

**Exhibit 1**  
**STATE OF FLORIDA**  
**FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION**

**CONTRACT No. FWC #**

The FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter "Commission" or "FWC", and [Click here to enter Contractor Name.](#), [Click here to enter contractor FEID #.](#), whose address is [Click here to enter Contractor's address.](#), hereinafter "Contractor", collectively, "Parties".

**INTRODUCTORY CLAUSES**

The Commission and Contractor intend to partner together to [Click here to enter a brief project/service description.](#);

The Commission has awarded this Contract in accordance with Invitation to Bid: pursuant to the requirements of Section 287.057, Florida Statutes; and

Such benefits are for the ultimate good of the State of Florida, its resources, wildlife, and public welfare.

**TERMS OF THE CONTRACT**

The Commission and the Contractor, for the considerations stated in this Contract, agree as follows:

- 1. PROJECT DESCRIPTION.** The Contractor shall provide the services and products, and perform the specific responsibilities and obligations, as set forth in the General Conditions, attached hereto as **Attachment A** and made a part hereof (hereafter, General Conditions); the Plans attached hereto as **Attachment F** and made a part hereof (hereafter, Plans); and Specifications attached hereto as **Attachment G** and made a part hereof (hereafter, Specifications). The Schedule of Values/Deliverables attached hereto as **Attachment I** and made a part hereof (hereafter, Schedule of Values) specifically identifies project tasks and accompanying deliverables. These deliverables must be submitted and approved by the Commission prior to any payment. The Commission will not accept any deliverable that does not comply with the specified required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. The Contractor's response to the Commission's solicitation is attached hereto as **Attachment J**.
- 2. CONTRACT DOCUMENTS**
  - A.** The Contract Documents consist of this Agreement, the Exhibits, Change Orders, Work Directive Changes, Field Orders and amendments relating thereto. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents including this Agreement sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.
  - B.** Commission shall furnish to the Contractor up to (\_1\_) PDF set of the Contract Documents for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

**3. PERFORMANCE.**

- A. 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 pursuant to paragraph twelve (12) Remedies, below, in the event Contractor's ability to perform under this Contract becomes compromised.
- B. 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.
- C. 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.
- D. 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.

**4. CONTRACT PERIOD.**

- A. Contract Period and Limited Obligation Period.** This Contract shall begin upon execution by both Parties or [Click here to specify date.](#) (whichever is later) and end [Click here to specify date.](#), inclusive. The Commission shall not be obligated to pay for costs related to this Contract prior to its beginning date or after its ending date.

**5. COMPENSATION AND PAYMENTS.**

- A. Compensation.** As consideration for the services rendered by the Contractor under the terms of this Contract, the Commission shall pay the Contractor on a fixed price basis in the amount of \$
- B. Payments.** The Commission shall pay the Contractor for satisfactory performance of the tasks identified in the Scope of Work, upon submission of invoices, accompanied by supporting documentation sufficient to justify invoiced expenses or fees, and after acceptance of services and deliverables in writing by the Commission's Contract Manager, identified in Paragraph thirteen (13), below. Unless otherwise specified in the Scope of Work, invoices shall be due monthly, commencing from the start date of this Contract. Invoices must be legible and must clearly reflect construction deliverables that were provided in accordance with the terms of the Contract for the invoice period. Unless otherwise specified in the Scope of Work, a final invoice shall be submitted to the Commission no later than 45 days following the expiration date of this Contract to assure the availability of funds for payment. Costs under this Contract must be obligated and all work completed by the Contractor by the end of the Contract period identified in paragraph three (3).
- C. Invoices.** Each invoice shall include the Commission Contract Number and the Contractor's Federal Employer Identification (FEID) Number. Invoices may be submitted electronically. If submitting hard copies, an original and two (2) copies of the invoice, plus all supporting documentation, shall be submitted. All bills for amounts due under this Contract shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Contractor acknowledges that the Commission's Contract Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.
- D. Travel Expenses.** No travel expenses are authorized.
- E. State Obligation to Pay.** The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Contract and any renewal thereof is not a commitment to future appropriations, but is subject to appropriation and authority to spend provided by the Legislature. The Commission shall be the final authority as to the availability of funds for this Contract, and as to what constitutes an "annual appropriation" of funds to complete this Contract. If such funds are not appropriated or available for the Contract purpose, such event will not constitute a default on behalf of the Commission or the State. The Commission's Contract Manager shall notify Contractor in writing at the earliest possible time if funds are not appropriated or available.

**F. Time Limits for Payment of Invoices.** Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., governing time limits for payment of invoices. Section 215.422, F.S. provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the Scope of Work, paragraph 5, specifies otherwise. If payment is not available within forty (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 Department of Financial Services pursuant to Section 55.03(1), F.S., will be due and payable in addition to the invoice amount. Invoices returned to a vendor 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.

**G. Electronic Funds Transfer.** Contractor agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party has signed this Contract. Copies of the Authorization form and a sample blank enrollment letter can be found on the vendor instruction page at:

[http://www.fldfs.com/aadir/direct\\_deposit\\_web/Vendors.htm](http://www.fldfs.com/aadir/direct_deposit_web/Vendors.htm)

Questions should be directed to the State of Florida's EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

**H. Vendor Ombudsman.** A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at (850) 413-5516 or by calling the Chief Financial Officer's Hotline, (800) 342-2762.

**6. CERTIFICATIONS AND ASSURANCES.** Upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of the form entitled "Certifications and Assurances," attached hereto and incorporated as Attachment B. This includes: Debarment and Suspension Certification; Certification Against Lobbying; Certification Regarding Public Entity Crimes; and Certification Regarding the Scrutinized Companies List (applicable to contracts for goods or services in excess of \$1 million); Attachment B, incorporated and made part of this Contract.

**7. MYFLORIDAMARKETPLACE VENDOR REGISTRATION AND TRANSACTION FEE.**

**A. MyFloridaMarketPlace.** In accordance with Rule 60A-1.030 of the Florida Administrative Code (F.A.C.), each vendor 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.

**B. 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 one percent (1.0%), 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.

- C. **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. **VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

**8. RETURN OR RECOUPMENT OF FUNDS.**

- A. **Overpayments to Contractor.** Contractor shall return to the Commission any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Contract that were disbursed to Contractor by the Commission. In the event that Contractor or its independent auditor discovers that overpayment has been made, Contractor shall repay said overpayment within forty (40) calendar days without prior notification from the Commission. In the event that the Commission first discovers an overpayment has been made, the Commission will notify Contractor in writing. Should repayment not be made in a timely manner, the Commission shall be entitled to charge interest at the lawful rate of interest established pursuant to Section 55.03(1), F.S., on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to The Commission's Contract Manager, and made payable to the "The Florida Fish and Wildlife Conservation Commission."
- B. **Additional Costs or Monetary Loss Resulting from Contractor Non-Compliance.** If Contractor's non-compliance with any provision of the Contract results in additional cost or monetary loss to the Commission or the State of Florida, the Commission can recoup that cost or loss from monies owed to Contractor under this Contract or any other contract between Contractor and the Commission. In the event that the discovery of this cost or loss arises when no monies are available under this Contract or any other contract between Contractor and the Commission, Contractor will repay such cost or loss in full to the Commission within thirty (30) days of the date of notice of the amount owed, unless the Commission agrees, in writing, to an alternative timeframe. If the Contractor is unable to repay any cost or loss to the Commission, the Commission shall notify the State of Florida, Department of Financial Services, for resolution pursuant to Section 17.0415, F.S.

- 9. **COMMISSION EXEMPT FROM TAXES, PROPERTY EXEMPT FROM LIEN.** The Contractor recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Contract.

The Contractor acknowledges that Property being improved is titled to the State of Florida, belongs to the State of Florida, and is not subject to lien of any kind for any reason. The Contractor shall include notice of such exemptions in any subcontracts and purchase orders issued hereunder

- 10. 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, paragraph 6.
- 11. TERMINATION.**
- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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.

**12. REMEDIES.**

- A. Financial Consequences.** In accordance with Section 287.058(1)(h), F.S., the Scope of Work, contains clearly defined deliverables. If Contractor fails to produce each deliverable within the time frame specified by the Scope of Work, the budget amount allocated for that deliverable will be deducted from Contractor's payment. The Commission shall apply any additional financial consequences identified in the Scope of Work.
- B. Cumulative Remedies.** The rights and remedies of the Commission in this paragraph are in addition to any other rights and remedies provided by law or under the Contract.

**13. NOTICES AND CORRESPONDENCE.** Any and all notices shall be delivered to the individuals identified below. In the event that any Party designates a different Contract Manager after the execution of this Contract, the Party will provide written notice of the name, address, zip code, telephone and fax numbers, and email address of the newest Contract Manager or individual authorized to receive notice on behalf of that Party to all other Parties as soon as possible, but not later than five (5) business days after the new Contract Manager has been named. A designation of a new Contract Manager shall not require a formal amendment to the Contract.

**FOR THE COMMISSION:**

Contract Manager  
 Hugh McArthur.  
 Construction Administrator  
 FWC PAWVS.  
 620 S. Meridian St. MS #5B4  
 Tallahassee, FL 32399  
 850 921-9931  
 850 488-4959 FAX  
 Hugh.McArthur@MyFWC.com

**FOR THE CONTRACTOR:**

Contract Manager  
  
 Click here to enter Facility.  
 Click here to enter Address  
 Click here to enter City, State Zip.  
 Click here to enter Telephone #.  
 Click here to enter Fax #.

**14. AMENDMENT.**

- A. Waiver or Modification.** No waiver or modification of this Contract or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by both parties.
- B. Change Orders.** The Commission may, at any time, by written order, make a change to this Contract. Such changes are subject to the mutual agreement of both parties as evidenced in writing on Change Order Form incorporated herein as **Attachment E**.
- C. Renegotiation upon Change in Law or Regulations.** The Parties agree to renegotiate this Contract if federal and/or state revisions of any applicable laws or regulations make changes in the Contract necessary.

**15. INTELLECTUAL PROPERTY RIGHTS. Not applicable**

**16. RELATIONSHIP OF THE PARTIES.**

- A. Independent Contractor.** The Contractor shall perform as an independent contractor and not as an agent, representative, or employee of the Commission. The Contractor covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Contractor and the Commission.
- B. Contractor Training Qualifications.** 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.
- C. Commission Security.** 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.
- D. 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.
- E. Commission Rights to Undertake or Award Supplemental Contracts.** Contractor agrees that the Commission may undertake or award supplemental contracts for work related to the Contract. Contractor and its subcontractors shall cooperate with such other contractors and the Commission in all such cases.

**17. SUBCONTRACTS.**

- A. Authority. Contract is permitted to subcontract work under this Contract.** 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.

- B. Contractor Payments to Subcontractor.** 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. 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.
- D. Subcontractor as Independent Contractor.** If subcontracting is permitted pursuant to Paragraph A above, 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.

**18. MANDATORY DISCLOSURE.**

- A. Disclosure of Interested State Employees.** This Contract is subject to Chapter 112, F.S. Contractors shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State of Florida. Contractors shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in Contractor or its affiliates.
- B. Prompt Disclosure of Litigation, Investigations, Arbitration, or Administrative Proceedings.** Throughout the term of the Contract, Contractor has a continuing duty to promptly disclose to the Commission's Contract Manager, upon occurrence, all civil or criminal litigation, investigations, arbitration, or administrative proceedings (Proceedings) relating to or affecting the Contractor's ability to perform under this contract. If the existence of such Proceeding causes the Commission concern that the Contractor's ability or willingness to perform the Contract is jeopardized, Contractor may be required to provide the Commission with reasonable assurances to demonstrate that: a.) Contractor will be able to perform the Contract in accordance with its terms and conditions; and, b.) Contractor and/or its employees, agents or subcontractor(s) have not and will not engage in conduct in performing services for the Commission which is similar in nature to the conduct alleged in such Proceeding.

**19. INSURANCE.**

- 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 per accident, \$100,000 per person, and \$500,000 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 thirty (30) days of the effective 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.

**20. PUBLIC ENTITY CRIMES.**

- A. 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.
- B. 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.
- C. Certifications and Assurances.** Upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of the form entitled "Certifications and Assurances," attached hereto and incorporated as Attachment B. This includes the Certification Regarding Public Entity Crimes.

**21. VENDORS ON SCRUTINIZED COMPANIES LIST**

- A. Scrutinized Companies.** Pursuant to Section 287.135, Florida Statutes, if this Contract is for goods or services in the amount of \$1 million or more, in executing this Contract, Contractor certifies, that it is not listed on: the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, F.S. and is not engaged in business operations in Cuba or Syria.
- B. Certifications and Assurances – Scrutinized Companies List.** If this Contract is for goods or services in the amount of \$1 million or more, upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of Attachment B, "Certifications and Assurances." This includes the Certification Regarding the Scrutinized Companies List.
- C. False Scrutinized Lists Certification – Termination.** Pursuant to Subsection 287.135(3)(b), F.S., the Commission may immediately terminate this Contract for cause if Contractor is found to have submitted a false certification or if, during the term of the Contract, Contractor is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engages in business operations in Cuba or Syria.
- D. False Certifications – Termination Notice and Penalties.** If the Commission determines that Contractor has submitted a false certification, the Commission will provide written notice to Contractor. Unless Contractor demonstrates in writing, within ninety (90) days of receipt of the notice, that the Commission's determination of false certification was made in error, the Commission shall bring a civil action against Contractor. If the Commission's determination is upheld, a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed on Contractor,

and Contractor will be ineligible to bid on any contract with an agency or local governmental entity for three (3) years after the date of the Commission's determination of false certification by the Contractor.

- E. Cessation of Federal Authority.** In the event that federal law ceases to authorize the states to adopt and enforce the contracting prohibition identified in this paragraph, this provision shall be null and void to the extent no longer authorized.

**22. SPONSORSHIP. Not applicable-**

**23. 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.** Pursuant to Section 119.0701, F.S., the Contractor shall comply with the following:
- i.** Keep and maintain public records that ordinarily and necessarily would be required by the Commission in order to perform the service.
  - ii.** Provide the public with access to public records on the same terms and conditions that the Commission would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
  - iii.** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
  - iv.** Meet all requirements for retaining public records and transfer, at no cost, to the Commission all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the Commission.

- 24. 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.

**25. RECORD KEEPING REQUIREMENTS.**

- A. 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.

- B. 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.
- C. Contractor Records Retention.** Unless otherwise specified in the Scope of Work, these records shall be maintained for five (5) years following the close of this Contract. Contractor shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.
- D. 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.
- E. 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.

**26. NONEXPENDABLE PROPERTY.**

- A. Non-Expendable Property Defined.** For the requirements of this section of the Contract, "nonexpendable property" is the same as "property" as defined in Section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and nonexpendable nature, with a value or cost of \$1,000 or more, and a normal expected life of one year or more; hardback-covered bound books that are circulated to students or the general public, with a value or cost of \$25 or more; and uncirculated hardback-covered bound books, with a value or cost of \$250 or more).
- B. Title to Nonexpendable Property.** Title (ownership) to all nonexpendable property acquired with funds from this Contract shall be vested in the Commission and said property shall be transferred to the Commission upon completion or termination of the Contract unless otherwise authorized in writing by the Commission or unless otherwise specifically provided for in the Scope of Work.

**27. FEDERAL FUNDS.** This Contract relies on federal funds, the following terms and conditions apply:

- A. Prior Approval to Expend Federal Funds to Federal Agency or Employee.** It is understood and agreed that the Contractor is not authorized to expend any federal funds under this Contract to a federal agency or employee without the prior written approval of the awarding federal agency.
- B. Compliance with Federal Laws, Rules and Regulations.** As applicable, Contractor shall comply with all federal laws, rules, and regulations, including but not limited to:
- Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
  - The Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3).
  - The Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5).
  - Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
  - All applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
  - Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- C. Compliance with Office of Management and Budget Circulars.** As applicable, Contractor shall comply with the following Office of Management and Budget Circulars:
- A-21 (2 CFR 220), Cost principles for Educational Institutions
  - A-87 (2 CFR 225), Cost Principles for State, Local, and Indian Tribal Governments
  - A-122 (2 CFR 230), Cost Principles for Non-Profit Organizations
  - A-133, Audit of States, Local Governments, and Non-Profit Organizations
  - A-102, Grants and Cooperative Agreements with State and Local Governments
  - A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Learning, Hospitals, and Other Non-Profit Organizations

**28. DEBARMENT AND SUSPENSION.**

- A. 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.

- B. **Contractor Commission Certification.** Upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of Attachment B, "Certifications and Assurances." This includes the Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

**29. PROHIBITION AGAINST LOBBYING.**

- A. **Contractor Certification – Payments to Influence.** The Contractor certifies that no federally 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 contract. 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.
- B. **Contractor – Refrain from Subcontracting with Certain Organizations.** Pursuant to the Lobbying Disclosure Act of 1995, the Contractor agrees to refrain from entering into any subcontracts under this Contract 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.
- C. **Prohibition against Using Contract Funds for the Purpose of Lobbying.** In accordance with Section 216.347, F.S., the Contractor is hereby prohibited from using funds provided by this Contract for the purpose of lobbying the Legislature, the judicial branch or a state agency. Upon request of the Commission's Inspector General, or other authorized State official, Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility.
- D. **Contractor Completion of Certifications and Assurances.** Upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of Attachment B, "Certifications and Assurances." This includes the Certification Regarding Lobbying.

**30. CONTRACT-RELATED PROCUREMENT.**

- A. **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>.

- B. 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>.

- C. 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.
- 31. PURCHASE OR IMPROVEMENT OF REAL PROPERTY.** If this Contract is for the purchase or improvement of real property, the Contractor shall comply with Section 287.05805, F.S. This section requires the Contractor to grant a security interest in the property to the State of Florida, the type and details of which are provided for in the Scope of Work.
- 32. PROFESSIONAL SERVICES. Not applicable**
- 33. 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.



**34. NON-DISCRIMINATION.**

- 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.

**35. SEVERABILITY, CHOICE OF LAW, 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, to the exclusion of all other lawful venues.

**36. NO THIRD PARTY RIGHTS.** The parties hereto do not intend nor shall this Contract be construed to grant any rights, privileges or interest to any person not a party to this Contract.

**37. JURY TRIAL WAIVER.** 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*.

**38. 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.

**39. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).**

- A. 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.

- B. **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)
  - C. **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.
  - D. **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).
  - E. **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.
40. **FORCE MAJEURE AND NOTICE OF DELAY FROM FORCE MAJEURE.** Neither Party shall be liable to the other for any delay or failure to perform under this Contract if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party’s control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party’s performance obligation under this Contract. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Contract to either Party. In the case of any delay Contractor believes is excusable under this paragraph, Contractor shall notify the Commission’s Contract Manager in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Contractor could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Contractor first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE CONTRACTOR’S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. The Commission, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Contractor of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Commission. Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Commission for direct, indirect, consequential, impact, or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If

performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Contractor shall perform at no increased cost, unless the Commission determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the Commission or the State, in which case, the Commission may do any or all of the following: (1) accept allocated performance or deliveries from Contractor, provided that Contractor grants preferential treatment to the Commission with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Contractor for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Contract quantity; or (3) terminate the Contract in whole or in part.

41. **TIME IS OF THE ESSENCE.** Time is of the essence regarding the performance obligations set forth in this Contract. Any additional deadlines for performance for Contractor's obligation to timely provide deliverables under this Contract including but not limited to timely submittal of reports, are contained in the Scope of Work.
42. **ENTIRE CONTRACT.** This Contract with all incorporated attachments and exhibits represents the entire Contract of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, and duly signed by each of the parties hereto, unless otherwise provided herein. In the event of conflict, the following order of precedence shall prevail; this contract and its attachments, the terms of the solicitation and the contractor's response to the solicitation.

**THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed through their duly authorized signatories on the day and year last written below.

CONTRACTOR

FLORIDA FISH AND WILDLIFE  
CONSERVATION COMMISSION

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form and legality by FWC Attorney:

\_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attachments and Exhibits in this Contract include the following:

- Attachment A General Conditions
- Attachment B Certifications and Assurances
- Attachment C Requirements of the Federal and Florida Single Audit Acts
- Attachment D Release and Affidavit form
- Attachment E Change Order form
- Attachment F Construction plans titled HalfMoon Boardwalk
- Attachment G Specifications titled HalfMoon Boardwal
- Attachment H Performance Bond
- Attachment I Schedule of values/deliverables
- Attachment J Contractor's Response to Bid

# **Attachment A 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 Attachment J, 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, Attachment F, 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.

## **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 (180) calendar days from the Commencement Date. The Work shall be fully completed and ready for final acceptance by the FWC within (201) 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, in the form attached as Attachment F to this Agreement, 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 Change 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. If a building permit is required, the Contractor will be responsible for obtaining and pay for a local building permits from the County. Other required state and federal permits will be obtained by the Commission and provided to the 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 in the form attached as Attachment D, (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.

**Attachment B**  
**CERTIFICATIONS AND ASSURANCES**

The Commission will not award this Contract unless Contractor completes the CERTIFICATIONS AND ASSURANCES contained in this Attachment. In performance of this Contract, Contractor provides the following certifications and assurances:

- A. Debarment and Suspension Certification (2 CFR Part 1400)
- B. Certification Regarding Lobbying (31 U.S.C. 1352)
- C. Certification Regarding Public Entity Crimes (section 287.133, F.S.)
- D. Certification Regarding Drug-Free Workplace Requirements (41 U.S.C. 701 et. seq.) (as applicable to recipients and subrecipients of federal financial assistance)
- E. Certification Regarding the Scrutinized Companies List (section 287.135, F.S.) (as applicable)

**A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION.**

The undersigned Contractor certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.2. of this certification; and/or
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

If Contractor is unable to certify to any of the statements in this certification, CONTRACTOR shall attach an explanation to this Contract.

**B. CERTIFICATION REGARDING LOBBYING – Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

The undersigned Contractor certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of Congress, or an

employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, the undersigned shall also complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

The undersigned shall require that language of this certification be included in the documents for all subcontracts at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients and contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**C. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES, SECTION 287.133, F.S.**

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.

Contractor understands and agrees that it is required to inform the Commission immediately upon any change of circumstances regarding this status.

**D. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
(If Contractor is a Recipient of Subrecipient of Federal Financial Assistance)**

Pursuant to the Drug-Free Workplace Act of 1988, the undersigned attests and certifies that the Contractor (if not an individual) will provide a drug-free workplace by the following actions:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an ongoing drug-free awareness program to inform employees concerning:
  - a. The dangers of drug abuse in the workplace.
  - b. The policy of maintaining a drug-free workplace.
  - c. Any available drug counseling, rehabilitation and employee assistance programs.
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph G.1. of this certification.
4. Notifying the employee in the statement required by paragraph G.1. of this certification that, as a condition of employment under the Contract, the employee will:

- a. Abide by the terms of the statement.
  - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
5. Notifying the Commission in writing ten (10) calendar days after receiving notice under subparagraph 4.b. from an employee or otherwise receiving actual notice of such conviction. Provide such notice of convicted employees, including position title, to every Contract Manager on whose Contract activity the convicted employee was working. The notice shall include the identification number(s) of each affected Contract.
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4.b. herein, with respect to any employee who is so convicted:
- a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 as amended.
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local, health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of this entire certification.

If the Contractor is an individual, the Contractor certifies that:

1. As a condition of the grant, Contractor will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and,
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, Contractor will report the conviction, in writing, within 10 calendar days of the conviction, to the Commission. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

**E. CERTIFICATION REGARDING the SCRUTINIZED COMPANIES LISTS, SECTION 287.135, F.S.**

If this Contract is in the amount of \$1 million or more, in accordance with the requirements of section 287.135, F.S., Contractor hereby certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists are created pursuant to section 215.473, F.S. Contractor also hereby certifies that it is not engaged in business operations in Cuba or Syria.

Contractor understands that pursuant to section 287.135, F.S., the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs.

If Contractor is unable to certify to any of the statements in this certification, Contractor shall attach an explanation to this Contract.





**Attachment C**  
**AUDIT REQUIREMENTS**

The administration of resources awarded by the Florida Fish and Wildlife Conservation Commission (Commission) to the Contractor may be subject to audits and/or monitoring by the Commission as described in this attachment.

**MONITORING**

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), the Commission may conduct or arrange for monitoring of activities of the Contractor. Such monitoring procedures may include, but not be limited to, on-site visits by the Commission staff or contracted consultants, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Contract, the Contractor agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Commission. The Contractor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Florida Department of Financial Services or the Florida Auditor General.

**AUDITS**

**PART I: FEDERALLY FUNDED**

- A. This part is applicable if the Contractor is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.
- B. In the event that the Contractor expends \$500,000 or more in Federal awards in its fiscal year, the Contractor must have a single or program-specific audit conducted in accordance with the provisions of the Federal Single Audit Act of 1996 and OMB Circular A-133, as revised. EXHIBIT 1 to this Attachment indicates Federal resources awarded through the Commission by this Contract. In determining the Federal awards expended in its fiscal year, the Contractor shall consider all sources of Federal awards, including Federal resources received from the Commission. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Contractor conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
- C. In connection with the audit requirements addressed in Part I, paragraph A. herein, the Contractor shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised. This includes, but is not limited to, preparation of financial statements, a schedule of expenditure of Federal awards, a summary schedule of prior audit findings, and a corrective action plan.
- D. Such audits shall cover the entire Contractor's organization for the organization's fiscal year. Compliance findings related to contracts with the Commission shall be based on the contract requirements, including any rules, regulations, or statutes referenced in the Contract. The financial statements shall disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due to the Commission shall be fully disclosed in the audit report with reference to the Commission contract involved. Additionally, the results from the Commission's annual financial monitoring reports must be included in the audit procedures and the OMB A-133 audit reports.

- E. If not otherwise disclosed as required by section .310(b)(2) of OMB Circular A-133, as revised, the schedule of expenditures of Federal awards shall identify expenditures by contract number for each contract with the Commission in effect during the audit period.
- F. If the Contractor expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Contractor expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Contractor's resources obtained from other-than Federal entities).
- G. A web site that provides links to several Federal Single Audit Act resources can be found at: <http://harvester.census.gov/sac/sainfo.html>

## **PART II: STATE FUNDED**

This part is applicable if the Contractor is a non-state entity as defined by Section 215.97, F.S., (the Florida Single Audit Act).

- A. In the event that the Contractor expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such Contractor, the Contractor must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; applicable rules of the Executive Office of the Governor and the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Attachment indicates state financial assistance awarded through the Commission by this Contract. In determining the state financial assistance expended in its fiscal year, the Contractor shall consider all sources of state financial assistance, including state financial assistance received from the Commission, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.
- B. In connection with the audit requirements addressed in Part II, paragraph A herein, the Contractor shall ensure that the audit complies with the requirements of section 215.97(7), F.S. This includes submission of a financial reporting package as defined by section 215.97(2)(d), F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- C. If the Contractor expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. In the event that the Contractor expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (*i.e.*, the cost of such an audit must be paid from the Contractor's resources obtained from other-than State entities).
- D. Additional information regarding the Florida Single Audit Act can be found at: <https://apps.fldfs.com/fsaa/singleauditact.aspx>.

## **PART III: REPORT SUBMISSION**

- A. Copies of reporting packages, to include any management letter issued by the auditor, for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this

Attachment shall be submitted by or on behalf of the Contractor directly to each of the following at the address indicated:

1. The Commission at the following address:

**Chief Financial Officer  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600**

2. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse):

**Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132**

3. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

**B.** Copies of audit reports for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Attachment (in correspondence accompanying the audit report, indicate the date that the Contractor received the audit report); copies of the reporting package described in Section .320 (d), OMB Circular A-133, as revised, and any management letters issued by the auditor; copies of reports required by Part II of this Attachment must be sent to the Commission at the addresses listed in paragraph c.) below.

**C.** Copies of financial reporting packages required by Part II of this Attachment, including any management letters issued by the auditor, shall be submitted by or on behalf of the Contractor directly to each of the following:

1. The Commission at the following address:

**Chief Financial Officer  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600**

- 2) The Auditor General's Office at the following address:

**Auditor General's Office  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450**

- D.** Any reports, management letter, or other information required to be submitted to the Commission pursuant to this Contract shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Contractors and sub-contractors, when submitting financial reporting packages to the Commission for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Contractor/sub-contractor in correspondence accompanying the reporting package.

*- End of Attachment C -*

SAMPLE

**Exhibit 1  
FEDERAL AND STATE FUNDING DETAIL**

**FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

<b>Federal Program(s) Funds</b>		
<b>CFDA #</b>	<b>CFDA Title</b>	<b>Amount</b>
	Total Federal Awards	

**COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

<b>Federal Program(s) Compliance Requirements</b>	
<b>CFDA #</b>	<b>Compliance Requirements</b>

**STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**MATCHING RESOURCES FOR FEDERAL PROGRAMS:**

<b>Matching Funds Provided by CFDA</b>		
<b>CFDA #</b>	<b>CFDA Title</b>	<b>Amount of Matching Funds</b>
	Total Matching Funds Associated with Federal Programs	

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:**

<b>State Project(s)</b>		
<b>CSFA #</b>	<b>CSFA Title</b>	<b>Amount</b>
	Total Federal Awards	

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

<b>State Project(s) Compliance Requirements</b>	
<b>CSFA #</b>	<b>Compliance Requirements</b>

State Project(s) Compliance Requirements	

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.

*- End of EXHIBIT 1 -*

SAMPLE

**ATTACHMENT D**  
**RELEASE AND AFFIDAVIT**

(County where project is located)  
(STATE OF FLORIDA )

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$\_\_\_\_\_ paid, \_\_\_\_\_ ("Contractor") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract or in tort, against the Florida Fish and Wildlife Conservation Commission, ("FWC") relating in any way to the performance of the Agreement between Contractor and FWC dated \_\_\_\_\_, 20\_\_\_\_, for the period from \_\_\_\_\_ to \_\_\_\_\_.

(2) Contractor certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which FWC might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Contractor agrees to indemnify, defend and save harmless FWC from all demands or suits, actions, claims of liens or other charges filed or asserted against the FWC arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with Contractor's (monthly/final) Application for Payment No. \_\_\_\_\_.



CONTRACTOR:

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its: President

Date: \_\_\_\_\_

Witnesses

[Corporate Seal]

STATE OF FLORIDA

COUNTY OF (location of project)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced \_\_\_\_\_ as identification and did (did not) take an oath.

My Commission Expires: \_\_\_\_\_

(Signature)

Name: \_\_\_\_\_

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of \_\_\_\_\_

Serial No., If Any: \_\_\_\_\_

**ATTACHMENT E**

**CHANGE ORDER**

CHANGE ORDER NO. \_\_\_\_\_ CONTRACT NO. \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

PROJECT NAME \_\_\_\_\_

PROJECT NO. \_\_\_\_\_

Under our AGREEMENT dated \_\_\_\_\_, 20\_\_\_\_.

\*\*\*\*\*

You hereby are authorized and directed to make the following change(s) in accordance with terms and conditions of the Agreement:

FOR THE (Additive) (Deductive) Sum of:  
\_\_\_\_\_ (\$ \_\_\_\_\_).

Original Agreement Amount \$ \_\_\_\_\_

Sum of Previous Changes \$ \_\_\_\_\_

This Change Order (Add) (Deduct) \$ \_\_\_\_\_

Present Agreement Amount \$ \_\_\_\_\_

The time for completion shall be (increased/decreased) by \_\_\_\_\_ (\_\_\_\_) calendar days due to this Change Order. Accordingly, the Contract Time is now \_\_\_\_\_ (\_\_\_\_) calendar days and the final completion date is \_\_\_\_\_ . Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions in our Agreement indicated above, as fully as if the same were repeated in this acceptance.

The adjustment, if any, to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

The Contract Administrator has directed the Contractor to increase the penal sum of the existing Performance and Payment Bonds or to obtain additional bonds on the basis of a \$25,000.00 or greater value Change Order.

Check if applicable and provide written confirmation from the bonding company/agent (attorney-in-fact) that the amount of the Performance and Payment bonds have been adjusted to 100% of the new contract amount.

Accepted: \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_  
Contractor

By: \_\_\_\_\_  
Architect/Engineer

By: \_\_\_\_\_  
Owner

## Attachment H

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### PERFORMANCE BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH LABOR AND MATERIAL  
PAYMENT BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL  
PERFORMANCE OF THE CONTRACT

---

KNOW ALL MEN BY THESE PRESENT: that *(Company Name)*, a *(Type of entity, for example: Florida corporation)*, *(Company Address)*, *(Company Telephone)*

as Principal, hereinafter called Contractor, and, **(SURETY NAME ADDRESS AND PHONE NUMBER)**

as Surety, hereinafter called Surety, are held and firmly bound unto the State of Florida Fish and Wildlife Conservation Commission as Oblige, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of *(written amount of award)*, *(numerical amount)*

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

WHEREAS,

Contractor has by written agreement dated *(Contract date)*, entered into a contract with Owner for *(Project Name, Location)*, Contract Number *(#)* in accordance with Drawings and Specifications prepared by *(Consultant Company, Address)*, phone: *(Consultant Phone #)*, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract and all obligations thereunder, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the surety may promptly remedy the default, in accordance with Section 255.05, Florida Statutes, or shall promptly

- 1) Complete the Contract in accordance with its terms and conditions, or 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a Contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner. The time within which the Owner can institute an action against either the Contractor or the Surety shall be governed by the pertinent Florida Statutes.

SIGNED AND SEALED THIS *(Award Date)*

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Signature of Contractor) (Seal)  
*(Official Representative, Title)*

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Signature of Attorney-In-Fact) (Seal)

\_\_\_\_\_  
(Type Name)

\_\_\_\_\_  
(Signature of Witness)

\_\_\_\_\_  
(Signature of Florida Resident Agent)

\_\_\_\_\_  
(Type Name & Registration Number)

**Power of Attorney attached hereto.**

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**NOTES CONCERNING SURETY AND EXECUTION**

**A. SURETY COMPANY REQUIREMENTS**

To be acceptable to the Department of Environmental Protection, a Surety Company shall comply with all of the requirements of Article 8 of the General Conditions of the Contract.

**B. EXECUTION OF BOND**

1. Enter the Surety Company's name and address on each copy of the Bond in the space provided.
2. Enter the date shown on page 12 of the Agreement in the space provided on each copy of the Bond.
3. Enter the date of execution on each copy of the Bond in the space provided. This date must be the same as the date shown on the Agreement.
4. Have each copy of the Bond signed by the same person that signed the Agreement on behalf of the Contractor. Type in that person's name and title in the place provided on each copy of the Bond, and have one other individual witness that person's signature on each copy of the Bond. Also, have the Contractor's Corporate Seal affixed to each copy of the Bond beside that person's signature (No Facsimiles are acceptable).
5. Have each copy of the Bond signed by the person authorized to sign on behalf of the Surety Company. Type that person's name in the place provided on each copy of the Bond and have one other individual witness that person's signature on each copy of the Bond. Also, have the Surety Company's Corporate Seal affixed to each copy of the Bond beside that person's signature (No Facsimiles are acceptable).
6. Have each copy of the Bond signed by a Florida Resident Agent (Reference Chapters 624.425 and 624.426 of the Florida Statutes). Type in that person's name and registration number in the place provided on each copy of the Bond and have one other individual witness that person's signature on each copy of the Bond. This may be the same person indicated in B.5 above, if this person is a Florida Resident Agent and is also authorized to sign on behalf of the Surety Company as Attorney-In-Fact.
7. Each copy of the Bond must have a Power of Attorney attached indicating that the person in B.5 above is authorized to sign on behalf of the Surety Company.
8. Each copy of the Power of Attorney must have the Surety Company's Corporate Seal and a Notary Seal either manually affixed or they may utilize facsimile reproductions of the same.
9. If the date of execution of the Power of Attorney is not the same as the date shown on the Agreement, then the Power of Attorney must be certified to still be in effect on the date shown on page 12 of the Agreement.

10. If the Bond is being backed by the Small Business Administration, then a certified true and correct copy of the Surety Bond Guarantee Agreement, SBA Form 990, must be attached to each copy of the Bond

SAMPLE