shall make a good faith attempt to resolve claims and disputes which may arise from time to time by informal conference within 10 days of the date the claim or matter requiring resolution arises.

14.3 In the event a claim or matter is not resolved at an initial informal conference, the complaining party shall give a written notice of their claim and dispute (the complaining parties “Notice of Dispute”), to Department and all parties in interest, within five (5) days after the conclusion of the informal conference. The Notice of Dispute shall set out in detail all aspects of the disputed matters to be resolved, including the specific relief sought by the complaining party.

14.4 Within 10 days of receipt of the Notice of Dispute, the Department and/or a responding party shall deliver its detailed written response to the complaining party. Thereafter, a formal conference shall be convened no later than 30-days following the responding party’s receipt of the Notice of Dispute unless the parties mutually agree in writing to a longer period of time within which to schedule a formal conference. No party shall be obligated to agree to a longer period of time beyond the 30-days following the responding party’s receipt of the Notice of Dispute.

14.4.1 All persons necessary to resolution of the claim or disputed matter shall attend the formal conference.

14.4.2 Minutes of the formal conference shall be taken, recorded, transcribed, and signed by Department and a copy provided to Consultant. Any terms of settlement and/or resolution shall be signed by Department, all persons authorized to act in the capacity as person(s) necessary to the resolution of the claim or disputed matter, and by the Consultant. Signors shall receive a copy of the settlement and/or resolution document.

14.5 In the event that the claim or matter is not resolved at formal conference, the complaining party shall file and serve an appropriate claim as prescribed by Chapter 120, Florida Statutes, within twenty-one (21) days of the date the formal conference concluded.

14.6 In no event shall a dispute arising under this Agreement be part of any claim or count in a complaint filed in any court, federal or State, until all remedies afforded in Chapter 120, Florida Statutes, have been exhausted.

14.7 Venue for any formal claim and hearing or trial in any forum shall be Leon County.

14.8 THE PARTIES WAIVE THE RIGHT TO A JURY TRIAL ON ALL ISSUES THAT ARISE UNDER THIS AGREEMENT.

15. Assignment.

This Agreement is an exclusive contract for services, and may not be assigned or transferred in whole or in part without written approval of Department.

16. Subcontracting/Subconsultant.

16.1 Consultant shall not subcontract, assign, or transfer any work under this Agreement, or a Task Assignment, without prior written consent of Department.

16.2 Department's consent to any subcontract shall not [i] relieve Consultant of responsibility to Department for satisfactory completion of the work so assigned, [ii] make Department liable to the subcontractor/subconsultant for the work performed, or [iii] create a contractual relationship between the subcontractor/subconsultant and Department.

16.3 The employment of unauthorized aliens by any Consultant is considered a violation of Section 274(e) of the Immigration and Nationality Act. If Consultant knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. Consultant shall be responsible for including this provision in all subcontracts issued as a result of this Agreement.

17. Department Property.

It is specifically agreed that work performed under this Agreement is work for hire,

and that all right, title, and interest in and to such work, including without limitation all schematics, designs, plans, specifications, or other professional products produced and developed by Consultant or its subconsultants in performance hereunder, whether subject to patent, copyright, or other such protection, shall be the property of Department during the term of this Agreement, and shall remain property of Department thereafter; provided that any materials used by Consultant and any subconsultants for which patent or copyright protection has previously been secured by them shall remain the property of Consultant or subconsultant.

18. Governing Law.

This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action arising under or in connection with this Agreement shall be brought in a court of competent jurisdiction located in Leon County, Florida, after exhaustion of all remedies afforded under Chapter 120, Florida Statutes.

19. E-Verify.

The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. Consultant shall only employ individuals who may legally work in the United States (either U.S. citizens or foreign citizens who are authorized to work in the U.S.). Consultant shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system to verify the employment eligibility of:

[i] All persons employed by Consultant, during the term of this Agreement, to perform employment duties within Florida; and

[ii] All persons (including subcontractors/subconsultants) assigned by Consultant to perform work pursuant to this Agreement; and

[iii] Consultant shall include this provision in all subcontracts it enters into for the performance of work under this Agreement.

20. Scrutinized Companies.

Consultant certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S., as may be amended from time-to-time. In addition, Consultant agrees to observe the requirements of Section 287.135, F.S. as may be amended from time-to-time, for applicable sub-agreements entered into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the Department may immediately

terminate this Agreement for cause if the Consultant, its affiliates, or its subconsultants are found to have submitted a false certification; or if the Consultant, its affiliates, or its subconsultants are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

21. Public Entity Crimes.

Section 287.113, Florida Statutes provides that a person or affiliate (as that term is defined therein) who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two, for a period of 36 months from the date of being placed on the convicted vendor list. Consultant certifies that neither it nor any affiliate has been placed on such convicted vendor list, and shall notify Department within five (5) days of its or any of its affiliate's placement thereon.

22. Force Majeure.

Consultant shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Consultant or its employees, subcontractors, or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, hurricanes, or other similar cause wholly beyond Consultant's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Consultant. In case of any delay Consultant believes is excusable, Consultant shall notify Department in writing of the delay or potential delay and describe the cause of the delay either; (1) within ten (10) days before the cause that creates or will create the delay first arose, if Consultant 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 Consultant first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE CONSULTANT'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 by Consultant against Department. Consultant shall not be entitled to an increase in the price or payment of any kind from Department 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 Consultant shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the State or to Department, in which case Department may (1) accept allocated performance or deliveries from Consultant, provided that Consultant grants preferential treatment to Department with

respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by Consultant 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 Agreement quantity, or (3) terminate the Agreement in whole or in part.

23. Interpretation of Agreement.

23.1 Where appropriate: the singular includes the plural and vice versa; references to statutes or regulations include all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; unless otherwise indicated references to Rules are to the adopted rules in the Florida Administrative Code; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation;" unless otherwise indicated references to sections, appendices or schedules are to this Agreement; words such as "herein," "hereof" and "hereunder" shall refer to the entire document in which they are contained and not to any particular provision or section; words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings; references to Persons include their respective permitted successors and assigns and, in the case of Governmental Persons, Persons succeeding to their respective functions and capacities; and words of any gender used herein shall include each other gender where appropriate.

23.2 Unless otherwise specified, lists contained in this Agreement shall not be deemed all-inclusive. Consultant acknowledges and agrees that it had the opportunity and obligation, prior to submission of its response, to review the terms and conditions of this Agreement and to bring to the attention of Department any conflicts or ambiguities contained therein. Consultant further acknowledges and agrees that it has independently reviewed this Agreement with legal counsel, and that it has the requisite experience and sophistication to understand, interpret and agree to the particular language of the terms. Accordingly, if an ambiguity in (or dispute regarding the interpretation of) this Agreement shall arise, the Agreement shall not be interpreted or construed against Department, and, instead, other rules of interpretation and construction shall be used.

24. Warranty of Ability to Perform.

Consultant warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Consultant's ability to satisfy its Agreement obligations. Consultant warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Consultant shall immediately notify Department in writing if its ability to perform is compromised in any manner during the term of this Agreement.

25. Warranty of Authority.

Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to this Agreement.

26. Execution of the Agreement.

This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof, and the transmitting party shall deliver the inked original to Department, upon Department's request.

27. Execution of Amendments, Task Assignments and Task Assignment Change Orders.

Following execution of this Agreement, future Amendment(s), Task Assignment(s) or Task Assignment Change Order(s) may be executed by a Department representative, authorized pursuant to a delegated authority to take action on contracts for the value of the, Amendment(s), Task Assignment(s) or Task Assignment Change Order(s). Amendments to this Agreement may be executed by a Department representative who is authorized pursuant to a delegated authority to execute on behalf of Department.

28. Consultant as Adverse Party.

Department shall not authorize any work assignment, and may suspend or terminate for cause any work assigned to Consultant, if and in the event that Department and Consultant (or any of its affiliates or authorized subconsultants) are adverse in any litigation, administrative proceeding or alternative dispute resolution, until such adverse relationship is resolved either by agreement or by final non-appealable order of a court.

29. Successors and Assigns.

This Agreement is a binding agreement, enforceable against Consultant and its officers, directors, members/managers, their legal representatives, and any permitted successor and/or assignee of Consultant.

30. Cooperation with the Inspector General.

Consultant understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with Department's Inspector General in any investigation, audit, inspection, review or hearing. Consultant will comply with this duty and ensure that its subconsultants issued

under this Agreement, if any, impose this requirement, in writing, on its subconsultants.

31. Attachments.

The following Attachments are annexed hereto and are incorporated in this Agreement by reference:

Attachment A	Scope of Work
Attachment B	Bureau of Design and Construction Division of Recreation and Parks Auto CAD Drafting Standards
Attachment C	Consultant's Task Assignment Notification
Attachment D	Consultant's Task Assignment Change Order
Attachment E	Truth-In-Negotiation Certificate
Attachment F	Minority Participation Report
Attachment G	Approved Wage Rates
Attachment H	Certificate of Payment and Schedule of Services
Attachment I	Schedule of Service

SAMPLE

The parties have caused this Agreement to be formally executed and effective as of the last date signed, as shown below.

CONSULTANT'S NAME

PROTECTION

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL**

Authorized Person

Secretary or designee for the Florida
Department of Environmental
Protection

Print Name

Print Name

Title

Title

Date

Date

APPROVED AS TO FORM AND LEGALITY

FEID Number

Department Attorney

Date

Attachment A

Scope of Work

ARTICLE 1. SCOPE OF SERVICES

1.1 “Construction Documents” means the fully complete drawings and the technical specifications required for each Task Assignment.

ARTICLE 2. KEY PERSONNEL

2.1 The Consultant shall not deviate from the key personnel stated in the Consultant's response to the RFSOQ without first obtaining the written consent of the Department.

2.2 The Consultant shall not deviate from the wage rates and other factual unit costs for key personnel and supporting staff stated in the Consultant's response to the RFSOQ, and as provided in Attachments E and G to this Agreement.

2.3 The Consultant shall perform this Agreement and each Task Assignment at the lowest labor rate mutually agreed to be appropriate for staff qualified to perform the work (the “lowest agreed labor rate”). If the Consultant uses higher labor rate personnel to perform the work, the Consultant shall nonetheless invoice such work at the lowest agreed labor rate.

ARTICLE 3. CONSTRUCTION BUDGET

3.1 The Department's construction budget is dependent upon Legislative appropriation. For this Agreement, the Department's budget will be determined when the Task Assignment is negotiated. If at any time the Department's budget is determined to be insufficient, for any reason, the Department is not required to perform the Task Assignment and may terminate this Agreement or the Task Assignment in accordance with section 5.2 of the Agreement.

3.2 Since the Consultant does not have control over the cost of labor and materials, or over the competitive bidding and market conditions, the Consultant's estimates of construction cost shall be made on the basis of the Consultant's experience and qualifications after making reasonable inquiries into such costs and conditions.

3.3 The Consultant shall conform to the following provisions to keep the project cost within the Department's construction budget.

3.3.1 By 50% completion of the Construction Documents, the Consultant shall resolve with the Department any apparent discrepancy between the Consultant's estimates of probable project construction costs and the scope and requirements of the Department and the Department's construction budget. The Consultant shall be permitted to

include acceptable alternates in the Construction Documents for the purpose of providing a finished and acceptable project within the Department's construction budget. Failure of the Consultant to exercise due care or negligence by the Consultant in this requirement is cause for the Department to require revision of the Construction Documents at the Consultant's expense. The Consultant shall use its best efforts and resources to enable the Department to obtain an acceptable project so that a construction contract can be awarded within the Department's construction budget.

3.3.2 The Consultant shall not be responsible for the Department being unable to award a construction contract within the Department's construction budget under either circumstance set forth in 3.3.2[i] or 3.3.2[ii], provided the conditions applicable to each such circumstance are met:

[i] *Construction Cost Overage from Original Scope of Work:* A. If the Consultant advises the Department, in writing, before the Construction Documents are 50% complete, that in the Consultant's opinion the scope of work the Department established will cause the construction cost to exceed the Department's construction budget (the "construction cost overage") and provides viable options to revise the scope of work (such as by eliminating elements or incorporating alternatives or substitutions); and B. resolution of this issue fails such that the construction cost overage remains; and C. the Department notifies the Consultant to proceed notwithstanding. If the Consultant fails to timely notify the Department of such construction cost overage before the Construction Documents are 50% complete, then any required revisions to the Construction Documents to eliminate the overage shall be at the Consultant's expense.

[ii] *Construction Cost Overage from Department-Revised Scope of Work:* A. If the Department revises the scope of work or Professional Services requirements; and B. the Consultant advises the Department, in writing, before proceeding further with the preparation of the Construction Documents, that in the Consultant's opinion the additional scope or requirements will cause a construction cost overage and provides viable options to revise the scope of work (such as by eliminating elements or incorporating alternative or substitutions); and C. resolution of this issue fails such that the anticipated construction cost overage remains; and D. the Department notifies the Consultant to proceed notwithstanding.

Under such conditions the extra work of the Consultant, as required, to include in the bidding document alternates as requested by the Department and/or to redesign and redraft the Construction Documents shall be considered an "Additional Service" and payment for such extra work shall be as provided for under Article 6. If the Consultant fails to timely notify the Department of the construction cost overage, however, any required revisions to the Construction Documents shall be at the Consultant's expense.

3.3.3 If an award of the construction contract is delayed by more than four (4) months following the completion of Construction Documents, the Consultant shall be permitted to revise estimates in accordance with recognized published changes in

construction cost.

3.4 The project construction cost shall be based upon one of the following sources, in order of preference as follows:

3.4.1 The Consultant's latest estimate of probable construction cost based on current area, volume or other unit costs.

3.4.2 Detailed estimate of project construction cost authorized by the Department.

ARTICLE 4. DEPARTMENT'S RESPONSIBILITIES

4.1 The Department shall provide full information to the Consultant of its requirements for the project.

4.2 The Department's Project Manager shall examine documents submitted by the Consultant and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Consultant's work. The Project Manager shall observe the procedure of issuing orders to subconsultants only through the Consultant.

4.3 The Department shall furnish or direct the Consultant to obtain, at the Department's expense, a certified survey of the site locating, if applicable, the following:

4.3.1 Grades and lines of streets, alleys and pavements.

4.3.2 Rights of way, deed restrictions, easements, encroachments, land use or zoning restrictions, boundaries, and contours of the building site.

4.3.3 Locations, dimensions and data pertaining to existing buildings.

4.3.4 Other improvements and trees.

4.3.5 Full information as to available service and utility lines, both public and private.

4.3.6 Test borings and pits necessary for determining subsoil conditions.

4.4 The Department shall pay for structural, chemical, mechanical, soil mechanics or other tests and reports, if required.

4.5 If the Department or the Consultant observes or otherwise becomes aware of any defects in the project, written notice thereof shall be given to the other party written ten

days of such observation or awareness.

4.6 If the Consultant's estimate of probable project construction cost or the detailed estimate of project construction cost is in excess of any limit established by the Department, the Department may give written approval for the additional cost, if it is determined to be in the best interest of the Department or the Department shall cooperate in revising the project scope or quality, or both, to reduce the cost as required.

ARTICLE 5. BASIC SERVICES

The Consultant shall provide the following Basic Services in accordance with the schedule set forth in Article 8:

5.1 The Consultant shall prepare schematic design studies leading to a recommended solution together with a general description of the project for approval by the Department. Schematic design studies documents with estimate of probable construction cost based on current area, volume or other unit costs shall be submitted to the Department's Project Manager in accordance with Bureau of Design and Construction Office of Operations AutoCAD Drafting Standards incorporated herein as Attachment B to this Agreement.

5.2 The Consultant shall prepare, from the approved schematic design studies, the design development documents in accordance with the standards outlined in Attachment B, consisting of plans, elevations and other drawings, including perspective sketches and outline specifications to fix and illustrate the size and character of the entire project in its essentials as to kinds of materials, type of structure, mechanical and electrical systems and other such work, as may be required using AutoCAD software compatible with the AutoCAD release/version currently in use by the Bureau. The AutoCAD drawing file(s) (.DWG format) on CD of the drawing(s) and five (5) copies of the design development documents with revised estimates of probable construction costs based on current area, volume, or other unit costs shall be submitted to the Department's Project Manager.

5.3 The Consultant shall prepare, from the approved design development documents, Construction Documents consisting of working drawings and written technical specifications for structural, mechanical, electrical, service-connected equipment, and site work using AutoCAD software compatible with the AutoCAD release/version currently in use by the Bureau. The AutoCAD drawing file(s) (.DWG format) on CD of the drawing(s), five (5) copies of the Construction Documents with a further revised estimate of probable project construction costs based on current area volume or other unit costs shall be submitted. The specifications shall include the necessary bidding information and special conditions of the construction contract.

5.4 The Consultant shall keep the Department informed of any adjustments to previous estimates of probable project construction costs indicated by changes in scope,

requirements or market conditions.

5.4 The Consultant shall submit the Construction Documents for the bidding phases of the project, consisting of construction drawings, specifications, and special conditions in accordance with the standards outlined in Attachment B.

5.5 It shall be the responsibility of the Consultant to provide documents that conform to applicable building codes (including handicap accessibility requirements), local zoning, land use, and development codes, and generally accepted construction industry standards.

5.6 The Consultant shall signify responsibility for the Construction Documents prepared pursuant to the Agreement by affixing his signature, date and seal thereto as required by Chapters 471 or 481, Florida Statutes, including the following statement:

"The plans, specifications and addenda comply with the applicable minimum building codes, and local zoning, land use, and development codes."

5.7 The Department's approval of the Consultant's design suggestions or decisions shall not relieve the Consultant of any responsibility or warranty under this Agreement.

5.8 The Consultant shall assist the Department as needed to obtain building and other permits from the state, counties, and local municipalities, as required.

5.9 When the appropriation for the facility being designed under this Agreement includes an amount for artwork pursuant to Section 255.043, Florida Statutes, the Consultant's Project Manager and the Department's Project Manager shall participate on the art selection committee that is to be organized and administered by the Department of State, State of Florida.

5.10 If so authorized by a Task Assignment, the Consultant shall provide administration of the contract for construction and shall advise and consult with the Department during construction until final payment is made or, the project is terminated as specified in paragraph 5 of the Agreement.

5.11 If so authorized by a Task Assignment, the Consultant shall visit the construction site a minimum of once per month, or at more frequent intervals as approved by a Task Assignment Change Order, appropriate to the stage of construction, to become familiar with the progress and quality of the work. The Consultant shall determine if the construction is being performed in a manner indicating that the work, when completed, will be in accordance with the Construction Documents.

5.12 The Consultant shall make decisions on all matters relating to the execution and progress of the work or the interpretation of the Construction Documents. The

Consultant shall check and approve samples, schedules, shop drawings and other submissions for compliance with the Construction Documents as specified by a Task Assignment.

5.13 The Consultant shall inform the Department within ten (10) days of any known noncompliance with the Construction Documents. However, failure to inform the Department of any known noncompliance with the Construction Documents will be cause for termination of this Agreement.

5.14 If so authorized by a Task Assignment, the Consultant will be required to make on-site inspections to check the quality or quantity of the work, be responsible for the techniques or sequences of construction or the safety precautions incident thereto, or be responsible for the Consultant's schedules or failure to carry out the construction work in accordance with the Construction Documents. Based on the Consultant's verification for certificates for payment and the Consultant's observations as a qualified professional while at the site, the Consultant will keep the Department informed of the progress of the work, endeavor to guard the Department against defects and deficiencies in the construction work, and notify the Department if the work fails to conform to the Construction Documents in accordance with notice requirements as stated herein. By executing a certificate for payment, the Consultant represents to the Department that its observations have revealed that the quality of the work is in accordance with the Construction Documents. The Consultant will conduct inspections to determine the dates of substantial completion and final completion and issue a final certificate of payment.

5.15 The Consultant shall have the authority to reject work that does not conform to the Construction Documents or local building or land use or development and zoning codes. Whenever necessary or advisable to determine proper implementation of the intent of the Construction Documents, the Consultant shall have the authority to require additional inspections or testing to determine whether such work is properly fabricated, installed or completed.

5.16 The Consultant shall enlist services of a qualified subconsultant, when approved in writing by the Department, for surveys, subsurface investigation, testing and detailed cost estimating when required. The direct cost of these services shall be invoiced to the Consultant by the subconsultant and the Consultant shall invoice the Department for services rendered by the subconsultant in accordance with the terms of the Department's written authorization.

5.17 By execution of this Agreement, the Consultant certifies that the wage rates and other factual unit costs supporting the basic services compensation specified in Article 2.2 are accurate, complete and current at the time of negotiations for this Agreement; and that any wage rates or other factual unit costs furnished to the Department in the future to support additional service proposals will also be accurate, complete and current at the time of submitting such proposals. The Consultant agrees that the basic services compensation and any authorized additional services compensation shall be adjusted to exclude any

significant sums by which the Department determines such compensations were increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. The Department and the Consultant agree that all such adjustments in compensation shall be made within one year following completion of the services covered by this Agreement.

5.18 Consultant shall be responsible for all work performed under the terms of this Agreement. Consultant may enlist the Professional Services of a subconsultant as necessary to perform the services required by this Agreement, provided the services are authorized by the Department in writing prior to the work being performed. It is understood by the Consultant that the Department shall not be liable to any subconsultant for any expenses or liabilities incurred and that the Consultant shall be solely liable to the subconsultant for all expenses and liabilities, regardless of whether Department has approved such subconsultant. Any subconsultant Agreement made under or in performance of this Agreement must include the same conditions specified in this Agreement, and shall include a release of any rights, claims or liabilities against the Department. Proof of the level of insurance to be carried by subconsultant performing work under this Agreement shall be verified by the Consultant.

ARTICLE 6. ADDITIONAL SERVICES

6.1 It is acknowledged that the following Additional Services cause the Consultant extra expense and are not covered by the payments for Consultant's Basic Services. After these Additional Services are authorized in writing by the Department through an executed Task Assignment or Task Assignment Change Order, they shall be paid for as a fixed price as prescribed by Article 9.

6.1.1 Additional Services due to significant changes in general scope of the project or its requirements, including, but not limited to, changes in size, complexity or character of construction.

6.1.2 Making measured drawings of existing construction when required for planning additions or alterations.

6.1.3 Revising previously approved drawings or specifications to accomplish changes.

6.1.4 When required by the Department, preparing documents for supplemental work initiated after commencement of the construction phase as a change order to the construction contract.

6.1.5 Consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing Professional Services of the types set forth in Article 5 as may be required in connection with the replacement of such work.

6.1.6 Arranging for the work to proceed should the contractor default.

6.1.7 Providing prolonged contract administration and observation of construction should the construction contract time be exceeded by more than 25% due to no fault of the Consultant. Construction contract time is the period of time allotted in the separate construction contract documents for completion of the work, including substantial completion and final completion.

6.1.8 Revising the drawings to show changes made during the construction process, based on the marked-up prints, drawings and other data furnished by the contractors, which the Consultant considers significant.

6.1.9 Additional project administration resulting from the project involving more than one general construction contract, or separate construction contracts for different building trades or separate equipment contracts.

Making inspections of the project or project components subsequent to final completion and prior to expiration of the warranty or guarantee period and reporting observed discrepancies under warranties or guarantees provided by the construction contracts.

6.1.10 Furnishing and directing one or more project representatives (if more extensive representation at the site than called for in Article 5 is required) with the understanding that the number, identity, salaries and length of service of such representatives shall be agreed to in advance by the Department. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the resident project representative (if one is furnished), the Consultant will endeavor to provide further protection for the Department against defects and deficiencies in the work, but the furnishing of such resident project representation shall not make the Consultant responsible for the contractor's failure to perform the construction work in accordance with the Construction Documents.

6.1.11 Preparing drawings, specifications and other documentation and supporting data, evaluating contractor's proposals and providing other services in connection with change orders to the Construction Documents.

6.1.12 Additional drawing preparation shall follow requirements as indicated in Article 5.2.

6.2 Additional Services in connection with the project not otherwise provided for in this Agreement.

ARTICLE 7. REIMBURSABLE EXPENSES

7.1 Reimbursable expenses include actual expenditures, not exceeding the limits

of Section 112.061, Florida Statutes, made by the Consultant in the interest of the project for the following incidental expenses, provided the same are authorized for a particular task through an executed Task Assignment or Task Assignment Change Order with a not-to-exceed written authorization from the Department:

7.1.1 Expense of transportation and living for the Consultant when traveling in connection with services other than those defined in Article 5 entitled Basic Services.

7.1.2 Reproduction of drawings and specifications, excluding copies for Consultant's office use and the copies specifically required elsewhere in the Agreement.

7.1.3 Fees paid for securing approval of authorities and agencies having jurisdiction over the project.

ARTICLE 8. SCHEDULE

8.1 The Department requires that 100% of Construction Documents, including missing information shall be completed within the time period specified in the executed Task Assignment. This time period shall include the Department's review and processing time unless otherwise specified herein. After receipt of the Department's final comments and positive indication from all permitting agencies that permits will be issued, the Department shall proceed with preparation of final bid documents, advertising and receipt of the bids, bid opening and tabulations.

8.1.1 The services called for in the schematic design phase of the Agreement shall be completed and submitted to the Department in accordance with the requirements set forth in Attachment B, along with estimates of probable project construction costs, within the specified time following authorization for the Consultant to proceed with the Professional Services for the project.

8.1.2 Upon written authorization from Department, the Consultant shall proceed with the performance of the Professional Services called for in the design development phase of this Agreement, and shall submit five (5) copies of the design development documents in accordance with the requirements set forth in Attachment B and revised estimates of probable project construction cost within the specified time.

8.1.3 After acceptance by the Department of the design development documents and revised or updated estimates of probable cost, and any specific modifications or changes in scope desired by the Department, the Consultant shall proceed with the performance of the Professional Services called for in the Construction Documents phase of this Agreement. The Consultant shall submit five (5) copies of the Construction Documents in accordance with the requirements set forth in Attachment B along with further revised estimates of probable project construction costs, all within the specified

time. Additional time shall be allowed for the Department's review and approval.

ARTICLE 9. PAYMENTS TO CONSULTANT

9.1 For the Consultant's Basic Services identified in Article 5, payments shall be made at the completion and acceptance by the Department, of each deliverable as outlined in the individual Task Assignment.

9.2 Payments for Additional Services to the Consultant, as defined in Article 6, shall be made as prescribed in the Task Assignment or Task Assignment Change Order issued by the Department.

9.3 Payments for Additional Services shall be determined by multiplying hours worked by the current fee schedule referenced in Article 5. Payments for Reimbursable Expenses, as provided in Article 7, shall be paid upon presentation of a detailed invoice and related supporting documentation, such as receipts, statements, or invoices.

9.4 Thirty (30) calendar days shall be allowed for the Department's inspection and approval of the goods and services for which any pay request has been submitted.

9.5 No deduction shall be made from the Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to the contractor.

9.6 The Consultant shall submit to the Department a final invoice for payment of services authorized by this Agreement no later than thirty (30) days after final completion of the Project.

9.7 If any work designed or specified by the Consultant during any phase of service is abandoned or suspended in whole or in part for three months, the Consultant shall be paid for the services performed up to receipt of the written notice from the Department of such abandonment or suspension, together with any Reimbursable Expenses payable under Article 7.

- 9.8** Permitting Services shall be invoiced and paid in the following increments:
- Completion and submission of the permit application (50%)
 - Completion of responses to Request for Information and acceptable resubmittal of application (25%)
 - Issuance of Permit (25%) or as specified in the individual Task Assignment.

ARTICLE 10. REUSE OF DOCUMENTS

10.1 Unless they are patented or copyrighted, the Documents prepared pursuant to this Agreement shall be the property of the Department. The Department shall be provided a set of reproducible drawings and all other supporting documents produced as part of this

Agreement.

10.2 The Consultant shall deliver to the Department the original drawings upon final completion of the project in accordance with Attachment B.

10.3 The Department may reuse the documents prepared under this Agreement as its own product.

ARTICLE 11. SPECIAL PROVISIONS

11.1 It shall be the responsibility of the Consultant to fully inform the Department of the progress of the planning and design as provided herein. To this end, the Consultant shall furnish the Department with a complete schedule at the end of each month following the receipt of an executed Task Assignment. The Consultant shall furnish these reports until a construction contract award is made, at which time the Consultant shall submit reports concerning progress, quality of work and statements as may be needed regarding the construction work proceeding in accordance with the construction documents.

11.2 Prohibitions Against Liens or Other Encumbrances: The Consultant hereby covenants and agrees that fee title to the real property for which services will be provided is in the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and that Consultant shall not do or permit anything which purports to create a lien or encumbrance of any nature against the real property including, but not limited to, mortgages or construction liens against the real property or against any interest of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida or the Department.

ARTICLE 12. CONSTRUCTION PHASE SERVICES

12.1 If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Department assumes all responsibility for interpretation of the documents and for construction observation, and the Department waives any claims against the Consultant in any way connected thereto.

12.2 If the Consultant is retained to provide construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Department a greater degree of confidence that the completed work of its contractors will materially conform to the Construction Documents prepared by the Consultant.

12.3 The Consultant is not responsible for any duties assigned to the Consultant in the construction contract that are not expressly provided for in this Agreement. The

Department agrees that each contract with the contractor for this project shall state that the contractor shall be solely responsible for job site safety and for its means and methods of construction; that the contractor shall indemnify the Department and the Consultant for all claims and liability arising out of the job site accidents; and that the Consultant shall be made additional insured under the contractor's general liability insurance policy.

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SAMPLE

Attachment B

Bureau of Design and Construction Division of Recreation and Parks AutoCAD Drafting Standards

The following drafting standards shall be implemented in the preparation of Computer Assisted Drawings (CAD) for all Bureau of Design and Construction (BDC) projects. The Project Manager shall retain ultimate authority in decisions regarding acceptance of any drawings submitted. All CAD files shall be submitted in a format that is 100% compatible with the release of AutoCAD in use by this Bureau. **Drawings submitted that do not meet requirements as outlined in this document are subject to rejection.**

ELECTRONIC FILE FORMAT:

- Programming Diagrams, and Concept Sketches can be produced by hand or electronic format (CAD, photo edits, raster graphics, etc.). The schematic drawings and sketches shall be submitted electronically in PDF format via email attachment or made available on an FTP site. The consultant shall provide progress drawings in an AutoCAD compliant format (DWG) upon request from BDC. The use of color is acceptable during the schematic design process to convey intent. Submitted drawings should be to scale when printed on 24" x 36" or other standard formats and shall be legible and clear when reproduced on half- sized paper.
- Schematic, Design Development and progress drawings shall be submitted electronically in PDF format via email attachment or made available on an FTP site. The consultant shall provide progress drawings in an AutoCAD compliant format (DWG) upon request from BDC. All design development and progress drawings shall be clearly marked on every sheet as follows:

- Mark the development stage of the document (30%, 60%, etc.)
- Include 'Not for Construction'

Submitted drawings should be to scale when printed on 24" x 36" or other standard formats and shall be legible and clear when reproduced on half-sized paper.

- Final (100%) Construction Documents shall be submitted electronically in both PDF format and AutoCAD compliant DWG format via email attachment or made available on an FTP site. All Final Construction Documents shall be clearly marked on every sheet as follows:
 - 100% Construction Documents

Submitted drawings should be to scale when printed on 24" x 36" or other standard formats and shall be legible and clear when reproduced on half-size paper. In addition to the electronic copies, the consultant shall provide complete printed and bound, signed and sealed set(s) of the Final Construction Documents to BDC. Consultant shall provide a pdf scan of the signed and sealed Final Construction Documents.

BASIC DRAFTING STANDARDS:

- All sheets shall be to scale when printed to 24" x 36" or other standard sizes, as directed and approved by BDC, or identified as Not to Scale (NTS).
- Singular detail drawings associated with RFI's and Clarification Sketches may be submitted in 8½" x 11" or 11" x 17" format.
- North arrows shall be included on each drawing when appropriate, maintaining a consistent size, direction and sheet location.
- Model space should not be rotated from the standard world coordinate system.
- Angles shall be "decimal degrees" or "deg/min/sec" with 0° east (3 o'clock) increasing counterclockwise.
- Do not use custom fonts, line styles or hatch patterns.
- Designs should be drawn to scale and hardcopies printed to scale. Details not drawn to scale must be clearly identified. Use civil or architectural scales as appropriate.
- The model space/paper space drafting method is preferred with one sheet per layout tab. Tab name shall reflect the sheet name.
- Use of the **e-Transmit** command is strongly recommended. Consultant is responsible for complete transmittal of all drawing elements.

COVER SHEET STANDARDS:

The standard BDC cover sheet shall be used on all submitted drawing sets. BDC has cover sheet template files that are customized for each of the five districts within the park service. Please request and use the cover sheet which is relevant to the district in which the project is located. Edit the data as needed for your project including the small project description box above Department logo. The project location shall be indicated on the Florida state map by pointing the 'project location' arrow at the park where the project is located. See the sample cover sheet included with this reference guide. The cover sheet DWG file is available from BDC.

TITLE BLOCKS STANDARDS:

The standard BDC title block shall be used on all submitted drawings. The title block is drawn full scale (1" = 1"). Do not rotate the title block to accommodate drawings. Edit the attribute values for title information as supplied by the Bureau Project Manager. The Professional of Record's name and registration number as well as the consultant's name, address, phone number and logo if available, must appear in the spaces provided. See the sample cover sheet with this reference guide. The title block DWG file is available from BDC.

SHEET REFERENCE NUMBERING:

Each sheet in a drawing set will be identified with a unique number generated using the method outlined here.

A - Architectural	100 - Plans
C - Civil	200 - Elevations
S - Structural	300 - Sections
L - Landscape	400 - Axonometric/perspective
M - Mechanical	500 - Details
P - Plumbing	600 - Interior Details
E - Electrical	
G - General	(Cover sheet will use G100)

Example: **A302**.

A - Architectural category, **3** - 300 for sections, **02** - second sheet of building sections.

Occasionally, assorted drawings from various disciplines can be combined on the same sheet to save paper. When this occurs, the name should reflect most of the drafting elements found on that sheet.

LAYER STANDARDS:

- Architectural, Structural, Mechanical, Plumbing and Electrical Drawings: Whenever possible, use the current AIA version layer standard for all layer names and pen assignments.
- Civil Engineering and Landscape Drawings: Whenever possible, use the current AIA version layer standard for all layer names and pen assignments. If custom layer names and pen assignments are needed the consultant will follow a logical layer standard that can be readily understood by BDC. A list of layer names and color assignments shall be included with the final document submittal for future reference.

TEXT / FONT STANDARDS:

All text except for sheet title blocks and cover sheet text shall conform to the following standards:

Standard Font File:	Romans
Notes and Dim. Text Actual Height:	3/32"
Title Text Actual Height:	3/16"
Width Factor:	.75 - .80
Pen Weight Note and Dim. Text:	.18
Pen Weight Title Text	.25

Drawings with third party or custom fonts may be rejected.

DIMENSION STANDARDS:

Use architectural ticks at the line ends. The dimension text font shall be the same as the note text font. All dimension text shall be 'aligned' and above dimension line unless the text will not fit. In

those cases, place the text in a logical location and connect it to the dimension line with a leader.

PEN WIDTH/COLOR STANDARDS:

Whenever possible, use the 'AIAstandard.ctb' pen table and color assignments. Custom color assignments can be applied to drawing items but the color/pen assignment must be from the AIA standard table. Custom pen table files shall not be used.

COMPUTER FILE NAME STANDARD:

Electronic drawing files (PDF and DWG) submitted to BDC shall be named by combining the Sheet Number (see sheet referencing section above), and the BDC project number. Optionally, the numeric date and the phase code can be used.

Basic Format: **SHEET_MM-DD-YY_####_XXX**

SHEET = sheet reference number.

MM-DD-YY = Date.

= BDC Project Number.

XXX = Project Phase.

Example: A100

Example: 04-10-14

Example: 60606

Examples:

- SD – Schematic Design
- DD – Design Development
- F – Final
- 50 – 50% complete

Full Example: **A100_04-10-14_60606_DD**

Sheet A100, produced on April 10, 2014, project number 60606 and design development submittal.

CIVIL SITE DRAWING SPECIFIC STANDARDS:

General standards: The following are document standards that apply to all plan view depictions of the work.

- (a) The property boundary, as applicable, that illustrates the ownership of the property;
- (b) Scale, scale bar, north arrow, horizontal and vertical geodetic datum, and date prepared;
- (c) An appropriate engineering scale for site work and an appropriate scale for architectural plans and details
- (d) Legend of all codes, abbreviations, and symbols used, including all line weights and patterns
- (e) Drawings shall not be physically larger than 24-by-36 inches
- (f) Signature, seal, and registration number, as necessary
- (g) Location of lines of cross sections
- (h) General direction of surface drainage entering, leaving, and on-site
- (i) Contour intervals shall not exceed two (2) feet or as necessary to describe the proposed work

- (j) All cultural and natural features shall be shown that exist within the area covered by the drawing (including but not limited to utility lines, rights of way, water bodies, ditches, roads, etc.)
- (k) Identification of the horizontal and vertical scale
- (l) Horizontal scale that is the same as that of the topographic drawing (if appropriate)
- (m) Vertical scale that adequately illustrates the data
- (n) Identification of the label, related to the section or profile, as provided on the Drawings
- (o) Identification and labeling of any existing or proposed water body.

Cross Sections and Profiles: Areas that will require cut and/or fill will require cross sections. These cross sections shall have stations no greater than every 50 feet and shall extend at least 10 feet beyond the area of work on both sides. The sections shall show the existing and the designated elevations and a distinct line type and weight shall be used to designate each. Show dimensions that would be necessary to construct the item.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.

INSERT CONSULTANT'S NAME,
ADDRESS, AND LOGO IN THIS BOX

CONSULTANT'S LICENSE
NUMBER AND SEAL

USE THE "EDIT ATTRIBUTE COMMAND" TO
ADD TITLE BLOCK INFORMATION

SHEET NO.		FACILITY NAME		PROFESSIONAL REGISTRATION PROFESSIONAL NAME LICENSE NUMBER		DESIGNER :		ISSUE DATE:		SYMBOL		REVISION		DATE		REVISION		DATE	
SHEET TITLE		SHEET NAME		CONSULTANT'S LICENSE NUMBER		DRAWN BY		COMP. FILE		A									
PROJECT TITLE		PROJECT NAME		CONSULTANT'S LICENSE NUMBER		REVIEWED BY		STATE PROJECT NO.		B									
						Consultant 1													
						NAME, CONTACT INFO, LOGO													
						Department of Environmental Protection Division of Recreation and Parks Bureau of Design and Construction 3000 Commonwealth Blvd. Tallahassee, FL 32309 (904) 245-2157													



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**Division of Recreation and Parks
Consultant's Task Assignment Notification**

FDEP Contract No Contract Expiration Task Assignment No

Project Location Project

Consultant's Name:

Consultant's Representative:

Phone: Email:

FDEP Contract Manager:

Phone: Email:

Task Description:

Project Manager:

Schedule:

Start Date: Completion Date:

Fixed Price Cost: Cost Reimbursement not to exceed:

Total Task Amount:

Signatures and Date:

1. _____
Contract Manager, FDEP Signature Date

2. _____
Project Manager, FDEP Signature Date

3. _____
Budget Representative, FDEP Signature Date

4. _____
Consultant Signature Date

5. _____
Contract Authority, FDEP Signature Date



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**Division of Recreation and Parks
Consultant's Task Assignment Notification**

Encumbrance Information:

Project #	Grant #	Organization Code	Category/Yr	Fund	Module	Object	EO	Amount
Total								

SAMPLE



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**Division of Recreation and Parks
Task Assignment Change Order Form**

FDEP Contract Number: _____ **Task Assignment Number:** _____

Change Order Number: _____ **Project Number:** _____

Consultant Name: _____

Consultant Representative:

Name: _____

Phone: _____

Email: _____

FDEP Contract Manager:

Name: _____

Phone: _____

Email: _____

Description of Change:

SAMPLE

Change in Task Amount

Item	Reimbursement	Fixed Fee	Total
Original Task Amount			
Task Amount Including All Previous Change Orders			
Net Increase/Decrease in Task Amount for this Change Order			
Task amount with All Change Orders			



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

**Division of Recreation and Parks
Task Assignment Change Order Form**

Change in Task Time

Original Task Execution Date	
Original Task End Date	
Present Task End Date	
Net Change in Days	
New Task End Date	

Funding Information

29 Digit FLAIR Code: _____

Project #	Grant #	Org Code	Cat/Year	Fund	Module	Object Code	EO	Amount
Total								

Approval Signatures

Budget Representative, FDEP Signature Date

Project Manager, FDEP Signature Date

Contract Manager, FDEP Signature Date

Consultant Signature Date

Contract Authority, FDEP Signature Date

Attachment E

TRUTH-IN-NEGOTIATION CERTIFICATE

I, _____, the _____ of
(Name) (Title)
_____ hereby certify that wage rates and other factual
(Company)
unit costs supporting compensation to be paid under Department Contract Number ____ are
accurate, complete, and current as of the date of execution of the above mentioned contract.

Company Name

Company Address

Authorized Person (Signature)

Authorized Person (Print)

Title

Date

Attachment F
Department of Environmental Protection

Division of Recreation and Parks
Bureau of Design and Construction

Minority Participation Report

Date: _____

Please submit all invoices and this form to: The Bureau of Design and Construction, 3800 Commonwealth Boulevard, MS #520, Tallahassee, Florida, 32399. Complete the top portion for every invoice.

Firm submitting report: _____

Project location: _____

Park or Facility where the Project is located or delivery is made.

FCO Project No.: _____ Contract No.: _____ Task Assignment No.: _____

For Invoice No.: _____ Invoice Amount: \$ _____

Will any portion of this invoice be used as payment to a Minority Owned Vendor, Supplier or Sub-Contractor?

☐ **NO** ☐ **YES** ☐ **THIS IS A MINORITY BUSINESS**

If **YES**, please complete the following information: (Use additional pages as necessary)

Minority Owned Business:

Amount:

1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____
5. _____	\$ _____
6. _____	\$ _____
7. _____	\$ _____
8. _____	\$ _____
9. _____	\$ _____
10. _____	\$ _____

Total Amount: \$ _____

Attachment H Certificate for Payment

Payment Block (Office use only)																		
Transmittal Date: _____										Total for this Payment: \$ _____								
Contract / Purchase Order No.:						Task Assignment No.:		Description of Services:										
FCO Project No.	Organization Code					EO	Obj Code	Fund	Category - Year	Module/OCA	Grant #	Amount						
Line 1:																		
Line 2:																		
Line 3:																		
Line 4:																		
Capitalization? Yes ☐ No ☐																		
Invoice Received By: _____					Date _____					Services / Merchandise Received By: _____					Date _____			
										Serv. / Mdse. Inspected and Approved By: _____					Date _____			

Invoice No.: _____ Partial: _____ Final: _____ Bureau Project Manager: _____

Firm: (Name and Address) _____ Facility: _____

Project Description: _____

Telephone No. _____ Contract No.: _____ Task Assn. No.: _____

Fax No.: _____ Dates Services Provided: (Not to exceed the Contract Final Completion Date)

From: _____ To: _____

Contract Final Completion Date: _____

Total Due This Certificate: \$

Certified True and Correct: _____

Signature of Authorized Company Representative

Date: _____

Print Name

