



Florida Fish and Wildlife Conservation Commission  
2590 EXECUTIVE CENTER CIRCLE EAST, SUITE 100  
TALLAHASSEE, FLORIDA 32301  
(850)488-6551 TELEPHONE

**TITLE: Corbett (entry road and trailhead)  
INVITATION TO BID  
FWC 17/18- 9C**

**INTENT**

The intent of this invitation to bid is to obtain competitive pricing for property improvements at 11835 Seminole Pratt Whitney road, West Palm Beach, FL 33412, in accordance with the specifications in this invitation to bid and the Construction Plans in accordance with Chapter 255, F.S.

**GENERAL DESCRIPTION**

Contractor to demolish and remove existing  $\pm 5'$  sidewalk, wood rail fencing, vegetation along existing sidewalk, three (3) existing pavilions and three (3) concrete slabs.

Contractor to furnish and install: asphalt parking and turnaround area with concrete apron,  $\pm 5'$  wide ADA connector sidewalk, limerock parking area, entrance road with connections to existing Merl road and new asphalt parking area, drainage pipes and appurtenances, signage, striping, wheel stops, one (1) RCP shelter LW-SQ24-04 or equal with a concrete slab shown at pavilion #1 location, site grading and silt fencing. Note that the CXT vault toilet is to be installed by others, but must be in place prior to the contractor connecting a sidewalk to it.

Project to include all materials, equipment and labor necessary to complete the scope of work. Asbuilt drawings in autocad 2010 or later are required upon completion of construction. Any item not specifically listed as an additional item is part of the scope of work. All demolished and unsuitable material shall be disposed of off-site in a legal manner.

**Additional item #1:** contractor to furnish and install (2) two RCP shelters LW-SQ16-06 or equal and (2) two concrete slabs below them. One each at pavilion locations #2 and #3 as shown. All work done on this project shall be done in accordance with the technical specifications and construction plans.

**All technical specifications and construction plans are located at:**

<https://explorer.myflorida.com/>

To access documents at this website, use the following Username and Password:

Username: FWC\_Bid\_Info  
Password: FWCvendors1!

Access the folder(s) with this bid number and title to download the associated files.

**LICENSURE**

Bids will be accepted from certified general contractors if the bid is in the individual's own name or a fictitious name where the individual is doing business as a sole proprietorship. If the bidder is a business organization, including any partnership, corporation, business trust, or other legal entity, or in any name other than the bidder's legal name or a fictitious name where the bidder is doing business as a sole

proprietorship, the bidder must be an agent of a qualified construction business organization as required by F.S. 489.119.(2). **A copy of certification or registration shall be provided with submittal of bid.**

**Please Note:**

The terms "Contract," "Agreement" and "Purchase Order" are used interchangeably in the document. The terms "Commodities" and "Goods" are used interchangeably in the document.

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**INVITATION TO BID ACKNOWLEDGMENT FORM**

I HEREBY agree to abide by the provisions in this invitation to bid in accordance with Chapter 255, F.S. and agree to abide by the specifications contained herein.

Contractor \_\_\_\_\_

Licensure Number \_\_\_\_\_

Federal Tax ID Number \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_ Email \_\_\_\_\_

Fax \_\_\_\_\_ Telephone \_\_\_\_\_

Signature \_\_\_\_\_ Name (Printed) \_\_\_\_\_

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FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



FWC 17/18-9C

INVITATION TO BID CALENDAR OF EVENTS

| SCHEDULE   | DUE DATE  | METHOD   |
|--|---|--|
| Bid Advertised   | August 16, 2017   | Posted on the Vendor Bid System:<br><a href="http://vbs.dms.state.fl.us/vbs/main_menu">http://vbs.dms.state.fl.us/vbs/main_menu</a>  |
| MANDATORY Pre-Bid Conference   | August 25, 2017<br>@10:00 a.m.  | See Pre-Bid Conference Clause  |
| Deadline for Questions   | Must be received<br>PRIOR to:<br>September 6,<br>2017<br>@ 5:00 p.m.  | See Deadline for Questions Clause  |
| Anticipated date for Responses to Written Questions                                | September 7,<br>2017  | Posted on the Vendor Bid System:<br><a href="http://vbs.dms.state.fl.us/vbs/main_menu">http://vbs.dms.state.fl.us/vbs/main_menu</a>  |
| SEALED BIDS DUE<br><br>(REMEMBER: Bid Number should be clearly marked on envelope) | Must be received<br>PRIOR to:<br>September 14,<br>2017<br>@ 3:00 p.m. | Submit BEFORE the due date and time to the following address:<br><br>Florida Fish & Wildlife Conservation Commission<br>Attn: Purchasing<br>2590 Executive Center Circle East, Suite 100<br>Tallahassee, Florida 32301 |
| Public Bid Opening   | September 14,<br>2017<br>@ 3:00 p.m.                                  |  |
| Anticipated Date of Intended Award   | September 15,<br>2017   | Posted on the Vendor Bid System:<br><a href="http://vbs.dms.state.fl.us/vbs/main_menu">http://vbs.dms.state.fl.us/vbs/main_menu</a>  |

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## **ESTIMATED BUDGET**

The Commission has an estimated budget for this project of **\$275,000.00**.

## **TERM**

The contract will be effective one year from issuance of purchase order.

Services shall be completed by the contractor within one hundred and eighty (180) days from the Notice to Proceed date. If circumstances constituting Force Majeure have occurred, or if anything occurs beyond the Contractor's control, the Contractor may request in writing an extension of Completion Date. The Contract Manager, upon review of the extension request, will determine and approve if the extension can be made. The extension date shall not go beyond the term end date of one year from issuance of purchase order, without prior approval of the Procurement Manager.

## **MANDATORY PRE-BID CONFERENCE (**

A mandatory pre-bid conference will be held at the date and time specified in the **Calendar of Events (Page 3)**. The purpose of the pre-bid conference/Site Visit is to discuss the contents of this bid and to accept verbal questions from contractors concerning the project. **"Vendors must attend this pre-bid conference as a requirement of bid responsiveness. Failure to attend the entire conference, from the time it is called to order to the time it is adjourned, shall disqualify a potential respondent."** (Remove highlighted if Pre Bid Conference is non-mandatory)

### **Site Address:**

11835 Seminole Pratt Whitney Road  
West Palm Beach, FL 33412

## **DEADLINE FOR QUESTIONS**

Any questions from contractors that require an official FWC answer concerning this project shall be submitted in writing to the Procurement Manager identified below. Questions must be received **no later than** the date and time specified in the **Calendar of Events (Page 3)**. Questions may be sent via e-mail or hard copy by mail. It is the responsibility of the contractor to confirm receipt of questions if needed.

### **All Questions shall be directed to:**

Bryan Tucker, Procurement Manager  
Florida Fish & Wildlife Conservation Commission  
Tallahassee Purchasing Office  
2590 Executive Center Circle  
Tallahassee, Florida 32301  
Phone: (850) 488-6551  
[bryan.tucker@myfwc.com](mailto:bryan.tucker@myfwc.com)

## **FWC CONTRACT MANAGER**

The FWC Contract Manager shall perform the following on behalf of the FWC:

- review, verify, and approve receipt of services/deliverables from the contractor;
- submit requests for change orders/amendments/renewals, if applicable;
- review, verify, and approve invoices from the contractor; and, if applicable, complete the Certificates of Partial Payment requests, and the Certificate of Contract Completion form; and
- maintain an official record of all correspondence between the Commission and the contractor and forward the original correspondence to the Tallahassee Procurement Manager for the official file.

## **CONDITIONS AND SPECIFICATIONS**

The contractor is required to carefully examine the conditions and specifications of this bid and to be thoroughly informed regarding any and all requirements of the conditions and specifications. The

Contractor is required to have a copy of these bid specifications with him/her at all times while on the construction site.

### **TERM AND CONDITIONS**

The Commission objects to and shall not consider any additional terms or conditions submitted by a Contractor, including any appearing in documents attached as part of a Contractor's response. In signing and submitting the Invitation to Bid Acknowledgement form, a Contractor agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect on the terms contained herein. Failure to comply with terms and conditions, including those specifying information that must be submitted with a bid, shall be grounds for rejecting a bid.

The terms and conditions of **Attachment A, Purchase Order Terms and Conditions and Attachment B, General Conditions** are hereby incorporated into this solicitation. Any contract resulting from this solicitation will include the terms and conditions of this solicitation and the terms and conditions contained in **Attachment A and B**.

### **BIDS DUE**

Bids for this project are due by the date and time specified in the **Calendar of Events (Page 3)**. **BIDS RECEIVED AFTER DATE AND TIME SPECIFIED WILL BE REJECTED.**

### **BID OPENING LOCATION**

The public opening of this bid will be conducted at the date and time specified in the **Calendar of Events (Page 3)**, at the Florida Fish and Wildlife Conservation Commission, Tallahassee Purchasing Office, Suite 100, Executive Center Circle East, Tallahassee, Florida, 32301. **BIDS RECEIVED AFTER DATE AND TIME SPECIFIED WILL BE REJECTED.**

Any person with a qualified disability shall not be denied equal access and effective communication regarding any FWQ/bid/proposal documents or the attendance at any related meeting or FWQ/bid/proposal opening. If accommodations are needed because of a disability, please contact the Tallahassee Purchasing Office at (850) 488-6551 at least three (3) workdays prior to the opening.

### **SECURITY DEPOSIT/BID GUARANTEE**

On projects where the base bid and sum of all additive alternates exceeds **\$100,000.00**, bids shall be accompanied by a bid guarantee of not less than five (5) percent of the amount of the bid, which may be a Bid Bond or Irrevocable Letter of Credit. The Bond shall be issued from a reliable Surety Company acceptable to the Commission, licensed to do business in the State of Florida and signed by a Florida Licensed Resident Agent. Such a bond shall be accompanied by a duly authenticated power of attorney evidencing that the person executing the bonds in behalf of the Surety had the authority to do so on the date of the bond. Such Bid Bond or Letter of Credit shall be submitted with the understanding that it shall guarantee that the Bidder will not withdraw his bid for a period of sixty (60) days after the scheduled closing time for the receipt of bids; that if his bid is accepted, he will enter into a written contract with the Commission in accordance with the form of agreement included as a part of the Contract Documents, and that the required Performance Bond and Labor and Material Payment Bond will be given; and that in the event of the withdrawal of said bond within said period, or failure to enter into said Agreement and give said bonds in accordance with the General Conditions of the Contract, the Bidder shall be liable to the Commission for the full amount of the bid guarantee as representing the damage to the Commission on account of the default of the Bidder in any particular hereof. The Bid Bonds or letter of credit shall be returned to all except the apparent lowest two qualified bidders after the formal opening of bids. The remaining Bid Bonds or letters of credit will be returned to the two lowest bidders after the Commission and the accepted bidder have executed the Agreement and the Performance Bond and Labor and Material Payment Bond have been approved by the Commission. If the required Agreement and Bonds have not been executed within sixty (60) calendar days after the date of the opening of the bids, then the Bid Bond or letter of credit of any bidder will be returned upon his request, provided he has not been notified of the acceptance of his bid prior to the date of such request.

## **REFERENCES**

Each Bidder shall provide a minimum of three (3) references for similar projects completed. Current contact names and phone numbers shall be included with the bid package.

## **MAILING INSTRUCTIONS**

All bids shall be submitted in a **SEALED ENVELOPE** addressed to the Florida Fish and Wildlife Conservation Commission, Suite 100, 2590 Executive Center Circle East, Tallahassee, Florida 32301. **THE ENVELOPE SHALL BE PLAINLY MARKED ON THE OUTSIDE WITH: BID NUMBER, DATE AND TIME OF THE BID OPENING. THE COMMISSION IS NOT RESPONSIBLE FOR THE OPENING OF ANY ENVELOPES THAT ARE NOT PROPERLY MARKED.**

**PLEASE NOTE: THE COMMISSION'S OFFICIAL BUSINESS HOURS OF OPERATION ARE 8:00AM – 5:00PM EXCLUSIVE OF SATURDAYS, SUNDAYS, AND STATE HOLIDAYS. SELECTING DELIVERY SERVICES, SUCH AS NEXT DAY FIRST DELIVERY MAY RESULT IN ATTEMPTED DELIVERY PRIOR TO OPENING, OR AFTER CLOSING, AND THE COMMISSION WILL NOT BE AVAILABLE TO ACCEPT THOSE DELIVERIES. THE COMMISSION IS NOT RESPONSIBLE FOR LATE SUBMISSIONS DUE TO COMPLICATIONS RELATED TO SELECTED DELIVERY SERVICES.**

## **LIMITATION ON BIDDER CONTACT DURING SOLICITATION PERIOD**

Bidders 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, (Note the 72 hour posting period excludes 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 manager or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

## **BIDDER SPECIFICATION INQUIRIES**

If the specifications of this bid could restrict potential Bidder competition, the Bidder has 72 hours within which to request to the Commission that the specification(s) be changed. The Contract Administrator must receive the written request within 72 hours after the posting date of the bid.

Requested changes to the Commission's specifications shall include the Bidder's concerns regarding restricting competition, provide detailed justification, and provide recommended changes to the specification(s). A Bidder's failure to request changes by the prescribed date and time shall be considered to constitute the Bidder's acceptance of the Commission's specifications.

The Commission shall determine what change(s) to the bid is acceptable to the Commission. If accepted, the Commission shall issue an addendum reflecting the change(s) to the bid, which shall be posted to the Vendor Bid Advertisement System, internet site [http://vbs.dms.state.fl.us/vbs/main\\_menu](http://vbs.dms.state.fl.us/vbs/main_menu) .

It is up to the bidder to ensure that everything is included as required by the Commission's Purchasing Office. It is not the Commission's responsibility to mail or fax any forms to a potential Contractor. Bid packet information may also be requested from The Commission's Purchasing Section by calling 850-488-3427. Please have bid number and Bidder information available when requesting any information.

## **CONTRACTOR REGISTRATION**

In accordance with Rule 60A-1.030 of the Florida Administrative Code (F.A.C.), each contractor doing business with the State for the sale of commodities or contractual services as defined in Section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under Rule 60A-1.030(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at [www.myflorida.com](http://www.myflorida.com)). Interested persons lacking Internet access may request assistance from the MyFloridaMarketPlace Customer Service at (866-352-3776) or from State Purchasing, 4050 Esplanade Way, Suite 300, Tallahassee, Florida 32399.

**Transaction Fee.** Pursuant to Section 287.057(22), F.S., all payments, unless exempt under Rule 60A-1.030(3), F.A.C., shall be assessed a Transaction Fee of zero point zero seven percent (0.07%), which the Contractor shall pay to the State. For payments within the State accounting system (Florida Accounting Information Resource, 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.

**Transaction Fee Credits.** The Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any items(s) if such items(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 Contract. 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 MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

### **VERBAL INSTRUCTION PROCEDURE**

Contractors may not consider any verbal instructions as binding upon the Commission. No negotiations, discussions, or actions shall be initiated or executed by the Contractor as a result of any discussion with any Commission employee. Only those communications from the Commission that are in writing, may be considered as a duly authorized expression on behalf of the Commission.

### **ADDENDA**

If the Commission finds it necessary to supplement, modify or interpret any portion of the specifications or documents or answer any contractor questions during the bid period an addendum shall be issued. Addendums shall be signed by an authorized Contractor representative, dated, and returned to the COMMISSION, in the vendor bid submittal, by the date and time specified in the Calendar of Events. **Each Bidder is responsible for monitoring the Vendor Bid System site for new or changing information relative to this procurement.** The Commission bears no responsibility for any delays, or resulting impacts, associated with a Bidder's failure to obtain the information made available through the Vendor Bid System. The Vendor Bid System can be reached at the following internet address: [http://vbs.dms.state.fl.us/vbs/main\\_menu](http://vbs.dms.state.fl.us/vbs/main_menu).

### **CHAPTER 255, F.S. COMPLIANCE**

The Contractor ultimately selected for this contract must warrant that they have the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good-faith performance as a responsible contractor, and that the Contractor shall comport with Chapter 255, F.S., and all other applicable rules and laws.

### **INSPECTION PRIOR TO AWARD**

The Commission reserves the right to inspect the prospective Contractor's materials and experience prior to making an award of the Contract. If the Contract Manager determines the Contractor that has submitted the lowest bid does not have sufficient experience, equipment, etc. to meet the specifications of this bid, the Commission reserves the right to reject the Contractor and to evaluate the next lowest Contractor.

### **AWARDED BID**

The Commission will award the bid to the responsive, responsible contractor which submits the lowest base price and any alternate prices accepted by the FWC. If deemed necessary, an interview with the contractor by the Contract Manager may be required before the bid is awarded.



Unless otherwise provided herein, the Commission will not reimburse the Contractor for any non-expendable equipment or personal property for use by the Contractor to perform services under this Contract.

### **REJECTION OF BIDS**

The Commission reserves the right to reject any and all bids and to waive any informality in the submissions received in response to this bid. The Commission reserves the right to consider all information, whether submitted or otherwise, to determine responsiveness and responsibility and to reject bids accordingly.

### **DELIVERABLES**

The following services or service tasks are identified as deliverables for the purposes of this Contract:

- a.) Performance of all services set forth in the Scope of Work and Construction plans.
- b.) Submission of all invoicing, supporting documentation, Corrective Action Plans and reports.

### **MONITORING**

The Commission's Contract Manager shall actively monitor Contractor's performance and compliance with the terms of this Contract. The Commission reserves the right for any Commission staff to make scheduled or unscheduled, announced or unannounced monitoring visits. Specific monitoring terms, conditions, and schedules may be included in the Scope of Work.

**Contractor Performance.** The Contractor shall perform the activities described in the Scope of Work in a proper and satisfactory manner. Unless otherwise provided for in the Scope of Work, any and all equipment, products or materials necessary or appropriate to perform under this Contract shall be supplied by the Contractor. Contractor shall obtain all necessary local, state, and federal authorizations necessary to complete this project, and the Contractor shall be licensed as necessary to perform under this Contract as may be required by law, rule, or regulation; the Contractor shall provide evidence of such compliance to the Commission upon request. The Contractor shall procure all supplies and pay all charges, fees, taxes and incidentals that may be required for the completion of this Contract. By acceptance of this Contract, the Contractor warrants that it has the capability in all respects totally perform the requirements and the integrity and reliability that will assure good-faith performance as a responsible Contractor. Contractor shall immediately notify the Commission's Contract Manager in writing if its ability to perform under the Contract is compromised in any manner during the term of the Contract. The Commission shall take appropriate action, including potential termination of this Contract in the event Contractor's ability to perform under this Contract becomes compromised.

**Contractor – Quarterly Minority and Service-Disabled Veteran Business Enterprise Report.** Contractor shall provide a quarterly Minority and Service-Disabled Veteran Business Enterprise Report to the Commission's Contract Manager, summarizing the participation of certified and non-certified minority and service-disabled veteran subcontractors/material suppliers for the current quarter and project to date. The report shall include the names, addresses and dollar amount of each certified and non-certified Minority Business Enterprise and Service-Disabled Veteran Enterprise participant and a copy must be forwarded to the Commission's Contract Manager. The Office of Supplier Diversity at (850) 487-0915 will assist in furnishing names of qualified minorities. The Commission's Minority Coordinator at (850) 488-3427 will assist with questions and answers.

**Contractor Responsibilities.** Contractor agrees that 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 Commission. The Commission may conduct, and Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by Contractor. The Commission 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 the Commission's security or other requirements. Such refusal shall not relieve Contractor of its obligation to perform all work in compliance with the Contract. The Commission may reject and bar from any facility for cause any of Contractor's employees, subcontractors, or agents.

**Commission Rights to Assign or Transfer.** Contractor agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to Contractor.

### **STOP WORK ORDER**

The Commission's Contract Manager or his designated representative has the right to stop work if the work is not being completed as specified. Work shall not renew until the deficiency or deficiencies are corrected.

### **FINANCIAL CONSEQUENCES**

If the Contractor materially fails to comply with the terms and conditions of this bid, including any Federal or State statutes, rules or regulations applicable to this bid, the Commission shall take one or more of the following actions, as appropriate for the circumstances:

- a. Temporarily withhold payments pending correction of the deficiency by the Contractor
- b. Reduction of payment if correction of deficiency is not made by the Contractor.
- c. Disallow all or part of the cost of the activity or action not in compliance.
- d. Request refund of previously disbursed payments.
- e. Wholly or partly suspend or terminate this agreement.
- f. Withhold future awards for the FWC projects.
- g. Take other remedies that may be legally available.

### **FAMILIARITY WITH LAWS**

The Contractor is required to be familiar with all Federal, State and Local laws, ordinances, rules and regulations that in any manner affect the work. The contractor shall comply with all laws and rules applicable to the contractor(s) that shall provide the required commodities or services to the Commission. Ignorance on the part of the Contractor will in no way relieve him from responsibility.

### **ADDITIONAL LEGAL REQUIREMENT**

All corporations seeking to do business with the State shall, at the time of submitting a bid, be on file with the Department of State in accordance with provisions of Chapter 607, Florida Statutes; similarly, partnerships seeking to do business with the State shall, at the time of submitting such bid, have complied with the applicable provisions of Chapter 620, Florida Statutes. For further information on required filing and forms, please go to the following sites:

<http://www.sunbiz.org/index.html> or <http://www.dos.state.fl.us/>.

### **LIQUIDATED DAMAGES**

The Contractor recognizes that time is of the essence in completing the project described herein. If the Contractor fails to complete the work or the conditions of the contract and/or amendments by the completion date, the Commission shall deduct from any amount due and payable to the Contractor, as liquidated damages, an amount up to **\$100.00** per calendar day. All liquidated damages assessed after the agreed work completion date will include every day of the week (weekdays and weekends). If project work is not completed and approved by the Contract Manager on or before the completion date, then liquidated damages shall be imposed by the Commission at its sole discretion. Extensions of the project completion date may be permitted only if a delay is attributable to circumstances that are clearly beyond the control of the Contractor, and any extension shall be at the sole discretion of the Commission. The burden of proof of unavoidable delay shall rest with the Contractor, shall be supplied in a written form and submitted to the Contract Manager and shall be clear and convincing. Should the successful bidder

fail to complete the project in a timely manner, FWC specifically reserves the right to declare breach, as well as, the right to impose liquidated damages.

### **PERMITTING**

A building permit is required, the Contractor will be responsible for obtaining and paying for all required building permits. Other required state and federal permits will be obtained by the Commission and provided to the Contractor. A copy of all permits will be shall be posted at the work site location at all times during the project. The Contractor is responsible for complying with all permit conditions and any penalties arising from the Contractor's permit violations.

### **DAMAGES TO STATE PROPERTY**

Any damages to state property (i.e. structures, roads, culverts, fences, trees, or other natural resources) caused by the Contractor while working on this project shall be the responsibility of the Contractor to remedy, as determined by the Commission. The Contractor shall be responsible for the conduct of all Contractor personnel at all times while on the job site.

Should any historical or cultural artifacts be uncovered during construction activities the Contractor shall immediately halt construction within that area and notify the Contract Manager. Please note: The State Archeologist has the power to halt work if he or she has reason to believe artifacts are being disturbed.

### **MISCELLANEOUS**

No firearms, alcohol or illegal substances are allowed on any Commission project site. Neither the Contractor nor any of its employees may possess firearms or alcohol while on the job site. The Contractor shall be responsible for the conduct of all Contractor personnel at all times while within the project area.

### **PERFORMANCE BOND**

A Performance Bond shall be required from the Contractor by the Commission for this project. Prior to commencing any work, and within 10 calendar days after issuance of a purchase order, the Contractor shall furnish a Performance Bond in the amount of 100 percent (100%) of the total contract price to ensure full and complete performance of the contract to the Commission's Contract Manager. The bond must state on its front page: the name, principal business address, and phone number of the Contractor, the Surety, the Commission's full name, the bid number and purchase order number or contract number assigned to the project by the Commission, and a description of the property being improved with a general description of the project. Please note: A Notice to Proceed will not be issued by the Commission's Contract Manager until after the required bonds have been received. Failure to provide a Performance Bond may be grounds to find the Contractor in default, which could include; cancellation of the contract, and/or the Contractor's removal from the State's approved contractor list for future solicitations.

The Bond shall be issued from a reliable Surety Company licensed to do business in the State of Florida and signed by a Florida Licensed Resident Agent. Such a bond shall be accompanied by a duly authenticated power of attorney evidencing that the person executing the bonds in behalf of the Surety had the authority to do so on the date of the bond.

The Contractor is required to furnish replacement bonds in the event of cancellation of the original Performance Bond. The cost of the Performance Bond shall be borne by the Contractor

In lieu of a Performance Bond, The Commission may prior approve an alternate form of security in the form of an irrevocable letter of credit. The alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the Performance Bond.

### **LABOR AND MATERIAL PAYMENT BOND**

A Labor and Material Payment Bond shall be required from the Contractor by the Commission for this project. Prior to commencing any work, and within 10 calendar days after issuance of a purchase order, the Contractor shall furnish a Payment Bond in the amount of 100 percent (100%) of the total Contract

Price to ensure full and complete payment of the Contract. The Payment Bond shall be sent to the Commission's Contract Manager. The Bond shall be issued from a reliable Surety Company acceptable to the Commission, licensed to do business in the State of Florida and signed by a Florida Licensed Resident Agent. Please note: A Notice to Proceed will not be issued by the Commission's Contract Manager until after the required bonds have been received. Failure to provide a Labor and Material Payment Bond may be grounds to find the Contractor in default, which could include: cancellation of the contract, and/or the Contractor's removal from the State's approved contractor list for future solicitations.

The Contractor is required to furnish replacement bonds in the event of cancellation of the original Labor and Material Payment Bond. Such a bond shall be accompanied by a duly authenticated power of attorney evidencing that the person executing the bonds in behalf of the Surety had the authority to do so on the date of the bond. The cost of the Labor and Material Payment Bond shall be borne by the Contractor.

### **SUBCONTRACTS**

If Contractor is authorized to subcontract, Contractor shall ensure, and provide assurances to the Commission upon request, that any subcontractor selected for work under this Contract has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Contract. Contractor must provide the Commission with the names of any subcontractor considered for work under this Contract; the Commission reserves the right to reject any subcontractor. Contractor agrees to be responsible for all work performed and all expenses incurred with the project. Any subcontract arrangements must be evidenced by a written document available to the Commission upon request. Contractor further agrees that the Commission shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. Contractor, at its expense, will defend the Commission against such claims. The following provisions apply, in addition to any terms and conditions included in the Scope of Work.

**Contractor Payments to Subcontractor.** If subcontracting is permitted, the Contractor agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Commission in accordance with Section 287.0585, F.S., unless otherwise stated in the contract between Contractor and subcontractor. Contractor's failure to pay its subcontractors within seven (7) working days will result in a penalty charged against Contractor and paid to the subcontractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due.

**Commission Right to Reject Subcontractor Employees.** The Commission shall retain the right to reject any of Contractor's or subcontractor's employees whose qualifications or performance, in the Commission's judgment, are insufficient.

**Subcontractor as Independent Contractor.** If subcontracting is permitted, the Contractor agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.

### **INSURANCE REQUIREMENTS**

**Reasonably Associated Insurance.** During the term of the Contract, Contractor, at its sole expense, shall maintain insurance coverage of such types 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, and failure to maintain such coverage may void the Contract. The limits of coverage under each policy maintained by Contractor shall not be interpreted as limiting Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers licensed and authorized to write policies in Florida.

**Workers Compensation.** To the extent required by Chapter 440, F.S., the Contractor will either be self-insured for Worker's Compensation claims, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all of its employees connected with the work of this project, with minimum employers' liability limits of **\$100,000.00** per accident, **\$100,000.00** per person, and **\$500,000.00** policy aggregate. Such policy shall cover all employees engaged in any contract work. If any work is subcontracted, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law (Chapter 440, F.S.). In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Commission, for the protection of its employees not otherwise protected. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

**General Liability Insurance.** By execution of this Contract, unless Contractor is a state agency or subdivision as defined by Subsection 768.28(2), F.S. or unless otherwise provided for in the Scope of Work, Contractor shall provide reasonable and adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. A self-insurance program established and operating under the laws of the State of Florida may provide such coverage.

**Insurance Required for Performance.** During the Contract term, Contractor shall maintain any other types and forms of insurance required for the performance of this Contract as required in the Scope of Work.

**Written Verification of Insurance.** Upon execution of this Contract, Contractor shall provide the Commission written verification of the existence and amount for each type of applicable insurance coverage. Within five (5) days of the execution date of the Contract, Contractor shall furnish proof of applicable insurance coverage to the Commission's Contract Manager by standard Association for Cooperative Operations Research and Development (ACORD) form certificates of insurance. In the event that any applicable coverage is cancelled by the insurer for any reason, Contractor shall immediately notify the Commission's Contract Manager in writing of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

**Commission Not Responsible for Insurance Deductible.** The Commission shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Contractor providing such insurance.

#### **NOTICE TO PROCEED**

A purchase order will be issued following the official award date. Prior to proceeding, the Contractor will receive a "Notice to Proceed" from the Commission Contract Manager. The Notice to Proceed will not be issued until after the Contractor receives the Direct Order Contract, furnishes the Commission's Contract Manager with insurance documentation, bonds and all permitting is in place.

#### **CHANGE ORDER**

If a Purchase Order Change Order is required for any portion of any job, the Contractor shall **not** commence to purchase materials for the amended work to be performed, nor proceed with the outlined duties described without prior written approval and receiving a revised copy of the approved Purchase Order in his/her possession. The contractor shall request in writing, a change order, outlining the reasons, and the itemized costs required for the change order.

## **TERMINATION**

**Commission Unilateral Termination.** The Commission may unilaterally terminate this Contract for convenience by providing the Contractor with thirty (30) calendar days of written notice of its intent to terminate. Contractor shall not be entitled to recover any cancellation charges or lost profits.

**Termination – Fraud or Willful Misconduct.** This Contract shall terminate immediately in the event of fraud or willful misconduct on the part of the Contractor. In the event of such termination, the Commission shall provide Contractor with written notice of termination.

**Termination - Funds Unavailability.** In the event funds to finance this Contract become unavailable or if federal or state funds upon which this Contract is dependent are withdrawn or redirected, the Commission may terminate this Contract upon no less than twenty-four (24) hours' notice in writing to Contractor. Said notice shall be delivered by certified mail, return receipt requested or in person with proof of delivery. The Commission shall be the final authority as to the availability of funds and will not reallocate funds appropriated for this Contract to another program thus causing "lack of funds." In the event of termination of this Contract under this provision, Contractor will be compensated for any work satisfactorily completed prior to notification of termination.

**Termination – Other.** The Commission may terminate this Contract if the Contractor fails to: 1.) comply with all terms and conditions of this Contract; 2.) produce each deliverable within the time specified by the Contract or extension; 3.) maintain adequate progress, thus endangering the performance of the Contract; or, 4.) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences for default. The rights and remedies of the Commission in this clause are in addition to any other rights and remedies provided by law or under the Contract. Contractor shall not be entitled to recover any cancellation charges or lost profits.

**Contractor Discontinuation of Activities upon Termination Notice.** Upon receipt of notice of termination, the Contractor shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. Upon termination of this Contract, the Contractor shall promptly render to the Commission all property belonging to the Commission. For the purposes of this section, property belonging to the Commission shall include, but shall not be limited to, all books and records kept on behalf of the Commission.

## **ELIGIBILITY**

The Contractor shall be licensed as necessary to perform under this contract as may be required by law, rule, or regulation; and shall provide evidence of such compliance to the Commission upon request.

By acceptance of this contract, the Contractor warrants that it has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good-faith performance as a responsible contractor, and that the Contractor shall comport with Chapter 287, F.S., and all other applicable rules and laws.

## **RELATIONSHIP OF THE PARTIES**

The parties agree that there is no conflict of interest or any other prohibited relationship between the Contractor and the Commission.

## **PROHIBITION OF UNAUTHORIZED ALIENS**

In accordance with federal Executive Order 96-236, the Commission shall consider the employment by the Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Contract if the Contractor knowingly employs unauthorized aliens.

## **EMPLOYMENT ELIGIBILITY VERIFICATION**

**Requirement to Use E-Verify.** Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, requires Commission contracts in excess of nominal value to expressly require the Contractor to: 1.) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the Contract term; and, 2.) include in all subcontracts under this Contract, the requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.

**E-Verify Online.** E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of federal contractors, however, may vary, as stated in Article II.D.1.c. of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found online at [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm)

**Enrollment in E-Verify.** If Contractor does not have an E-Verify MOU in effect, the Contractor must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Contract.

**E-Verify Recordkeeping.** The Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Commission or other authorized state entity consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program (which can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

**Employment Eligibility Verification.** Compliance with the terms of the Employment Eligibility Verification provision is made an express condition of this Contract and the Commission may treat a failure to comply as a material breach of the Contract.

## **DISCRIMINATION**

**Non-Discrimination in Performance.** No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Contract.

**Discriminatory Vendor List.** In accordance with Section 287.134, F.S., an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or 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. Contractor has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

## **PUBLIC ENTITY CRIMES**

**Convicted Vendor List.** Pursuant to Subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or 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 thirty-six (36) months from the date of being placed on the convicted vendor list.

**Notice of Conviction of Public Entity Crime.** Any person must notify the Department of Management Services and the Commission within 30 days after conviction of a public entity crime applicable to that person or an affiliate of that person as defined in Section 287.133, F.S.

#### **CONTRACT RELATED PROCUREMENT**

**PRIDE.** In accordance with Section 946.515(6), F.S., if a product or service required for the performance of this Contract is certified by or is available from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) and has been approved in accordance with Subsection 946.515(2), F.S., the following statement applies:

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 [PRIDE] in the same manner and under the same procedures set forth in Subsections 946.515(2) and (4), F.S.; 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.

The above clause is not applicable to subcontractors unless otherwise required by law. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

**Respect of Florida.** In accordance with Subsection 413.036(3), F.S., if a product or service required for the performance of this Contract is on the procurement list established pursuant to Subsection [413.035\(2\)](#), F.S., the following statement applies:

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, F.S., in the same manner and under the same procedures set forth in Subsections 413.036(1) and (2), F.S.; 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>.

**Procurement of Recycled Products or Materials.** Contractor agrees to procure any recycled products or materials which are the subject of or are required to carry out this Contract in accordance with Section 403.7065, F.S.

#### **FEDERAL DEBARMENT/SUSPENSION CERTIFICATION FORM**

**Contractor Federal Certification.** In accordance with federal Executive Order 12549, Debarment and Suspension, Contractor shall agree and certify that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the Contractor shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.

#### **COMMITMENT OF FUNDS**

The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.



## **AUTHORIZED COMPENSATION**

It is understood and agreed that all compensation under this bid is specifically limited to the Contractor's bid price accepted by the Commission, and to the specific procedure for payment established in this bid and the Purchase Order executed pursuant to it. The Commission is not liable for any costs, fees, expenses or any other compensation whatsoever incurred or charged by the Contractor, other than the bid price paid for the work specifically described in the Scope of Work, which work is actually accomplished and invoiced by the Contractor subsequent to the Commission's notice to proceed (or other notice to begin work). Thus the Commission is not liable for any costs incurred or charged by the Contractor in anticipation of responding to, or performing work described in, this bid, including but not limited to equipment or personnel procured by the Contractor in anticipation of such work. The Commission is not responsible to the Contractor for any loss or damages resulting from circumstances unforeseen at the time of publication of this bid including, but not limited to, those resulting from a "force majeure".

## **INVOICING**

The Contractor shall be paid upon submission of properly certified invoice(s) to the Commission after delivery and acceptance of commodities or services as expressed in writing by the Contract Manager. Invoices shall contain detail sufficient for a proper pre-audit and post-audit thereof and shall contain the purchase order/contract number and the contractor's Federal Employer Identification Number or Social Security Number. FAILURE TO SUPPLY INVOICE WHICH PROPERLY CORRESPONDS TO THE PURCHASE ORDER/WRITTEN AGREEMENT, MAY DELAY THE CONTRACTOR PAYMENT PROCESS. The Commission may request additional documentation necessary to review and process the invoice.

## **PAYMENT SCHEDULE**

Submit for approval by the Commission Contract Manager a printed Schedule of Values on AIA Form G703 - Application and Certificate for Payment Continuation Sheet. Partial payments may be made after satisfactory completion of each item on the approved Schedule of Values or as a percentage determined by the Project Manager and approved by the Commission Contract Manager. Partial payments will be made upon submission of an original and three (3) copies of each application on AIA Form G702 - Application and Certificate for Payment and AIA G703 - Continuation Sheet. Also, properly completed Certificate of Partial Payments forms, as outlined in the "Certificate of Partial Payment" clause contained in the General Conditions.

## **ELECTRONIC FUNDS TRANSFER (EFT)**

The State of Florida can deposit contractor payments directly into your bank account. Contractors can register for EFT at [http://www.myfloridacfo.com/aadir/direct\\_deposit\\_web/Vendors.htm](http://www.myfloridacfo.com/aadir/direct_deposit_web/Vendors.htm). *Note:* Your business name registered for EFT, must match the name listed in MFMP VIP registration to receive direct deposit payments. There can only be one (1) financial institution's account information on file for one (1) federal tax identification number (SSN or FEIN). Payments cannot be sent to two (2) or more financial institutions.

## **AUTOMATED CLEARING HOUSE (ACH)**

To make transaction fee payments, contractors can register for debit ACH at [http://dms.myflorida.com/business\\_operations/state\\_purchasing/myflorida\\_marketplace/mfmp\\_vendors/vendor\\_toolkit/forms\\_for\\_vendors](http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/mfmp_vendors/vendor_toolkit/forms_for_vendors) and download the ACH form. Complete the ACH form and submit it electronically (per the instructions on the form) to the Department of Management Services to process. *Note:* Registering for ACH can take up to fourteen (14) days.

## **CERTIFICATE OF PARTIAL PAYMENT**

The Contractor will be required to complete a Certificate of Partial Payment form (**Attachment D**) to receive partial payments if such provision is included in the contract or purchaser order. This form must be submitted to the Contract Manager with each invoice requesting partial payment. The Contract Manager shall supply copies of these forms to the Contractor upon request. A minimum of ten percent

(10%) of the total project cost shall be held back for final payment. Final payment will only be made once the Commission Contract Manager has agreed to project completeness.

### **PROMPT PAYMENT CLAUSE**

Section 215.422, F.S. provides that agencies have 5 working days to inspect and approve goods and services, unless bid specifications or the P.O. specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to Section 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Agency's Fiscal Section at 850/488-3323. Payments to health care providers for hospitals, medical or other health care services, shall be made not more than 35 days from the date of eligibility for payment is determined, and the daily interest rate is .03333%. Invoices returned to a contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency. A Vendor Ombudsman, whose duties include acting as an advocate for contractors who may be experiencing problems in obtaining timely payments from a State agency, may be contacted at (850) 410-9724 or by calling the State Comptroller's Hotline, 1-800-848-3792.

### **PUBLIC RECORDS OF NONGOVERNMENT CONTRACTORS**

All records in conjunction with this contract shall be public records and shall be treated in the same manner as other public records are under Chapter 119, Florida Statutes.

### **PUBLIC RECORDS**

- A. This Contract may be unilaterally canceled by the Commission for refusal by the Contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Contract, unless exemption for such records is allowable under Florida law.
- B. If the Contractor meets the definition of "Contractor" in Section 119.0701(1)(a) F.S., the Contractor shall comply with the following:
  - i. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF THE CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 850-488-6553, [RecordsCustodian@myfwc.com](mailto:RecordsCustodian@myfwc.com), and 620 South Meridian Street, Tallahassee FL 32399**
  - ii. Keep and maintain public records required by the Commission to perform the service.
  - iii. Upon request from the Commission's custodian of public records, provide the Commission 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, F.S. or as otherwise provided by law.
  - iv. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Commission.
  - v. Upon completion of the contract transfer, at no cost, to the Commission all public records in possession of the Contractor or keep and maintain public records required by the Commission to perform the service. If the Contractor transfers all public records to the Commission upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon

- request from the Commission's custodian of public records, in a format that is compatible with the information technology systems of the Commission.
- vi. Requests for Records; NONCOMPLIANCE – A request to inspect or copy public records relating to Commission's contract for services must be made directly to the Commission. If the Commission does not possess the requested records, the Commission shall immediately notify the Contractor of the request, and the Contractor must provide the records to the Commission or allow the records to be inspected or copied within a reasonable time. If a Contractor does not comply with the Commission's request for records, the Commission shall enforce the contract provisions in accordance with the contract. A Contractor who fails to provide the public records to the Commission within a reasonable time may be subject to penalties under s. 119.10.
  - vii. Civil Action – If a civil action is filed against the Contractor to compel production of public records relating to the Commission's contract for services, the court shall assess and award against the Contractor and the reasonable costs of enforcement including reasonable attorney fees, if:
    - a. The court determines that the Contractor unlawfully refused to comply with the public records request within a reasonable time; and
    - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Contractor has not complied with the request, to the Commission and to the Contractor. A notice complies if it is sent to the Commission's custodian of public records and to the Contractor at the Contractor's address listed on its contract with the Commission's or the Contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format. A Contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

#### **COOPERATION WITH INSPECTOR GENERAL**

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any 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 Agreement. 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.

#### **RECORD KEEPING REQUIREMENTS**

**Contractor Responsibilities.** The Contractor shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract, in accordance with generally accepted accounting principles.

**State Access to Contractor Books, Documents, Papers, and Records.** The Contractor shall allow the Commission, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or authorized representatives of the state or federal government to have access to any of Contractor's books, documents, papers, and records, including electronic storage media, as they may relate to this Contract, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

**Contractor Records Retention.** Unless otherwise specified in the Scope of Work, these records shall be maintained for ten (10) fiscal years following the close of this Contract, or the period required for this particular type of project by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. Contractor shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.

**Contractor Responsibility to Include Records Requirements – Subcontractors.** In the event any work is subcontracted under this Contract, Contractor shall include the aforementioned audit and record keeping requirements in all subcontract agreements.

**Compliance with Federal Funding Accountability and Transparency.** Any federal funds awarded under this Contract must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. The intent of the FFATA is to empower every American with the ability to hold the government accountable for each spending decision. The result is to reduce wasteful spending in the government. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website: [www.USASpending.gov](http://www.USASpending.gov). Grant recipients awarded a new Federal grant greater than or equal to \$25,000 awarded on or after October 1, 2010 are subject to the FFATA. Contractor agrees to provide the information necessary, over the life of this Contract, for the Commission to comply with this requirement.

#### **OWNERSHIP OF DOCUMENTS/DATA/REPORTS/RESEARCH/SURVEYS ETC.**

The Contractor hereby agrees that all documents (data, reports, research, surveys, etc.) in hard copy or electronic that are collected or used for this project are the sole property of the Commission. The Contractor also hereby agrees to unconditionally transfer and assign to the Commission all copyright claims, trade secrets or other proprietary rights with respect to such documents. Upon request by the Commission at any time during and for 5 years after the expiration of this agreement, Contractor shall immediately deliver, transfer, and transmit to the Commission all originals and all copies of said documents and materials referenced herein.

#### **INDEMNIFICATION.**

If Contractor is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. If Contractor is not a state agency or subdivision as defined above, 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 the Commission, 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 Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Commission.

#### **INTELLECTUAL PROPERTY RIGHTS**

**Contractor's Preexisting Intellectual Property (Proprietary) Rights.** Unless specifically addressed otherwise in the Scope of Work, intellectual property rights to the Contractor's preexisting property will remain with the Contractor. If Contractor is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for or on account of any copyrighted, patented, or un-patented invention, process or article manufactured or supplied by Contractor. If Contractor is not a state agency or subdivision as defined above, Contractor shall indemnify and hold harmless the Commission and its employees from any liability, including costs, expenses, and attorney's fees, for or on account of any copyrighted, patented, or un-patented invention, process or article manufactured or supplied by Contractor.

**Proceeds Related to Intellectual Property Rights.** Proceeds derived from the sale, licensing, marketing or other authorization related to any intellectual property right created or otherwise developed by the Contractor under this Contract for the Commission shall be handled in the manner specified by applicable state statute.

**Commission Intellectual Property Rights.** Where activities supported by this Contract produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Commission and the State of Florida have the unlimited, royalty-free, nonexclusive, irrevocable right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Commission to do so. If this Contract is supported by federal funds, the federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

#### **CONFIDENTIALITY/PUBLIC RECORDS LAW**

Bidders are cautioned that Florida law generously defines what constitutes a public record and grants broad rights of public access to those records; see, for example, section 119.07 of the Florida Statutes. If a Bidder believes that its response contains information that is confidential or exempt from disclosure under Florida Law, the Bidder shall clearly segregate and mark that information (for example, stamp each page "Confidential" and place it in an envelope marked "Confidential") and briefly describe in writing the grounds and specific legal citations for claiming exemption from the public records law. If after the notice of intended decision or 30 days after bid opening, whichever is earlier, the Commission receives a public records request related to the solicitation, the Commission will provide copies of public records that are not exempt to the requester. The Commission will endeavor to provide notice to the Bidder of all public records requests received related to documents provided by the Bidder that were marked pursuant to this paragraph. In no event shall the Bidder hold the Commission or any of its employees or agents liable for disclosing, or otherwise failing to protect the confidentiality of, information submitted in response to this solicitation.

#### **SECURITY AND CONFIDENTIALITY**

The Contractor shall maintain the security of any information created under this Contract that is identified or defined as "confidential" in the Scope of Work. 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. To ensure confidentiality, the Contractor shall take appropriate steps regarding its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

#### **COMPLIANCE WITH LAWS**

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Contractors submitting responses to this solicitation must also provide electronic and information technology resources in complete compliance with the accessibility standards provided in Rule 60-8.002, F.A.C.; these standards establish a minimum level of accessibility. Violation of such laws shall be grounds for Contract termination.

#### **PROHIBITION AGAINST LOBBYING**

The Contractor certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above in connection with this Contract, the Contractor shall submit Standard Form-LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes. The Contractor shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.

Pursuant to the Lobbying Disclosure Act of 1995, the Contractor agrees to refrain from entering into any subcontracts under this Agreement with any organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

**SEVERABILITY AND CHOICE OF VENUE**

This Contract 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 Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Contract 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 Contract. Any action in connection herewith, in law or equity, shall be brought in Leon County, Florida.

**JURY TRIAL WAIVER**

As consideration of this Contract, the parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Contract.

**CERTIFICATE OF CONTRACT COMPLETION**

The Contractor will be required to complete a Certificate of Contract Completion form (**Attachment E**) when all work has been completed and accepted. This form must be submitted to the Commission Contract Manager with the Contractor's final invoice for payment to be authorized. The Contract Manager shall supply copies of these forms to the Contractor upon request. The Contract Manager shall submit the completed form with the invoice to the Commission's Accounting Services.

**FLORIDA EMERGENCY SUPPLIER NETWORK**

Suppliers of products and services needed by government during hurricanes and other emergencies are invited to join a Florida Emergency Supplier Network. Suppliers will identify emergency products and services available, emergency contact information, plans to maintain their operations and supply chain in emergency circumstances, and pricing arrangements.

This information will be organized and furnished to buyers at State and County Emergency Operations Centers, and suppliers will be recognized with a certificate identifying their business as a member of the Florida Emergency Supplier Network. Please go to the following website to obtain a FESN application and contract:

[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/florida\\_emergency\\_network/florida\\_emergency\\_supplier\\_network\\_fesn](http://www.dms.myflorida.com/business_operations/state_purchasing/florida_emergency_network/florida_emergency_supplier_network_fesn)

Please provide the following information for our records on the ownership of your firm (at least 51 percent owned or controlled).

- |                   |                  |                         |
|-------------------|------------------|-------------------------|
| 1. _____Caucasian | 3. _____Hispanic | 5. _____Native American |
| 2. _____Black     | 4. _____Asian    | 6. _____Women           |



By Commission policy, a bid is considered “closed” (or sealed) - and no information will be provided by phone or in person until the agency provides notice of an agency decision OR thirty days following the bid opening date, beginning count the day after the opening - whichever comes first. See 60A-1.002(13) Administrative Code, and 120.57(3) (a), F.S.

The Commission reserves the right to reject any and all quotations, and to waive any minor irregularities or technicalities in an otherwise valid bid.

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**REFERENCES**

**FWC 17/8-9C**

A minimum of three (3) references from persons or firms for whom the bidder has performed similar jobs as per the specifications in this bid must be supplied with the bid. The firms and/or contact persons should be available between the hours of 8:00 AM and 5:00 PM, Eastern Time, Monday through Friday. If any reference is not available as stated above, this may be cause for rejection of the Bidder's bid. Provide a description (scope of work) of each job.

NAME OF COMPANY: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/Z1P: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

JOB DATE: \_\_\_\_\_

DESCRIPTION (SCOPE OF WORK): \_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

NAME OF COMPANY: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/Z1P: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

JOB DATE: \_\_\_\_\_

DESCRIPTION (SCOPE OF WORK): \_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

NAME OF COMPANY: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/Z1P: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

JOB DATE: \_\_\_\_\_

DESCRIPTION (SCOPE OF WORK): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**CONTRACTOR NAME**

\_\_\_\_\_  
**AUTHORIZED SIGNATURE**



## SCOPE OF WORK

### Project description:

Contractor to demolish and remove existing ±5' sidewalk, wood rail fencing, vegetation along existing sidewalk, three (3) existing pavilions and three (3) concrete slabs.

Contractor to furnish and install: asphalt parking and turnaround area with concrete apron, ±5' wide ADA connector sidewalk, limerock parking area, entrance road with connections to existing Merl road and new asphalt parking area, drainage pipes and appurtenances, signage, striping, wheel stops, one (1) RCP shelter LW-SQ24-04 or equal with a concrete slab shown at pavilion #1 location, site grading and silt fencing. Note that the CXT vault toilet is to be installed by others, but must be in place prior to the contractor connecting a sidewalk to it.

Project to include all materials, equipment and labor necessary to complete the scope of work. Asbuilt drawings in autocad 2010 or later are required upon completion of construction. Any item not specifically listed as an additional item is part of the scope of work. All demolished and unsuitable material shall be disposed of off-site in a legal manner.

Additional item #1: contractor to furnish and install (2) two RCP shelters LW-SQ16-06 or equal and (2) two concrete slabs below them. One each at pavilion locations #2 and #3 as shown.

### Notes:

1. Any product specified by brand or manufacturer within the plans and specifications may be substituted by the contractor with an equal or better product after obtaining written approval from the owner.
2. Where compliance with two or more standards is specified, noted, or drawn for the same item or items, and they establish different or conflicting requirements for minimum quantities or quality levels, the most stringent item or items may be required without additional cost to the owner. All such conflicts are to be referred to the owner for a final determination as what will be required before proceeding with the work in question.
3. Contractor shall be responsible for upfront payment of all materials required to complete the project (including premanufactured buildings).

### **All technical specifications and construction plans are located at:**

<https://explorer.myflorida.com/>

To access documents at this website, use the following Username and Password:

Username: FWC\_Bid\_Info

Password: FWCvendors1!

Access the folder(s) with this bid number and title to download the associated files.

**PRICE SHEET**  
**REQUEST FOR FORMAL WRITTEN QUOTATION SHEET**  
**FWC 17/18-9C**

AN AWARD WILL BE MADE TO THE RESPONSIVE, RESPONSIBLE VENDOR THAT SUBMITS THE LOWEST PRICE FOR THE BASE BID AND ALTERNATES. VENDOR SHALL SUBMIT A PRICE FOR ALL ALTERNATIVE ITEMS. FAILURE TO SUBMIT A PRICE FOR THE BASE BID AND ADDITIONAL ALTERNATIVE ITEMS WILL RESULT IN VENDOR BEING FOUND NON-RESPONSIVE. THE COMMISSION RESERVES THE RIGHT TO MAKE AN AWARD FOR THE BASE BID(S) ONLY, OR THE BASE BID(S) AND ANY ALTERNATIVE ITEM(S) CHOSEN BY THE COMMISSION. ALTERNATIVE ITEMS MAY BE SELECTED IN NUMERICAL ORDER. ALTERNATIVE ITEMS MAY ALSO BE SELECTED IN ANY SEQUENCE, SO LONG AS SUCH ACCEPTANCE OUT OF ORDER DOES NOT ALTER THE DESIGNATION OF THE LOW BIDDER.

**BASE BID:** Contractor to demolish and remove existing ±5' sidewalk, wood rail fencing, vegetation along existing sidewalk, three (3) existing pavilions and three (3) concrete slabs.

Contractor to furnish and install: asphalt parking and turnaround area with concrete apron, ±5' wide ADA connector sidewalk, limerock parking area, entrance road with connections to existing Merl road and new asphalt parking area, drainage pipes and appurtenances, signage, striping, wheel stops, one (1) RCP shelter LW-SQ24-04 or equal with a concrete slab shown at pavilion #1 location, site grading and silt fencing. Note that the CXT vault toilet is to be installed by others, but must be in place prior to the contractor connecting a sidewalk to it.

Project to include all materials, equipment and labor necessary to complete the scope of work. Asbuilt drawings in autocad 2010 or later are required upon completion of construction. Any item not specifically listed as an additional item is part of the scope of work. All demolished and unsuitable material shall be disposed of off-site in a legal manner.

BASE AMOUNT: \$ \_\_\_\_\_ (1)

- A. **ALTERNATE:** Contractor to furnish and install (2) two RCP shelters LW-SQ16-06 or equal and (2) two concrete slabs below them. One each at pavilion locations #2 and #3 as shown.

ADDITIVE ALTERNATE A AMOUNT: \$ \_\_\_\_\_ (2)

**Total Price (Add Base Bid and Alternate A together) \$ \_\_\_\_\_ (Total**

Price bid shall be less any Federal or State sales or use taxes. The bidder recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay taxes on services, goods and/or equipment purchased incident to such service. Bid price shall include all mobilization and demobilization, and all necessary items to complete the project. The bid price shall also include all necessary materials and labor to complete the project specifications.

\_\_\_\_\_  
CONTRACTOR NAME

\_\_\_\_\_  
AUTHORIZED SIGNATUR

**FWC 17/18-9C  
ATTACHMENT A**

**Purchase Order  
Terms & Conditions  
04/27/2017**

**Section 1. Purchase Order.**

**A. Composition and Priority.**

The Contractor agrees to provide commodities, contractual services, or professional services to the Agency within the manner and at the location specified in the Purchase Order, and any attachments to the Purchase Order. These Purchase Order Terms and Conditions, whether generic or specific, shall take precedence over any inconsistent or conflicting provision in the State of Florida, General Contract Conditions, PUR 1000. Additionally, the terms of the Purchase Order supersede the terms of any and all prior agreements with respect to this purchase.

**B. Initial Term.**

Unless otherwise specified, the Purchase Order begins on the date of issuance. Contractual services or commodities to be provided by the Contractor shall be completed by the date specified on the Purchase Order end date.

**Section 2. Performance.**

**A. Performance Standards.**

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Statement of Work and attachments to the Purchase Order. The Agency shall be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof. Coordination shall be maintained by the Contractor with representatives of the Agency, or of other agencies involved in the project on behalf of the Agency.

**B. Performance Deficiency.**

If the Agency determines that the performance of the Contractor is unsatisfactory, the Agency may notify the Contractor of the deficiency to be corrected, which correction shall be made within a time-frame specified by the Agency. The Contractor shall provide the Agency with a corrective action plan describing how the Contractor will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Agency, the Contractor will be assessed a non-performance retainage equivalent to 10% of the total invoice amount or as specified in the contractual documents. The retainage will be applied to the invoice for the then-current billing period. The retainage will be withheld until the Contractor resolves the deficiency. If the deficiency is subsequently resolved, the Contractor may invoice the Agency for the retained amount during the next billing period. If the Contractor is unable to resolve the deficiency, the funds retained will be forfeited.

**Section 3. Payment and Fees.**

**A. Payment Invoicing.**

The Contractor will be paid upon submission of properly certified invoice(s) to the Agency after delivery and acceptance of commodities or contractual services is confirmed in writing by the Agency. Invoices shall contain detail sufficient for audit thereof and shall contain the Purchase Order and the Contractor's Federal Employer Identification Number or Social Security Number.

**B. Payment Timeframe.**

Section 215.422, Florida Statutes (F.S.), provides that agencies have five (5) working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Interest penalties for late payment are also provided for in section 215.422, F.S. A Vendor Ombudsman, whose duties include acting as an advocate for Vendors who may be experiencing problems obtaining timely payment(s) from an Agency, may be contacted at 850-413-5516, or Vendors may call the State Comptroller's Hotline at 1-800-848-3792.

**C. MyFloridaMarketPlace Fees.**

The following language is included pursuant to rule 60A-1.031, Florida Administrative Code:

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. Payments issued by Agencies or Eligible Users to Vendors for purchases of commodities or contractual services are subject to Transaction Fees, as prescribed by rule 60A1.031, Florida Administrative Code, or as may otherwise be established by law. Vendors shall submit monthly reports required by the rule. All reports shall be subject to audit. Failure to pay Transaction Fees or submit reports shall constitute grounds for default and exclusion from business with the State of Florida.

**D. Payment Audit.**

Records of costs incurred under terms of the Purchase Order shall be maintained and made available to the Agency upon request at all times during the period of the Purchase Order, and for a period of three years thereafter. Records of costs incurred shall include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Agency for audit.

**E. Annual Appropriation and Travel.**

Pursuant to section 287.0582, F.S., if the Purchase Order binds the State or an executive agency for the purchase of services or tangible personal property for a period in excess of one (1) fiscal year, the State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. Travel expenses are not reimbursable unless specifically authorized in writing, and shall be reimbursed only in accordance with section 112.061, F.S.

**F. AUTOMATED CLEARING HOUSE (ACH)**

To make transaction fee payments, contractors can register for debit ACH at [http://dms.myflorida.com/business\\_operations/state\\_purchasing/myflorida\\_marketplace/mfmp\\_vendors/vendor\\_toolkit/forms\\_for\\_vendors](http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/mfmp_vendors/vendor_toolkit/forms_for_vendors) and download the ACH form. Complete the ACH form and submit it electronically (per the instructions on the form) to the Department of Management Services to process. Note: Registering for ACH can take up to fourteen (14) days.

**G. ELECTRONIC FUNDS TRANSFER (EFT)**

The State of Florida can deposit contractor payments directly into your bank account. Contractors can register for EFT at [http://www.myfloridacfo.com/aadir/direct\\_deposit\\_web/Vendors.htm](http://www.myfloridacfo.com/aadir/direct_deposit_web/Vendors.htm). Note: Your business name registered for EFT, must match the name listed in MFMP VIP registration to receive direct deposit payments. There can only be one (1) financial institution's account information on file for one (1) federal tax identification number (SSN or FEIN). Payments cannot be sent to two (2) or more financial institutions.

## **Section 4. Liability.**

### **A. Reasonably Associated Insurance.**

During the term of the Contract, Contractor, at its sole expense, shall maintain insurance coverage of such types 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, and failure to maintain such coverage may void the Contract. The limits of coverage under each policy maintained by Contractor shall not be interpreted as limiting Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers licensed and authorized to write policies in Florida.

### **B. Workers Compensation.**

To the extent required by Chapter 440, F.S., the Contractor will either be self-insured for Worker's Compensation claims, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all of its employees connected with the work of this project, with minimum employers' liability limits of **\$100,000.00** per accident, **\$100,000.00** per person, and **\$500,000.00** policy aggregate. Such policy shall cover all employees engaged in any contract work. If any work is subcontracted, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law (Chapter 440, F.S.). In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Commission, for the protection of its employees not otherwise protected. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

### **C. General Liability Insurance.**

By execution of this Contract, unless Contractor is a state agency or subdivision as defined by Subsection 768.28(2), F.S. or unless otherwise provided for in the Scope of Work, Contractor shall provide reasonable and adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. A self-insurance program established and operating under the laws of the State of Florida may provide such coverage.

### **D. Insurance Required for Performance.**

During the Contract term, Contractor shall maintain any other types and forms of insurance required for the performance of this Contract as required in the Scope of Work.

### **E. Written Verification of Insurance.**

Upon execution of this Contract, Contractor shall provide the Commission written verification of the existence and amount for each type of applicable insurance coverage. Within five (5) days of the execution date of the Contract, Contractor shall furnish proof of applicable insurance coverage to the Commission's Contract Manager by standard Association for Cooperative Operations Research and Development (ACORD) form certificates of insurance. In the event that any applicable coverage is cancelled by the insurer for any reason, Contractor shall immediately notify the Commission's Contract Manager in writing of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

### **F. Commission Not Responsible for Insurance Deductible.**

The Commission shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Contractor providing such insurance.

**G. Indemnity.**

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the State of Florida, its officers, employees and agents harmless from all fines, claims, assessments, suits, judgments, or damages, consequential or otherwise, including court costs and attorney's fees, arising out of any acts, actions, breaches, neglect or omissions of the Contractor, its employees, agents, subcontractors, assignees or delegates related to the Purchase Order, as well as for any determination arising out of or related to the Purchase Order, that the Contractor or Contractor's employees, agents, subcontractors, assignees or delegates are not independent contractors in relation to the Agency. The Purchase Order does not constitute a waiver of sovereign immunity or consent by the Agency or the State of Florida or its subdivisions to suit by third parties. If this is a Professional Services Purchase Order as defined in Subsection 725.08 F.S., then notwithstanding the provisions of Subsection 725.06 F.S., the design professional shall only be liable for, and fully indemnify, defend, and hold harmless the State, the Commission, and their officers, agents, and employees, for actions caused in whole or in part, by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the Purchase order. However, nothing contained herein shall constitute a waiver by the Commission of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

**Section 5. Compliance with Laws.**

**A. Non-Discrimination in Performance.**

No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Contract.

**B. Discriminatory Vendor List.**

In accordance with Section 287.134, F.S., an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or 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. Contractor has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

**C. Lobbying.**

In accordance with sections 11.062 and 216.347, F.S., the Purchase Order funds are not for the purpose of lobbying the Legislature, the judicial branch, or an Agency. Pursuant to subsection 287.058(6), F.S., the Purchase Order does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Purchase Order, after the Purchase Order's execution and during the Purchase Order's term.

**D. Gratuities.**

The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, give, or agree to give anything of value to 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 anything of value for the benefit of, or at the direction or request of, any State officer or employee.

**E. Public Records.**

- i. This Contract may be unilaterally canceled by the Commission for refusal by the Contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter

119, Florida Statutes, and made or received by the Contractor in conjunction with this Contract, unless exemption for such records is allowable under Florida law.

ii. If the Contractor meets the definition of “Contractor” in Section 119.0701(1)(a) F.S., the Contractor shall comply with the following:

1. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF THE CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 850-488-6553, [RecordsCustodian@myfwc.com](mailto:RecordsCustodian@myfwc.com), and 620 South Meridian Street, Tallahassee, FL 32399.**
2. Keep and maintain public records required by the Commission to perform the service.
3. Upon request from the Commission’s custodian of public records, provide the Commission 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, F.S. or as otherwise provided by law.
4. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Commission.
5. Upon completion of the contract transfer, at no cost, to the Commission all public records in possession of the Contractor or keep and maintain public records required by the Commission to perform the service. If the Contractor transfers all public records to the Commission upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon request from the Commission’s custodian of public records, in a format that is compatible with the information technology systems of the Commission.

#### **F. Communications and Confidentiality.**

The Contractor agrees that it shall make no statements, press releases, or publicity releases concerning the Purchase Order or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Purchase Order, or any particulars thereof, during the period of the Purchase Order, without first notifying the Agency’s Contract Manager or the Agency’s designated contact person and securing prior written consent. The Contractor shall maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to the Purchase Order and shall comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor’s confidentiality procedures shall be consistent with the most recent version of the Agency’s security policies, protocols, and procedures. The Contractor shall also comply with any applicable professional standards with respect to confidentiality of information.

## **G. Intellectual Property.**

- i. **Contractor's Preexisting Intellectual Property (Proprietary) Rights.** Unless specifically addressed otherwise in the Scope of Work, Attachment A, intellectual and other intangible property rights to the Contractor's preexisting property will remain with the Contractor. If the Contractor is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for or on account of any copyrighted, patented, or un-patented invention, process or article manufactured or supplied by Contractor. If Contractor is not a state agency or subdivision as defined above, Contractor shall indemnify and hold harmless the Commission and its employees from any liability, including costs, expenses, and attorney's fees, for or on account of any copyrighted, patented, or un-patented invention, process or article manufactured or supplied by Contractor.
- ii. **Proceeds Related to Intellectual Property Rights.** Proceeds derived from the sale, licensing, marketing or other authorization related to any intellectual and other intangible property right created or otherwise developed by the Contractor under this Contract for the Commission shall be handled in the manner specified by applicable Florida State Statute and/or Federal program.
- iii. **Commission Intellectual Property Rights.** Where activities supported by this Contract produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Commission and the State of Florida have the unlimited, royalty-free, nonexclusive, irrevocable right to use, duplicate

and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Commission to do so. If this Contract is supported by federal funds, the federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

## **H. Convicted and Discriminatory Vendor Lists.**

Contractor hereby certifies that neither it, nor any person or affiliate of Contractor, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list. In accordance with sections 287.133 and 287.134, F.S., an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Purchase Order with any Agency.

## **I. Cooperation with Inspector General.**

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any 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 Agreement. 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.

## **J. Vendors on Scrutinized Companies List.**

Contractor certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, Contractor agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered



into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the Commission may immediately terminate this Agreement for cause if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors 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.

**K. Debarment and Suspension Contractor Federal Certification.**

If this Purchase Order relies on federal funds, in accordance with Federal Executive Order 12549 and 2 CFR Part 1400 regarding, Debarment and Suspension, the Contractor shall agree and certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency; and, that the Contractor shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.

**L. Drug Free Workplace.**

If this Purchase Order relies on federal funds, pursuant to the Drug-Free Workplace Act of 1988, the Contractor attests and certifies that the contractor will provide a drug-free workplace compliant with 41 U.S.C. 81.

**M. Prohibition against Lobbying.**

If this Purchase Order relies on federal funds, the Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. The Contractor also certifies that they have not engaged any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the Contractor with respect to this Contract and its related federal contract, grant, loan, or cooperative agreement; or, if the Contractor has engaged any registrant with respect to this Contract and its related Federal contract, grant, loan, or cooperative agreement, the Contractor shall, immediately provide the Commission Contract Manager a signed declaration listing the name of any said registrant. During the term of this Purchase Order, and at the end of each Calendar quarter in which any event occurs that materially affects the accuracy of this certification or declaration, the Contractor shall file an updated declaration with the Commission's Contract Manager. If any non federal funds are used for lobbying activities as described above in connection with this Purchase Order, the Contractor shall submit Standard Form LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes. The Contractor shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.

**Section 6. Subcontractors and Assignments.**

**A. Subcontractors.**

If Contractor is authorized to subcontract, Contractor shall ensure, and provide assurances to the Commission's Contract Manager upon request, that any subcontractor selected for work under this Contract has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Contract. Contractor must provide the Commission's Contract Manager with the names of any subcontractor considered for work under this Contract; the Commission reserves the right to reject any subcontractor. Contractor agrees to be responsible for all work performed and all expenses incurred with the project. Any subcontract arrangements must be evidenced by a written document available to the Commission's Contract Manager upon request. Contractor further agrees that the Commission shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. Contractor, at its expense, will defend the Commission against such claims. The following provisions apply, in addition to any terms and conditions included in the

Scope of Work. If subcontracting is permitted, the Contractor agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.

**B. Contractor Payments to Subcontractor.**

If subcontracting is permitted, the Contractor agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Commission in accordance with Section 287.0585, F.S., unless otherwise stated in the contract between Contractor and subcontractor. Contractor's failure to pay its subcontractors within seven (7) working days will result in a penalty charged against Contractor and paid to the subcontractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due.

**C. Assignment.**

The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Purchase Order without the prior written consent of the Agency. In the event of any assignment, the Contractor remains secondarily liable for performance of the Purchase Order, unless the Agency expressly waives such secondary liability. The Agency may assign the Purchase Order with prior written notice to the Contractor.

**Section 7. RESPECT and PRIDE.**

**A. RESPECT.**

In accordance with subsection 413.036(3), F.S., if a product or service required for the performance of the Purchase Order is on the procurement list established pursuant to subsection 413.035(2), F.S., the following statement applies:

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>.

**B. PRIDE.**

In accordance with subsection 946.515(6), F.S., if a product or service required for the performance of the Purchase Order is certified by or is available from Prison Rehabilitative Industries and

Diversified Enterprises, Inc. (PRIDE) and has been approved in accordance with subsection 946.515(2), F.S., the following statement applies:

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, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND

(4), F.S.; 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.prideenterprises.org>.

**Section 8. Miscellaneous.**

**A. Independent Contractor.**

The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the Agency and are not entitled to the benefits of State of Florida employees. The Agency shall not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Purchase Order.

**B. Governing Law and Venue.**

The laws of the State of Florida shall govern the Purchase Order. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Purchase Order. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Agency.

**C. Waiver.**

The delay or failure by the Agency to exercise or enforce any of its rights under the Purchase Order shall not constitute waiver of such rights.

As part of the consideration for this Contract, the Parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Contract, or with the products or services provided under this Contract, including but not limited to any claim by the Contractor of *quantum meruit*.

**D. Modification and Severability.**

If a Purchase Order Change Order is required for any portion of any job, the Contractor shall not commence to purchase materials for the amended work to be performed, nor proceed with the outlined duties described without prior written approval and receiving a revised copy of the approved Purchase Order in his/her possession. The contractor shall request in writing, a change order, outlining the reasons, and the itemized costs required for the change order.

The Purchase Order may only be modified by a change order agreed to by the Agency and the Contractor. Should a court determine any provision of the Purchase Order is invalid, the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Purchase Order did not contain the provision held to be invalid.

**E. Time is of the Essence.**

Time is of the essence with regard to each and every obligation of the Contractor. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

**F. MISCELLANEOUS.**

No firearms, alcohol or illegal substances are allowed on any Commission project site. Neither the Contractor nor any of its employees may possess firearms or alcohol while on the job site. The Contractor shall be responsible for the conduct of all Contractor personnel at all times while within the project area.

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**FWC 17/18-9C  
Attachment B  
General Conditions**

**PROJECT DESCRIPTION**

**Section 1. INTENT OF CONTRACT DOCUMENTS**

1.1 It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words, which have a well-known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein.

1.2 If during the performance of the Work Contractor discovers a conflict, error or discrepancy in the Contract Document, Contractor immediately shall report same to FWC in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the FWC. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.

1.3 Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications of other Contract Document provisions, Contractor shall be required to comply with the provision which is the more restrictive or stringent requirement upon the Contractor, as determined by the FWC. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

**Section 2. COMPENSATION AND PAYMENT**

2.1 Pay items are itemized in Schedule of values/deliverables. CONTRACTOR may invoice for items identified in Schedule of Values/Deliverables as each item is substantially completed and approved by the FWC construction administrator. Application for Certification and Payment, AIA Form G703, must be completed with a Schedule of Values/Deliverables, worksheet showing completed work. The FWC construction administrator will confirm completed work and sign and seal the Application for Payment or return the Application for Payment with deficient items identified to CONTRACTOR for revision.

2.2 Application for Payment may be made to the FWC on a monthly basis.

### Section 3. INVESTIGATION AND UTILITIES

3.1 Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quality of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

3.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities". Contractor shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

### Section 4. SCHEDULE

4.1. The Contractor, within ten (10) calendar days after receipt of the Notice of Award, shall prepare and submit to FWC, for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule may be provided in an electronic format. The Progress Schedule shall relate to all Work required by the Contract Documents and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work.

4.2. The Progress Schedule shall be updated bi-monthly by the Contractor. All monthly updates to the Progress Schedule shall be subject to the FWC's review and approval. Contractor shall submit the updates to the Progress Schedule with its Applications for Payment noted below. The FWC's review and approval of the submitted Progress Schedule updates shall be a condition precedent to the FWC's obligation to pay Contractor. **[NOTE: FOR LARGER PROJECTS, THROUGH THE SUPPLEMENTAL CONDITIONS OR TECHNICAL SPECIFICATIONS, FWC MAY WISH TO EXPAND UPON THE LEVEL OF DETAIL REQUIRED FOR THE PROJECT SCHEDULE.]**

### Section 5. SUBMITTALS AND SUBSTITUTIONS

5.1. Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.

5.2 Prior to submitting its first Application for Payment, Contractor shall provide to FWC a DVD showing the pre-construction conditions located within the limits of construction.

5.3. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item

is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by FWC if sufficient information is submitted by Contractor to allow the FWC to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by FWC from anyone other than Contractor and all such requests must be submitted by Contractor to FWC within thirty (30) calendar days after Notice of Award is received by Contractor.

5.4. If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the FWC for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with FWC for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the FWC in evaluating the proposed substitute. The FWC may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

5.5. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the FWC, if Contractor submits sufficient information to allow the FWC to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the FWC shall be the same as those provided herein for substitute materials and equipment.

5.6. The FWC shall be allowed a reasonable time within which to evaluate each proposed substitute. The FWC shall be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the FWC's prior written acceptance which shall be evidenced by either a Change Order or an approved Shop Drawing. The FWC may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

## **Section 6. DAILY REPORTS, AS-BUILTS AND MEETINGS**

6.1. Unless waived in writing by FWC, Contractor shall complete and submit to the FWC on a weekly basis a daily log of the Contractor's work for the preceding week in a format approved by the FWC. The daily log shall document all activities of Contractor at the Project site including, but not limited to, the following:

- 6.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project site, and any other weather conditions which adversely affect the Work and notification of the Office Operations Manager on site within 24 hours of any rain day that Contractor wishes to claim;

6.1.2. Description of Work being performed at the Project site that week and expected FWC staff interruptions;

6.1.3. Any unusual or special occurrences at the Project site; and the daily log shall not constitute nor take the place of any notice required to be given by Contractor to FWC pursuant to the Contract Documents.

6.2. Contractor shall maintain in a safe place at the Project site one record copy of the Contract Documents, as well as all shop drawings and other Contractor submittals and all written interpretations and clarifications issued by the FWC, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by the Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to FWC for reference. Upon completion of the Work, and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to FWC by Contractor for FWC.

6.3. Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. FWC, or any duly authorized agents or representatives of FWC, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

## **Section 7. CONTRACT TIME AND TIME EXTENSIONS**

7.1. Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission of Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents.

7.2. Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the FWC in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Contractor may have had to request a time extension.

7.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which FWC may be responsible, in whole or in part, shall relieve Contractor of his duty to perform or give rise to any right to damages or additional compensation from FWC. Contractor expressly acknowledges and agrees



that it shall receive no damages for delay. Contractor's sole remedy, if any, against FWC will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

## **SECTION 8. FINANCIAL CONSEQUENCES**

8.1 Time is of the essence in the performance of the Work under this Agreement. The "Commencement Date" shall be established in the Notice to Proceed to be issued by the FWC. Contractor shall commence the Work within five (5) calendar days from the Commencement Date. No Work shall be performed at the Project site prior to the Commencement Date. Any Work performed by Contractor prior to the Commencement Date shall be at the sole risk of Contractor. The Work shall be substantially completed within (150) calendar days from the Commencement Date. The Work shall be fully completed and ready for final acceptance by the FWC within (180) calendar days from the Commencement Date (herein "Contract Time"). No work under this contract shall commence until certificates of insurance (see Exhibit A, paragraph 13.2) have been received and acknowledged by the Purchasing Manager.

8.2 FWC and Contractor recognize that, since time is of the essence for this Agreement, FWC will suffer financial loss if the Work is not substantially completed within the time specified above, as said time may be adjusted as provided for herein. Should Contractor fail to substantially complete the Work within the time period noted above, FWC shall be entitled to assess, as liquidated damages, but not as a penalty, \$100 for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed on the date the FWC issues a Substantial Completion Certificate pursuant to the terms hereof.

8.3 FWC will retain 10% of all approved Applications for Payment. This retainage will be paid to CONTRACTOR at the time that all work is complete and punch list items corrected to the satisfaction of FWC

8.4 Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the FWC's actual damages at the time of contracting if Contractor fails to substantially complete the Work in accordance with the progress schedule.

8.5 When any period of time is reference to by days herein, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

## **Section 9. CHANGES IN THE WORK**

9.1 FWC shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of FWC, and FWC shall not be liable to the Contractor for any increased compensation without such written order. No officer, employee or agent of FWC is authorized to direct any extra or changed work orally.

9.2. A Change Order shall be issued and executed promptly after an agreement is reached between Contractor and FWC concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as FWC and Contractor shall mutually agree.

9.3. If FWC and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by FWC in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by FWC. If Contractor disagrees with the FWC's adjustment determination, Contractor must make a claim of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

9.4. In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to the Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by the Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above.

9.5. FWC shall have the right to conduct an audit of Contractor's books and records to verify the accuracy of the Contractor's claim with respect to Contractor's costs associated with any Change Order.

9.6. The FWC shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the Contractor.

## **Section 10. OTHER WORK**

10.1. FWC may perform other work related to the Project at the site by FWC's own forces, have other work performed by utility owners or through other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, notice thereof will be given to Contractor. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact to FWC within forty-eight (48) hours of being notified of the other work. If the Contractor fails to send the above required forty-eight (48) hour notice, the Contractor will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

10.2. Contractor shall afford each utility owner and other contractor (or FWC, if FWC is performing the additional work with FWC's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the FWC and the others whose work will be affected.

10.3. If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or FWC), Contractor shall inspect and promptly report to FWC in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

**Section 11. COMPLIANCE WITH LAWS**

11.1. Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety. If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify FWC in writing. Compliance with the above laws shall include but is not limited to: (1) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (2) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (3) Rules 38F and 38I, Florida Administrative Code; and (4) Florida Department of Transportation Manual of Traffic Control and Safe Practices. Failure to adhere to the requirements of the above named laws and regulations regarding safety and traffic control shall be grounds for an immediate work stoppage, either by FWC staff or the Contractor, until the deficiency is corrected.

**Section 12. CLEANUP AND PROTECTIONS**

12.1. Contractor agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by FWC.

12.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

**Section 13. ASSIGNMENT**

13.1. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of FWC. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward FWC.

**Section 14. PERMITS, LICENSES AND TAXES**

14.1. All permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Contractor. All permits or fees, including but not limited to, all license fees, permit fees, impact fees or inspection fees payable by Contractor to FWC have been disclosed to Contractor in the bidding documents or other request for proposal at the time the project was let for bid. If Contractor performs any Work without obtaining, or contrary to, such permits or licenses, Contractor shall bear all costs arising therefrom. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.

14.2. Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

## **Section 15. COMPLETION**

15.1. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the FWC shall promptly make such inspection and, if it finds the work acceptable and fully performed under the Contract Documents, shall promptly issue a final Certificate for Payment, stating that, on the basis of observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor is due and payable. The final payment shall not become due and payable until Contractor submits: (1) the Release and Affidavit (2) consent of surety to final payment, (3) if required by FWC, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by FWC.

## **Section 16. WARRANTY**

16.1. Contractor shall obtain and assign to FWC all express warranties given to Contractor or any subcontractors by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to FWC that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Contractor further warrants to FWC that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within (1) year after final completion, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from FWC. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which FWC is entitled as a matter of law.

16.2. Contractor shall transfer all equipment warranties to FWC upon completion of installation. Equipment shall be installed in compliance with manufacturer's recommendations so that manufacturer's warranties will not be voided. Any conflicts between the Construction Plans, Specifications and the manufacturer's recommendations shall be resolved in writing with FWC approval prior to equipment installation.

## **Section 17. TESTS AND INSPECTIONS**

17.1. FWC, its respective representatives, agents and employees, and any governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide FWC with timely notice of readiness of the Work for all required inspections, tests or approvals.

17.2. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish FWC the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the FWC.

17.3. If any Work that is to be inspected, tested or approved is covered without written concurrence from the FWC, such work must, if requested by FWC, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given FWC timely notice of Contractor's intention to cover the same and FWC has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from FWC, such Work must, if requested by FWC, be uncovered for FWC's observation and be replaced at Contractor's sole expense.

17.4. The FWC shall charge to Contractor and may deduct from any payments due Contractor all engineering and inspection expenses incurred by FWC in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

17.5. Neither observations by the FWC nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

## **Section 18. DEFECTIVE WORK**

18.1. Work not conforming to the requirements of the construction plans or Contract Documents shall be deemed defective Work. If required by FWC, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by FWC, remove it from the site and replace it with undefective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold FWC harmless for same.

18.2. If the FWC considers it necessary or advisable that covered Work be observed by FWC or inspected or tested by others, Contractor, at FWC's request, shall uncover, expose or otherwise make available for observation, inspection or tests as FWC may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and FWC shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension of the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

18.3. If any portion of the Work is defective, or Contractor fails to supply sufficient skilled workers with suitable materials or equipment, or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, FWC may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of FWC to stop the Work shall not give rise to any duty on the part of FWC to exercise this right for the benefit of Contractor or any other party.

18.4. Should the FWC determine, at its sole opinion, it is in the FWC's best interest to accept defective Work, the FWC may do so. Contractor shall bear all direct, indirect and consequential costs attributable to the FWC's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If the FWC accepts

such defective Work after final payment, Contractor shall promptly pay FWC an appropriate amount to adequately compensate FWC for its acceptance of the defective Work.

18.5. If Contractor fails, within a reasonable time after the written notice from FWC, to correct defective Work or to remove and replace rejected defective Work as required by FWC, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, FWC may, after seven (7) days' written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, FWC may exclude Contractor from any or all of the Project site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possessions of Contractor's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which FWC has paid Contractor but which are stored elsewhere. Contractor shall allow FWC, and its respective representatives, agents, and employees such access to the Project site as may be necessary to enable FWC to exercise the rights and remedies under this Subsection. All direct, indirect and consequential costs of FWC in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work or others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by FWC of FWC's rights and remedies hereunder.

#### **Section 19. SUPERVISION AND SUPERINTENDENTS**

19.1. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to FWC except under extraordinary circumstances. The superintendent shall be Contractor's representative at the Project site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. FWC shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

#### **Section 20. PROTECTION OF WORK**

20.1. Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor, or any one for whom Contractor is legally liable, is responsible for any loss or damage to the Work, or other work or materials of FWC or FWC's separate contractors, Contractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

20.2. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

**Section 21. EMERGENCIES**

21.1. In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from FWC is obligated to act to prevent threatened damage, injury or loss. Contractor shall give FWC written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Document have been caused thereby. If the FWC determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight (48) hour written notice noted above, the Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

**Section 22. USE OF PREMISES**

22.1. Contractor shall confine all construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

**Section 23. SAFETY**

23.1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

23.1.1. All employees of the Work and other persons and/or organizations who may be affected thereby;

23.1.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site; and

23.1.3. Other property on Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the contract documents.

23.2. The Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by FWC has occurred.

23.3. The Contractor shall designate a responsible representative at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by the Contractor to the FWC.

23.4. The Contractor shall adhere at all times to the minimum safety guidelines for construction and renovation projects as set out in Exhibit C of this Agreement.

#### **Section 24. PROJECT MEETINGS**

Prior to the commencement of Work, the Contractor shall attend a preconstruction conference with the FWC to discuss the Progress Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, the Contractor shall attend any and all meetings convened by the FWC with respect to the Project, when directed to do so by FWC. Contractor shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by the FWC.

#### **Section 25. MINIMUM PROJECT SAFETY REQUIREMENTS**

25.1 The following safety requirements represent the minimum conditions which shall be met by all Contractors and subcontractors performing work for FWC. The Contractor shall be responsible to ensure his compliance with all State and Federal safety regulations as specified in FWC contract documents. Reported or observed violations of OSHA (29 CFR 1910 or 1926) and other regulations shall be brought to the attention of the FWC project manager and FWC Safety Office and shall be immediately corrected by the Contractor. Failure to comply with required safety procedures shall result in the suspension of the Work of the Contractor until such time as his operations are brought into compliance. Items which are not corrected or that are disputed by the Contractor may be referred by the FWC to either the project insurance coordinator or the Department of Labor and Employment Security, Division of Safety, for inspection or interpretation. The Contractor shall take reasonable precautions for work place safety and shall provide reasonable protection to prevent damage, injury, or loss to employees on the work site and to other persons who may be affected by the Work.

25.1.1 Prior to the commencement of the project, the Contractor and all subcontractors shall provide to the FWC a written copy of their respective safety and health plans for review as part of the pre-submittal bid package.

25.1.2 The Contractor shall establish and maintain an access control system at the work site, including a daily sign-in log, for all visitors, including FWC and regulatory personnel. Prior to commencement of construction, the project manager may designate specific individuals for routine access so that their duties are not impeded. All visitors that are not pre-approved for admittance shall be escorted through the project by either a Contractor representative or by the project manager or designee.

25.1.3 The Contractor shall provide all necessary safety equipment for FWC staff, employees, and visitors to enter the work site. This equipment may include hard hats, hearing protection, safety glasses, or any other safety items deemed necessary by the Contractor or required by State or Federal safety regulations.

25.1.4 Construction vehicles on the work site shall always be operated in a safe manner. The Contractor shall take appropriate action to ensure the safety of FWC staff, visitors, and the



general public while operating work vehicles at a controlled construction site. Where conditions warrant, or at the request of the FWC, CONTRACTOR will provide appropriate traffic control and vehicle safety measures.

25.1.5 The Contractor shall prominently mark the work site and ensure its security. Site security shall include appropriate fencing, barricades, warning tape, covered walkways and warning signs. In no instance shall a work site be accessible, without obvious warning, to FWC staff, visitors, or the general public. At a minimum, the project site shall be posted with the appropriate trespass warning signs as specified in Section 810.09(2)(d), Florida Statutes: THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY; DANGER, CONSTRUCTION SITE. AUTHORIZED PERSONNEL ONLY, and other general safety warning signs, i.e., "HARD HAT AREA", as are deemed necessary by the Contractor and project manager.

25.1.6 In the event barricading of a work site is not feasible, alternative measures may be used upon prior approval by the FWC safety Office. Alternative measures may include, but are not limited to, working during "off" hours such as nights, weekends, or holidays, or the providing of temporary accommodations for building occupants (to be prearranged, if necessary, at the discretion of the FWC).

25.1.7 The Contractor shall ensure compliance with all fire safety codes at the work site, especially as to egress, during the construction phase of an occupied facility. In no instance, (except where impractical and with the prior approval of the appropriate life safety code inspector, shall the life safety code components of an occupied facility be reduced or otherwise compromised. A set of these construction plans, with a signature of approval by the appropriate life safety code inspector, shall be kept at each construction site and available for routine inspection. The Contractor shall communicate with each subcontractor as to scheduling of events that may pose hazards or inconveniences to building occupants. The Contractor shall also ensure that appropriate scheduling information is also conveyed to the project manager.

25.1.8 Noise, dust, and the use of chemical products may create inside health hazards at the work site to building occupants requiring that the Contractor to adhere to the following guidelines at a minimum:

25.1.8.1 The Contractor shall initiate construction and engineering safety controls to minimize exposure of dusts, noise, and chemical odors to building occupants. These controls may involve the construction or use of temporary walls, plastic barriers, mechanical ventilation, elimination of make-up air returns from work areas, pressurizing occupied areas, or a combination of several methods. The Contractor shall coordinate all such engineering efforts with the project manager, and these control measures shall require prior approval by the FWC Safety Office. In cases where these efforts may not be feasible, alternative work schedules on evenings and weekends may be instituted as a part of this process.

25.1.8.2 Material Safety Data Sheets (MSDS) shall be provided for all hazardous substances used on the project or brought on the job site. These products include, but are not limited to, paints, solvents, roofing compounds, and cleaning compounds.

25.1.8.3 Appropriate precautions shall be taken to prevent occupant exposure to hazardous respirable dusts, contaminants, and fumes from welding, cutting, or drilling of concrete and masonry, or the operation of internal combustion engines. The Contractor shall also determine

whether respirable crystalline silica, which is a potential carcinogen contained in many building products, is present at the work site. Control of dusts from these types of products and operations shall be an essential safety requirement for the Contractor.

25.1.8.4 The Contractor should be aware of other buildings adjacent to his work areas and shall be prepared to take necessary actions to prevent the spread of dusts and fumes to those facilities.

25.1.9 The Contractor shall ensure that all emergency notifications, including those for fires and medical needs, shall be promptly made by dialing 911 dispatchers. The Caller should state the exact location of the work site emergency, the nature of the emergency, and specifically indicate if medical or fire services are needed.

25.1.10 The Contractor agrees and understands that all FWC construction/renovation sites shall be subject to periodic inspection by life safety code inspectors, Florida Department of Labor and Employment Security, Division of Safety, Occupational Safety and Health Administration, Florida Department of Environmental Protection, Environmental Protection Agency, and other Federal, State, or county regulatory agencies.

25.1.11 The Contractor shall provide adequate refuse containers for the disposal of construction debris. Refuse shall not be allowed to accumulate on the project site grounds, and the Contractor shall ensure that these containers are subsequently emptied on a regular basis.

25.1.12 Water runoff and soil erosion from the project site shall be controlled by the Contractor pursuant to the regulations of the Florida Department of Environmental Protection.

25.1.13 Water-based paint and stain products shall be used by the Contractor in the place of solvent-based products where the application so permits. Use of organic solvent-based products shall be used only where absolutely necessary and with the prior approval of the project manager. Lead-containing paints shall not be normally used or specified for any application. If the use of lead-containing paint is essential for a specific application, prior approval from the project manager or FWC Safety Office shall be obtained before their use.

25.1.14 The use of any products containing toxic metals, especially those regulated by Resource Conservation and Recovery Act (RCRA), (i.e. lead, chromium, barium, silver, arsenic, cadmium, mercury, selenium), on the work site shall be avoided. Prior approval for use of these metals shall be obtained by the Contractor from the project manager.

25.1.15 The use of any radioactive materials by the Contractor on project sites shall require pre-approval. Copies of appropriate certifications, licenses, testing, and inspection records shall be provided by the Contractor to the project manager and FWC Safety Office for review.

25.1.16 The FWC has programs for the identification and abatement of asbestos containing building materials. Asbestos abatement can only be performed by state licensed asbestos abatement contractors. General contractors, therefore, shall not be authorized to remove or disturb any asbestos containing materials. Although efforts are made to identify or remove such asbestos containing materials prior to renovations, the possibility exists that asbestos materials may be encountered at a work site. If so, Contractors who encounter such materials shall immediately stop work and notify the project manager.

25.1.17 The above-cited guidelines represent minimum expectations and actions which shall be taken by Contractors while under contract for FWC construction and renovation projects. These guidelines are not all inclusive and will be revised as necessary. In the event these guidelines conflict with other contract documents, the most stringent application shall apply. Any questions or disputes should be brought to the immediate attention of the project manager.

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**FWC 17/18-9C  
ATTACHMENT D**

**FISH & WILDLIFE CONSERVATION COMMISSION  
Purchase Order Partial Payment Form**

Date \_\_\_\_\_ For Period Ending \_\_\_\_\_ Invoice No. \_\_\_\_\_

Contractor \_\_\_\_\_ PO # \_\_\_\_\_

Original PO Amount \$ \_\_\_\_\_ Less Previous Payments \$ \_\_\_\_\_

Total days Completed \_\_\_\_\_ Due this Payment \$ \_\_\_\_\_

**CERTIFICATION OF THE CONTRACTOR:** According to the best of my knowledge and belief, I certify that all items and amounts shown on the face of this form are correct, that all work has been performed and material supplied in full accordance with the terms and conditions of the Purchase Order. I further certify that all just and lawful bills against the undersigned and his subcontractors for labor, material, and equipment employed in the performance of the work assigned under this Purchase Order have been paid in full accordance with their terms and conditions.

Date \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

**CERTIFICATION OF THE SITE MANAGER:** I certify that I have checked and verified this Certificate; that to the best of my knowledge and belief it is a true statement of the value of the work performed by the Contractor; that all work and material included in this Certificate have been inspected by me or my authorized assistants; and that all work has been performed in full accordance with the terms and conditions of the Purchase Order.

Date \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

**FWC 17/18-9C**  
**ATTACHMENT E**

**FLORIDA FISH & WILDLIFE CONSERVATION COMMISSION**  
**CERTIFICATES OF CONTRACT OR TASK COMPLETION**

Project: \_\_\_\_\_  
Contractor: \_\_\_\_\_  
Cont # or DO #: \_\_\_\_\_  
FEID #: \_\_\_\_\_  
(Or Social Security #)  
Contract Date: \_\_\_\_\_ Task Assignment #: \_\_\_\_\_ Total Amount \$ \_\_\_\_\_

**CONTRACTOR'S AFFIDAVIT**

I solemnly swear (or affirm): That the work under the above-named contract and all amendments thereto have been satisfactorily completed; that all amounts payable for materials, labor and other charges against project have been paid; that no liens have been attached against the project; that no suits are pending by reason of work on the project under the contract; that all Workers' Compensation claims are covered by Workers' Compensation Insurance as required by law; and that all public liability claims are covered by insurance. I further certify that all just and lawful bills against the undersigned and his subcontractors for labor, material and equipment employed in the performance of this Contract have been paid in full accordance with their terms and conditions.

**CONTRACTOR**

\_\_\_\_\_  
Name:  
Title:  
Date:

**NOTARY**

STATE OF:  
COUNTY OF:

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_  
\_\_\_\_\_, known (or made known) to me to be

the \_\_\_\_\_  
(Owner) (Partner) (Corporate Officer-give title)

of \_\_\_\_\_, Contractor (s), who subscribed  
and swore to the above instrument in my presence.

Personally known \_\_\_\_\_ Or Produced  
Identification \_\_\_\_\_  
Type of Identification Produced

\_\_\_\_\_  
Notary Public (Seal)  
Type Name:  
My Commission Expires:

**COMMISSION'S CERTIFICATION**

I certify: That, to the best of my knowledge and belief, the work on the above named project has been satisfactorily completed under the terms and conditions of the contract.

Project Manager: \_\_\_\_\_ Division/Office: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_