



**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLICITATION ACKNOWLEDGEMENT FORM**

**REQUEST FOR STATEMENTS OF QUALIFICATION
PROFESSIONAL SERVICES**

Page 1 of Page 55	SUBMIT BID TO: Florida Department of Environmental Protection DEP Procurement Section, Carr Building, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 Telephone Number: 850-245-2361
AGENCY RELEASE DATE: August 10, 2017	

SOLICITATION TITLE: Professional Services for Water Resource Management Programs	SOLICITATION NO.: 2018008
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RESPONSES WILL BE OPENED: @ 2:00 p.m. on Wednesday, September 6, 2017
and may not be withdrawn within **180** days after such date and time.

VENDOR NAME:	
VENDOR MAILING ADDRESS:	
CITY-STATE-ZIP:	*AUTHORIZED SIGNATURE (MANUAL)
PHONE NUMBER:	
TOLL FREE NUMBER:	
FAX NUMBER:	
EMAIL ADDRESS:	*AUTHORIZED SIGNATURE (TYPED), TITLE
FEID NO.:	*This individual must have the authority to bind the respondent.

TYPE OF BUSINESS ENTITY (Corporation, LLC, partnership, etc.):	
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I certify that this Response is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Response for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Response and certify that I am authorized to sign this Response for the Proposer and that the Proposer is in compliance with all requirements of the Request for Response, including but not limited to, certification requirements. In submitting a Response to an agency for the State of Florida, the Proposer offers and agrees that if the Response is accepted, the Proposer will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to the Proposer.

RESPONDENT CONTACTS: Please provide the name, title, address, telephone number, and e-mail address of the official contact and an alternate, if available. These individuals shall be available to be contacted by telephone or attend meetings, as may be appropriate regarding the solicitation schedule.

PRIMARY CONTACT:		SECONDARY CONTACT:	
NAME, TITLE:		NAME, TITLE:	
ADDRESS:		ADDRESS:	
PHONE NUMBER:		PHONE NUMBER:	
FAX NUMBER:		FAX NUMBER:	
EMAIL ADDRESS:		EMAIL ADDRESS:	

Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

CAUTION: If Respondent considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, trade secret or otherwise not subject to disclosure pursuant to Chapter 119, Florida Statutes, the Florida Constitution or other authority (“Florida Public Records Law”), note the following:

Respondent shall not mark the entire Response as confidential, trade secret or otherwise not subject to Florida Public Records Law. Any Response with more than fifty percent (50%) of the documents, data or records so marked will be deemed non-responsive and will not be considered.

If you assert that any portion of your Response is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Response along with the un-redacted version, per Section 1.06, Submittal of Response of this Solicitation. The redacted copy shall be clearly titled “Redacted Copy.”

IF YOU CLAIM CONFIDENTIALITY AS TO ANY PORTION OF YOUR RESPONSE AND DO NOT PROVIDE AN ACCOMPANYING “REDACTED COPY,” SUCH RESPONSE MAY BE CONSIDERED NON-RESPONSIVE AND REJECTED PRIOR TO ITS CONSIDERATION.

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SCHEDULE OF EVENTS

The following schedule will be strictly adhered to in all actions relative to this Solicitation. The Department reserves the right to make adjustments to this schedule and will notify participants in the Solicitation by posting an addendum on the Vendor Bid System (VBS). It is the responsibility of the Respondent to check VBS on a regular basis for such updates.

DATES	EVENTS	METHOD
August 10, 2017	RFSOQ Advertised	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_www.main_menu
August 21, 2017	Questions Submitted in Writing	Procurement Contact identified in Section 1.02, Procurement Officer:
On or about, August 25, 2017	Answers to Questions Posted	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_www.main_menu
MUST BE RECEIVED NO LATER THAN: September 6, 2017 At 2:00 p.m. ET	SEALED RESPONSES DUE AND OPENED	Submit to: Florida Department of Environmental Protection DEP Procurement Section, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 RFSOQ NUMBER MUST BE ON ENVELOPE
On or about, September 25, 2017	Anticipated Posting of Recommended Short List for Oral Discussions	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_www.main_menu
October 2, 2017	Oral Discussion Anticipated Start Date	Oral Discussion Date <i>(EARLIEST Possible date Oral Discussion will begin)</i>
On or about, October 16, 2017	Anticipated Posting of Recommended Award	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_www.main_menu

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SECTION 1.00 – INTRODUCTION

1.01. Purpose and Scope. Pursuant to Florida Statute 287.055, The Department of Environmental Protection (hereinafter referred to as the Department and/or DEP) is requesting Statements of Qualification from qualified consultants to provide professional services in support of the water resource management programs for the Florida Department of Environmental Protection (DEP). All services shall be performed in accordance with the Scope of Services outlined in Section 3.00.

In order for a respondent to be considered for contract award, the Respondent must be an engineering firm registered in the State of Florida and must have at a minimum, an office and personnel located in the State of Florida.

Joint ventures and/or subcontracting among firms may be presented in order to develop an optimum team approach that provides expertise in all required fields. Respondent(s) may also subcontract for additional skills or services.

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

1.02. Procurement Officer.

Regina McDonald, Procurement Officer
DEP Procurement Section, Carr Building, Room 215
Florida Department of Environmental Protection
3800 Commonwealth Boulevard, MS#93
Tallahassee, Florida 32399-3000
Telephone Number: (850) 245-2361
regina.mcdonald@dep.state.fl.us

Refer ALL inquiries in writing to the Procurement Officer by email. Responses to timely questions posed to the Procurement Officer will be posted on the VBS, at http://myflorida.com/apps/vbs/vbs_www.main_menu in accordance with Section 1.03.

The Department will not talk to any Respondents or their agents regarding a pending solicitation. Please note that questions will NOT be answered via telephone.

ALL EMAILS TO THE PROCUREMENT OFFICER SHALL CONTAIN THE SOLICITATION NUMBER IN THE SUBJECT LINE OF THE EMAIL

1.03. Questions. Information will not be provided by telephone. The Procurement Officer shall not be bound by any verbal information or by any written information that is not contained within the RFSOQ documents or formally noticed and issued by the DEP Procurement Section.

Any questions from prospective Respondents concerning this RFSOQ shall be submitted in writing, identifying the submitter and RFSOQ number, to the Procurement Officer no later than the time and date specified in the Schedule of Events. No interpretation shall be considered binding unless provided in writing by the Department in response to a request in full compliance with this provision. E-mail inquiries are preferred; however, a hard copy or facsimile is acceptable. All questions and answers will be posted on the Vendor Bid System (VBS). It is the prospective Respondent's responsibility to periodically check the VBS. The Department bears no responsibility for any delays, or resulting impacts, associated with a prospective Respondent's failure to obtain the information made available through the VBS.

Questions will not constitute a formal protest of the specifications or of the Solicitation.

Responses to all written inquiries, and clarifications or addenda if made to the Solicitation, will be made through the VBS.

Each submission shall have the solicitation number in the subject line of the email. Questions must be submitted in the following format to be considered:

Question #	Solicitation Section	Solicitation Page #	Question

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Paragraph 5, Questions.

1.04. Addenda. If the Department finds it necessary to supplement, modify, or interpret any portion of the RFSOQ documents, a written "Addendum" will be posted on the VBS. It is the responsibility of the prospective Respondents to be aware of any Addenda that might have a bearing on their response. The response(s) submitted by the Respondents at the time of RFSOQ opening will remain firm and cannot be changed.

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

A. **Part I, Technical Response: The Technical Response shall consist of the following parts:** Solicitation Acknowledgement Form (Tab A): The Solicitation Acknowledgement Form (original copy provided in RFSOQ package) shall be completed as instructed. The original signed copy shall be submitted in one (1) copy of the response package marked "Original". Three (3) additional hard copies of the Technical Response Package, including a copy of the signed original Solicitation Acknowledgement Form shall be submitted to the Department. Three (3) duplicate electronic copies of the complete Technical Response, in .pdf format, shall be provided on a CD, DVD, or USB memory stick. If a Respondent fails to submit a completed Solicitation Acknowledgement Form with their response, the Department reserves the right to contact the Respondent by telephone for submission of this document via fax with follow up via mail. This right shall be exercised when the response has met all other requirements of the RFSOQ.

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

B. Services Response (Tab B): The Services Response Package shall be prepared by each Respondent utilizing 8.5" x 11" paper (one inch margins, Arial 10pt font) and should utilize double-sided printing. Using the description of work outlined in the Scope of Services, Respondents shall prepare their Services Response Package in the order outlined below for ease of the identification and review by the evaluators. If a portion of any section is omitted, the Respondent will receive a score of zero for that section. However, Respondent shall not use the tab pages to present additional information.

1. Introduction: This section should provide a general description of how the Respondent will accomplish the overall goal of this project.

2. Company Background: This section shall provide information on the historical background of the Respondent and on the Respondent's organizational structure. This should include years in operation and years involved in work related to this project.
3. Qualifications and Experience: This section shall demonstrate the Respondent's knowledge of each of the areas listed below. The Department will consider the experience and capabilities of the Respondent's staff who will be directly conducting the projects identified in this RFSOQ. Use of employees from other Respondent staff and staff of sub-consultants who will be providing labor on the project shall be noted along with their accomplishments and/or experience separately. Their experience will be represented in this section for multi-discipline availability of staff and within the Standard Form 330s.

(a) **PROJECT EXAMPLES:**

- i. Beach and inlet management activities consistent with the comprehensive statewide management plan:
- ii. Regional Sand Search: perform a reconnaissance level regional sand search to investigate the availability and location of offshore sediment sources of beach compatible fill material for beach restoration projects.
- iii. Inlet Management Studies: conduct coastal data collection and analysis, numerical modeling of coastal processes, define sediment pathways and quantify a sediment budget, and evaluate inlet management implementation strategies.
- iv. Statewide Coastal Monitoring: provide technical support in the further development and implementation of the regional data collection and processing plan.
- v. Environmental Design Guidelines: develop procedural guidance to incorporate environmental and natural resource considerations into the initial formulation of water resource management activities, which are carried through subsequent design and construction phases, in order to achieve a net positive environmental benefit.
- vi. Water Supply Restoration: Develop and implement the restoration/replacement of contaminated potable water wells qualified through the Water Supply Restoration Program.
- vii. Land management activities for those lands under the management of DWRM:
 - a. Homeland Upland Planting, Polk County: includes planting native grasses and herbaceous plants within approximately 200 acres encouraging habitat restoration based on soil hydrology and wildlife usage.
 - b. Chicora/Alafia Restoration Project: includes maintaining the restoration of herbaceous and forested wetlands and uplands through invasive plant control, prescribed burns, planting efforts, yearly monitoring, and other land management activities.
 - c. Upper Peace River/Saddle Creek Restoration Project: includes maintaining the restoration of herbaceous and forested wetlands through invasive plant control, prescribed burns, planting efforts, yearly monitoring, repair of stormwater system, and other land management activities.
- viii. Dam safety services: provide dam condition assessments, conduct inundation modeling and mapping of dam breaches, and preparation of Emergency Action Plans.

- ix. Respondent(s) shall demonstrate knowledge and experience with environmental permitting requirements and necessary applications that will need to be submitted to the DEP and U.S. Army Corp of Engineers (USACE).
 - (b) The Respondent shall provide qualifications and experience of the specific personnel to be assigned to this project, lines of communication and the specific role(s) to which they will be assigned. The proposed staff should demonstrate a thorough knowledge of the technical skills necessary to meet the requirements to complete this project.
 - (c) The Respondent shall discuss their approach to maintaining quality assurance and quality controls (QA/QC) throughout the design and construction phases of the project. What if any special tools or management practices will the respondent employ if selected as a result of this RFSOQ.
4. Project Management:
- (a) The Respondent shall describe in-house project organization and management methods which are most appropriate to perform the type services described in Section 3.00, Scope of Services. Contract managers and key personnel must be identified. Office locations for key personnel, **including personnel from other branch offices and sub-consultants**, must be identified.
 - (b) The Respondent shall describe their office management process for tracking and maintaining the various types of documents that will be associated with the project and how those documents will be transmitted to the various project participants.
 - (c) The Respondent shall discuss schedule monitoring and controls and demonstrate how they will meet the schedule described in Section 3.00, Scope of Services. The Department is interested in how schedules will be tracked and reported, and how they will be maintained as it relates to the contractor. The section shall also address how this will be represented as part of your invoices.
 - (d) This section shall describe work plan/report modifications and corrective action procedures:
 - i. How are goals, objectives, and activities developed and organized within the defined work scope?
 - ii. What are the internal review procedures for quality control to create error free documents?
 - iii. How is the project data managed and/or maintained?
 - iv. What are your corrective action procedures when schedules and/or costs are not maintained, or errors are discovered in the design of the project or while the project is under construction?
 - (e) The availability of the respondent's personnel assigned to this contract is important. The Department expects personnel identified in the response package to be available to work on multiple projects simultaneously without interference from other contractual obligations which the Respondent may have. The selected contractor may be performing work under several contracts simultaneously, and therefore should indicate how work overloads will be managed to prevent project delays. Adequate number of personnel to complete the work in a timely manner shall be limited to those included in the response, not the number of personnel with the branch office or within the total organization.

5. Personnel Assigned - Standard Form 330 Part I (Sections A through E only) and Part II: The Respondent shall complete Part I (Sections A through E only) and Part II of the United States Department of General Services Standard Form 330 in accordance with the instructions provided therein. Part I (Sections A through E only) and Part II of the Standard Form 330 must be completed and submitted with the response package. Key personnel identified in Section E shall be those personnel directly responsible for daily project management to be assigned to the contract resulting from this RFSOQ. Specific project positions shall coincide with the personnel identified in the Project Management section of the response package (see Section B.4 above). An electronic version of the form may be obtained at the website <https://www.gsa.gov/portal/forms/download/116486> under the Standard-Std Contracting & Procurement section. Projects listed on the Standard Form 330 must be relevant to the project requested in this RFSOQ and those that do not pertain to the types identified for this RFSOQ will not be considered.

Adequate number of personnel to complete the work in a timely manner shall be limited to those included in the response, not the number of personnel with the branch office or within the total organization.

6. Licenses: The Respondent shall submit copies of professional licenses from the appropriate State of Florida board governing the services to show that the respondent is an engineering firm registered in the State of Florida.
7. Past Performance / Client References: (Must use pages provided): The Respondent must provide the required information on the Client Reference Form (Section 8.00), for five (5) separate and verifiable clients which the Respondent has completed projects similar in nature to this Solicitation over the past five (5) years.
- Confidential clients shall not be included.
 - The same client may not be listed for more than one (1) reference (*for example, if the Respondent has completed a project for the Florida Department of Transportation – District One and one project for the Florida Department of Transportation – District Two, only one of the projects may be listed*).
 - If the Respondent has performed work similar in nature to this Solicitation for the Department, the Respondent shall list the Department as a client reference.
 - Clients that are listed as subcontractors in the Respondent's response will not be accepted as Past Performance references under this Solicitation.
 - A client that is currently a parent or a subsidiary company to the Respondent will not be accepted as a Past Performance references under this Solicitation.
 - For Respondents that submit a response as a joint venture, at least one (1) past performance client must be listed for each member of the joint venture.

A Department representative will choose, at its own discretion, two (3) of the Respondent's references and contact them via telephone to complete the Evaluation of Past Performance form (Section 10.00).

- If DEP is listed as one (1) of the client references, then the DEP client will be used as one of the required number of references.
- References should be available to be contacted during normal working hours.

- The Department will attempt to contact each selected reference by phone up to two (2) times during the duration of one (1) week.

If the contact person cannot be reached following the specified number of attempts, the Respondent shall receive a score of zero (0) for that reference evaluation.

- C. Respondent / Subcontractor Summary Form (Tab C): On the Respondent / Subcontractor Summary Form (Section 6.00) provided the Respondent shall list the name of the Respondent(s) / Subcontractor(s) and indicate the **one** (1) business category of the Respondent/Subcontractor.
- D. State Project Plan (Tab D) (not included in page limit): The Respondent shall submit a written plan addressing the State's five (5) objectives listed in Section 1.20, State Project Plan, to the extent applicable to the items/services covered by this RFSOQ. The Department expects Respondents to address each objective. Objectives not addressed in the selected consultant's response must be addressed prior to contract execution. **The State reserves the right to negotiate mutually acceptable changes with the Respondent selected for award, prior to execution of the contract.**

1.06. Submittal of Statement of Qualification. Response must be received in accordance with VBS and Schedule of Events. Sealed responses must be executed and submitted in a sealed envelope. The face of the envelope shall contain the RFSOQ number and opening date. All RFSOQs are subject to the conditions specified herein. Those that do not comply with these conditions are subject to rejection.

One (1) original copy and three (3) duplicate copies of the response must be submitted for review by the Department. The hard copy of the response shall bear original signatures and be marked as the "Original". The electronic copies of the response may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format. The Department will reject responses submitted in alternate file formats or which contain information different from that in the hard copy of the response.

If you assert that any portion of your Response is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Response along with the un-redacted version. The redacted copy shall be clearly titled "Redacted Copy."

All proposed materials must be packaged so that each box of materials shipped to the Department does not exceed 25 pounds.

Respondents submitting are advised to assure the files are not corrupt prior to mailing as any material which is not readable will not be considered.

CAUTION: Responses received at the office designated after the exact time specified for receipt will not be considered.

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001) Paragraph 3, Electronic Submission of Responses.

1.07. Alternate Responses. A Respondent may not submit more than one (1) Response. The Department seeks each Respondent's single-best response.

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

1.09. General Evaluation Information. The Department reserves the right to accept or reject any or all responses received; waive any minor irregularity, technicality, or omission if the Department determines

that doing so will serve the State’s best interest; and reserves the right to make an award without further discussion of the responses submitted. No allowances will be made to the Respondent because of a lack of knowledge of conditions or requirements and will not relieve any liabilities and obligations.

A non-responsive submittal shall include, but not be limited to, those that: a) are irregular or are not in conformance with the requirements and instructions contained herein; b) fail to utilize or complete prescribed forms; or c) have improper or undated signatures. **A NON-RESPONSIVE SUBMITTAL WILL NOT BE CONSIDERED.**

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

The Department objects to and shall not consider any additional terms or conditions submitted by a Respondent, including any appearing in documents attached as part of a Respondent’s response. In submitting its response, a Respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have not force or effect.

Note: Any requirement of this RFSOQ which indicates the consequence of any noncompliance shall be strictly enforced.

1.10. Evaluation Criteria Scoring. With the exception of the cost and past performance reviews, each Statement of Qualifications will be reviewed by at least three (3) evaluators. Each of the evaluators will work independently using the evaluation criteria contained in Section 9.00, Evaluation Criteria Score sheet. A Department representative will contact references via telephone to obtain the past performance reviews. The scores for the past performance reviews shall be provided to the evaluators for inclusion on their score sheets for calculation of the total numerical rating. The DEP Procurement Section will use the total point scores to convert to rank by each evaluator and then calculate an average rank for each response for all evaluators. The DEP Procurement Section shall present the average rankings to the Water Resource Management Project Manager or his designee, who will then determine the short list of firms recommended to participate in oral discussions.

For example:

Firm	Raw Points Received	Rank
Company A	200	2
Company B	210	1
Company C	180	3.5*
Company D	175	5
Company E	180	3.5*

In the event that multiple firms have the same raw point score, the rank positions for these firms are averaged and each firm receives that rank. In this case the third and fourth ranks are tied so $3 + 4 = 7$; 7 divided by $2 = 3.5$. Each firm receives a rank of 3.5. All responses must comply with the terms of this RFSOQ.

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

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

1.11. Posting of Short List. The recommended short list of finalists selected to participate in Oral Discussion with the Department will be posted for review by interested parties on the VBS on or after the date listed on the Schedule of Events and will remain posted for a period of seventy-two (72) hours, which does not include weekends or State observed holidays.

To access the posted results, go to <http://www.myflorida.com>. Once at this site, the steps listed below should be followed to access the Vendor Bid System (VBS). The date as specified in the Schedule of Events is to be used by prospective Respondents for planning purposes only and is subject to change.

Click on BUSINESS

Click on “Doing Business with the State”

Under the “Everything for Vendors and Customers” heading, click on “Vendor Bid System”

Under the “Agency” search field, select the “Department of Environmental Protection” and click on “Initiate Search”

Click on the applicable RFSOQ number

1.12. Basis of Award. The Department anticipates the issuance of one (1) or more contracts for services under this RFSOQ. The Department reserves the right to award to a single Respondent, or multiple Respondents, or to make no award, as determined to be in the best interest of the State. The Department, at its sole discretion, shall make this determination. **In order for a Respondent to be considered for contract award, the Respondent must be an engineering firm registered in the State of Florida and must have an office, and personnel located in Florida.**

1.13. Posting of Agency Decision. The notice of intended award will be posted for review by interested parties on the VBS on or after the date listed on the Schedule of Events and will remain posted for a period of seventy-two (72) hours, which does not include weekends or State observed holidays.

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Paragraph 13, Electronic Posting of Notice of Intended Award.

1.14. Offer Acceptance Period. The Department expects to execute the contract(s) as soon as possible after the Agency Decision comes off posting. The Department has the discretion to terminate negotiations if agreement is not reached within thirty (30) days of Posting of Agency Decision.

1.15. Type of Contract Contemplated. It is anticipated that the contract resulting from this RFSOQ will be a fixed price contract. However, the Department reserves the right to award another type of contract if such will be most advantageous to the Department and the State of Florida, cost and other factors considered.

A copy of the proposed contract containing all requirements is included as Section 11.00. The requirements contained in the proposed contract should be closely reviewed by the offeror since modifications proposed by the Respondent may or may not be considered.

Execution of the contract resulting from this RFSOQ is contingent upon the Department’s receipt of funding under the Stipulation Agreement.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000) Paragraph 2, Purchase Orders.

1.16. Contract Term. The term of the contract will begin upon execution by both parties and remain in effect for a period of five (5) years, unless cancelled earlier in accordance with the terms of the contract.

1.17. Contract Renewal. The Department reserves the right to renew any contract resulting from this RFSOQ. Renewal shall be subject to the terms and conditions set forth in the existing contract and shall be limited to no more than an additional term not to exceed five (5) years. Renewal of this contract shall be in writing and subject to the same terms and conditions of this contract. All renewals are contingent upon satisfactory performance by the consultant and the availability of funds.

1.18. Florida Department of State Registration Requirements. All entities defined under Chapters 865, 607, 608, 620, or 621, F.S., seeking to do business with the Department shall, prior, to issuance of a purchase order, be appropriately registered with the Florida Department of State. Information about the registration process is available at <http://www.sunbiz.org/index.html>.

1.19. Convicted Vendor List. A company placed on the Convicted Vendor List may not submit a Reply or be awarded a contract to provide any goods or services pursuant to Rule 60A-1.006 F.A.C. The “Convicted Vendor List” is published at: http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/convicted_vendor_list.

1.20. MyFloridaMarketPlace Vendor Registration. Prior to the issuance of a contract by the Department, the selected vendor must be registered with the Florida Department of Management Services (DMS) MyFloridaMarketPlace Vendor Registration System. Information about the registration process is available and registration may be completed at the MyFloridaMarketPlace website: http://www.dms.myflorida.com/business_operations/state_purchasing/myfloridamarketplace/mfmp_vendors/requirements_for_vendor_registration (link also available under Business at www.myflorida.com).

Prospective vendors who do not have Internet access may request assistance from MyFloridaMarketPlace Customer Service at (866) 352-3776.

The following United Nations Standard Products and Services Code (UNSPSC) are provided to assist you in your registration efforts:

- 77101700, Environmental advisory services;
- 77101701, Environmental sciences advisory services;
- 81102101, Coastal engineering;
- 81101500, Civil engineering; and
- 81171600, Ecological science services.

1.21. State Project Plan. The Respondent shall submit a written plan addressing the State’s five (5) objectives listed below, to the extent applicable to the items/services covered by this solicitation. The Department expects Respondents to address each objective. Objectives not addressed in the selected response must be addressed prior to issuance of a purchase order. **The State reserves the right to negotiate mutually acceptable changes with the Respondent selected for award, prior to execution of the purchase order.**

SUBMIT THE RESPONDENT SUMMARY FORM (SECTION 6.00) IDENTIFYING THE TEAM THAT WILL BE UTILIZED IN CONNECTION WITH THIS CONTRACT. LIST THE NAMES AND INDICATE THE OFFICE OF SUPPLIER DIVERSITY BUSINESS CATEGORY OF EACH ONE LISTED.

1. Minority-, Women-, and Veteran Business Enterprises. The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and veteran business enterprises in the economic life of the state. The State of Florida

Mentor Protégé Program connects minority-, women-, and veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

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

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

Information on certified Woman / Minority Business Enterprises (W/MBE) and certified Veteran Business Enterprises is available from the Office of Supplier Diversity at:

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

Quarterly Reports of revenue paid to certified W/MBE and certified Veteran Business Enterprises consultants (agents or sub-consultants) as a result of any award shall be provided to DEP's Procurement Office by the Prime Consultant on an Agency by Agency (or other eligible user) level.

- 2. Environmental Considerations:** The Respondent shall provide a plan for reducing and/or handling of any hazardous waste generated by the Respondent's company. It is a requirement of the Department that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current EPA Identification Number. This identification number shall be submitted as part of the Respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of waste. Reference Rule 62-730, Florida Administrative Code (F.A.C.) and federal hazardous waste regulations for generators at 40 C.F.R. part 262.
- 3. Certification of Drug-Free Workplace Program:** The State supports and encourages initiatives to keep the workplace of Florida's suppliers and consultants drug free. Section 287.087, F.S., provides that where identical tie proposals are received, preference shall be given to a proposal received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, the Respondent shall sign and submit the "Certification of Drug-Free Workplace Program" Form (Section 7.00) to certify that the Respondent has a drug-free workplace program.
- 4. Products Available from the Blind or Other Handicapped (RESPECT):** The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Section 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 <https://sercure.imarcsgroup.com/respect/Default.asp>.

The Respondent shall describe how it will support the use of RESPECT in offering the services/items being procured under this Solicitation. Respondents proposing the use of RESPECT as a sub-consultant shall be required to provide written proof of a sub-consultant agreement for this

Solicitation with RESPECT with their Proposal. The written documentation shall be a one (1) page letter supplied by the sub-consultant on its letterhead stationery, clearly identifying the Solicitation Number, the project title, and the prime consultant with whom the firm intends to subcontract.

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

The Respondent shall describe how it will support the use of PRIDE in offering the services/items being procured under this Solicitation.

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

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SECTION 2.00 – GENERAL INSTRUCTIONS TO RESPONDENTS (PUR 1001)

This section contains instructions explaining the solicitation process and the actions necessary to respond. General Instructions to Respondent (Form PUR 1001 – incorporated herein by reference) is a downloadable document which must be downloaded for review. This document need not be returned with the Respondent's Reply. Form PUR 1001 may be accessed at http://dms.myflorida.com/business_operations/state_purchasing under "Documents, Forms, References and Resources"; "Purchasing Forms".

In the event of any conflict between Form PUR 1001 and other instructions provided in this document, the additional instructions in this document shall take precedence over the Form PUR 1001 unless the conflicting term is required by any section of the Florida Statutes (F.S.), in which case the statutory requirements shall take precedence.

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SECTION 3.00 – STATEMENT OF WORK

3.01. Project Description. This Scope of Services details statements of qualifications from firms **who are engineering firms registered in the State of Florida and who maintain an office, and personnel within the State**, to provide professional services to the water resource management programs within the Department.

3.02. Background. Recognizing the importance of the State’s water resources, the Florida legislature has established a comprehensive water resource management program to protect, preserve and restore the State’s waters. The Division of Water Resource Management (Division) is responsible for implementing state laws providing for the protection of the quality of Florida’s drinking water, ground water, rivers, lakes, estuaries, and wetlands; reclamation of mined lands; and the preservation of the State’s beach and dune systems. The Division is the central point of contact for federally delegated water programs such as National Pollutant Discharge Elimination System (NPDES), Drinking Water, and Underground Injection Control (UIC). The Division’s funding comes through appropriations made by the Legislature from trust funds and general revenue. The Division also receives federal funding from the U.S. Environmental Protection Agency (EPA) through the following grants: 106 Water Pollution Control, State Public Water System, and State Underground Water Source Protection. Revenue from the Permit Fee Trust Fund and the Water Quality Assurance Trust Fund are derived from various sources such as NPDES Stormwater permits, Wastewater permits, Drinking Water fees, Beach Construction permits, and Operator Certification fees. The Division requires contractors to provide professional services to support these programs.

3.03. Scope of Services. Contractor shall provide professional services for projects involving civil and coastal engineering and geology, petroleum engineering, landscape architecture, surface water hydrology and hydrogeology, biology, land management, restoration and reclamation of lands mined or disturbed, mapping and geographical information systems, and construction management. Services may also include third party and quality assurance review of planning and design of projects, and the development of design and quality assurance procedural guidelines for use in Florida. Contractor is responsible for the satisfactory completion of all tasked work and shall provide at least one (1) professional to serve as contract manager. The Contract Manager shall conduct all business required to support the contract and task assignments. Contract management activities are considered part of the overhead of the selected contract and will not otherwise be billed to the State. Contractor shall furnish all labor, supervision, equipment, supplies, and materials required to provide the services outlined in this solicitation. Services may include, but not be specifically limited to, the following types of projects:

- A. Coastal process modeling and analysis;
- B. Coastal engineering and planning;
- C. Coastal structural design and construction monitoring and support;
- D. Design and permitting of filtration systems at Public Water Systems(PWS);
- E. Design and permitting required for the extension of PWS water mains;
- F. Emergency response functions at PWS, Limited Use Systems and private water well sites;
- G. Assessment of groundwater conditions, including sampling, analysis, and monitoring well installation;
- H. Assessment of water well system integrity;

- I. Design and of groundwater monitoring well systems and construction monitoring and support;
- J. Water quality laboratory testing;
- K. Hydrologic modeling and analysis;
- L. Stormwater management system engineering and design;
- M. Habitat restoration modeling and analysis;
- N. Habitat restoration engineering and planning;
- O. Habitat restoration design and implementation monitoring and support;
- P. Geological analysis and product development;
- Q. Geotechnical services;
- R. Surveying;
- S. Construction management and inspection;
- T. Project management and administration services; and
- U. Emergency response functions and post-storm recovery activities and support;
- V. Dam safety condition assessments, inundation modeling and mapping of dam breaches, and preparation of Emergency Action Plans.

3.04. Task Assignments. Specific Task Assignments will be developed specifying work products, schedules, task budget, staffing requirements, and deliverables. The Contractor may accept and execute multiple Task Assignments on a simultaneous basis. **No work on any project shall begin until a Task Assignment outlining the work has been fully executed by both parties including an agreed upon cost.**

3.05. Additional Requirements.

- A. Progress reports of activities during the billing period will be due with monthly invoices.
- B. Staffing may be directly specified and may be required to reside within the Department.
- C. Staffing for agency, State or Federal emergencies will be available the day following the emergency declaration.
- D. All deliverables will be provided to the Department in electronic format consistent with the Department standards as specified in the task assignment.

Contractor shall not provide services for programs that will benefit themselves or their clients. No selected firm may engage in a task to perform an agency function that would have a bearing on the disposition of an agency action where the firm or sub-consultant, or any client of the firm or sub consultant would directly benefit from the outcome of the action. (i.e.: the selected firm could not provide the Bureau with permit processors that would be considering the permits of a client.)

3.06. Sample Projects. Contractor may be requested to provide professional services related to planning and design of inlet management and beach erosion control projects; public water main extensions and potable wells; land management activities related to the restoration or reclamation of lands mined or disturbed by mining operations; implementation of the oil and gas regulatory program; and dam safety engineering. The following projects are typical of the type of work which will be tasked under the contract resulting from this solicitation.

1. Beach and inlet management activities consistent with the comprehensive statewide management plan:
 - a. Regional Sand Search: perform a reconnaissance level regional sand search to investigate the availability and location of offshore sediment sources of beach compatible fill material for beach restoration projects.
 - b. Inlet Management Studies: conduct coastal data collection and analysis, numerical modeling of coastal processes, define sediment pathways and quantify a sediment budget, and evaluate inlet management implementation strategies.
 - c. Statewide Coastal Monitoring: provide technical support in the further development and implementation of the regional data collection and processing plan.
 - d. Environmental Design Guidelines: develop procedural guidance to incorporate environmental and natural resource considerations into the initial formulation of water resource management activities, which are carried through subsequent design and construction phases, to achieve a net positive environmental benefit.
2. Water Supply Restoration: Develop plans and provide implementation oversight for the restoration/replacement of contaminated potable water wells qualified through the Water Supply Restoration Program.
3. Land management activities for those lands under the management of DWRM:
 - a. Homeland Upland Planting, Polk County: includes developing habitat restoration plans based on soil hydrology and wildlife usage within approximately 200 acres encouraging.
 - b. Upper Peace River/Saddle Creek Restoration Project: includes yearly monitoring and repair of stormwater system.

3.07. Additional Services. Contractor may be requested to provide other professional services related to the DEP's water resource management programs, as deemed necessary by the Department. The Department reserves the right to amend the contract resulting from this RFSOQ to include new services related to the Department's water resource management programs requiring planning, construction bidding assistance, and construction management, as necessary.

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SECTION 4.00 – SPECIAL CONDITIONS

4.01. Definitions. Listed below are definitions specific to this RFSOQ:

- a) “Associated Business Entity” shall mean a Business Entity, that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Respondent; including but not limited to, the following: i) a business entity twenty percent (20%) or more of whose outstanding voting securities, membership interests or partnership interests are directly or indirectly owned, controlled, or held with power to vote, by the Respondent, ii) a business entity which directly or indirectly owns controls, or holds, with power to vote, twenty percent (20%) or more whose outstanding voting securities, membership interests or partnership interests are directly or indirectly owned, controlled, or held with power to vote, by the Respondent.
- b) “Business Entity” includes firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, companies, fiduciaries, corporations, and all other groups or combinations.
- c) “Control” means the ability, directly, or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise, including through common officers, directors, executive, partners, shareholders, employees, members, or agents who are active in the management of an entity.

4.02. Additional Quantities. For a period not exceeding the term of this RFSOQ, the Department reserves the right to acquire additional quantities on an as-needed basis, depending on the availability of funds, at the same unit price(s), terms and conditions.

NOTE: *This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 5, Additional Quantities.*

4.03. Additions / Deletions. During the term of the contract resulting from this RFSOQ, the Department shall have the right to make product changes that result in additions, deletions, or revisions to awarded items/services. Specifications and prices of items added or revised must be agreed upon in writing by both the Department and Contractor. Prices of added or revised items shall be mutually agreed upon by the Department and Contractor.

4.04. Assertion of Confidentiality Regarding Submitted Materials.

- A. Responses should contain only information that is responsive to the Solicitation. Any relevant and responsive information submitted which is asserted by you to be proprietary, trade secret, intellectual property, or otherwise confidential (“Confidential Information”) and which you claim as privileged from disclosure despite any applicable Florida Public Records Law, must be clearly marked as such in the un-redacted version of your response, and either removed from or obliterated in the Redacted Copy.
- B. If Respondent fails to submit a Redacted Copy, the Department is authorized to produce the entire un-redacted document submitted to the Department in response to a public records request encompassing the response.
- C. The Redacted Copy should redact all, but only, those portions of material that Respondent asserts are Confidential Information. Respondent must identify the statutory citation supporting its claim of confidentiality for each and every redaction.

D. Failure to identify asserted Confidential Information in Responses, and/or to redact such information in the Redacted Copy, shall constitute a waiver of any claim of confidentiality or exemption to such information, document or response.

4.05. Compliance with Laws. The Respondent shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287, F.S., and Rule 60A, F.A.C., govern the Contract. By way of further non-exhaustive example, the Respondent shall comply with Section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of any such applicable laws, roles, codes, ordinances and licensing requirements, shall be grounds for Contract termination.

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

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

4.08. Disclosure and Ownership of Response Contents by the Department. A Respondent's response shall be a public record and subject to production, disclosure, inspection and copying consistent with the requirements of Chapter 119, F.S. All information in a Respondent's response (including, without limitation, technical and price information), and any resulting Contract, which will incorporate the successful response, will be a matter of public record, subject to the provisions of Florida's Public Records Act, Chapter 119, F.S., regardless of copyright status. A Respondent's submission of a response shall constitute a waiver of any copyright protection which might otherwise apply to the Department's production, disclosure, inspection and copying of such response and contract, or any part thereof, except those parts asserted to be exempt under Chapter 119, F.S. A Respondent's response, upon submission, and the contract shall be the property of the Department except those parts asserted to be exempt in the manner set forth below, and the Department, in its sole discretion, shall have the right to use, reproduce, and disseminate the response and contract. The Department reserves the right to use any and all information contained in a Respondent's response.

Any response content submitted to the Department which is asserted to be exempt under Chapter 119, F.S., shall be set forth on a page or pages separate from the rest of the response, and clearly marked "exempt," "confidential," or "trade secret" (as applicable), with the statutory basis for such claim of exemption, confidentiality, or trade secret specifically identified in writing on each and every such page. Failure to segregate and so identify any such content shall constitute a waiver of any claimed exemption, confidentiality, or trade secret as applied to the portion of the response or other document in which the content is set forth.

4.09. E-Verify Program for Employment Verification.

A. The employment of unauthorized aliens by any consultant/vendor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor/vendor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract. The consultant shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this contract.

- B. Pursuant to State of Florida Executive Order No. 11-116, contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system (www.dhs.gov) to verify the employment eligibility of all new employees hired by the contractor during the contract term. Also, the contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.

4.10. Financial Consequences. No payment will be made for deliverables deemed unsatisfactory by the Department. In the event that a deliverable is deemed unsatisfactory by the Department, contractor shall re-perform the services needed for submittal of a satisfactory deliverable, at no additional cost to the Department, within thirty (30) days of being notified of the unsatisfactory deliverable. If a satisfactory deliverable is not submitted within the specified timeframe, the Department may, in its sole discretion, either: 1) terminate the contract for failure to perform, or 2) the Department Contract Manager may, by letter specifying the failure of performance under the contract, request that a proposed Corrective Action Plan (CAP) be submitted by contractor to the Department. All CAPs must be able to be implemented and performed in no more than sixty (60) days.

- A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the Department. The CAP shall be sent to the Department Contract Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the Department shall notify the consultant in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the consultant shall have ten (10) calendar days from receipt of the Department letter rejecting the response to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above shall result in the Department's termination of the contract for cause as authorized in the contract.
- B. Upon the Department's notice of acceptance of a proposed CAP, the consultant shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by the Department does not relieve the consultant of any of its obligations under the contract. In the event the CAP fails to correct or eliminate performance deficiencies by contractor, the Department shall retain the right to require additional or further remedial steps, or to terminate the contract for failure to perform. No actions approved by Department or steps taken by the consultant shall estop the Department from subsequently asserting any deficiencies in performance. The consultant shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the Department as requested by the Department Contract Manager.
- C. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the contract as specified by the Department may result in termination of the contract.

The remedies set forth above are not exclusive and the Department reserves the right to exercise other remedies in addition to or in lieu of those set forth above, as permitted by the contract.

4.11. Firm Response. The Department may make an award within one hundred eighty (180) days after the date of the response opening, during which period the response submitted shall remain firm and shall not be withdrawn. If an award is not made within one hundred eighty (180) days after the response opening date, the response shall remain firm until either the Department posts an Agency Decision or the Department receives a written notice from the Respondent that the response is withdrawn, whichever occurs first. Any response that expresses a shorter duration shall be rejected.

NOTE: This section supersedes Section 2.00, General Instruction to Respondents (PUR1001), Paragraph 14, Firm Response.

4.12. Force Majeure. If a force majeure occurs which causes delays or the reasonable likelihood of delay in the achievement of the requirements of a contract resulting from this RFSOQ, the selected consultant shall promptly notify the Department orally and shall, within seven (7) calendar days, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay, and the selected consultant's intended timetable for implementation of these measures. If the parties agree that the delay or anticipated delay has been or will be caused by a force majeure, time for performance under this contract may be extended, at the discretion of the Department, and at no additional cost to the Department, for a period of time equal to the delay resulting from the force majeure. Such agreement shall be confirmed by letter from the Department accepting, or if necessary modifying the extension. A force majeure shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary governmental or third party approvals, governmental restraint, and any other cause, whether of the kind specifically enumerated herein or otherwise, which is not reasonably within the control of the selected consultant. The selected consultant is responsible for the performance of all services issued under this contract.

4.13. Forum Selection and Choice of Law. The 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 the 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 of invalidity, without invalidating the remainder of such provision or the remaining provisions of this contract. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

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

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 19, Indemnification, paragraph #1.

4.15. Insurance. The consultant selected under this RFSOQ shall maintain during the life of the contract, Workers' Compensation Insurance for all of its employees connected with the contract and, in case any work is subcontracted, the consultant shall require the sub-consultant similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the consultant. Such insurance shall comply fully with the Florida Workers' Compensation Law. In case any class of employee engaged in hazardous work under the contract is not protected under the Workers' Compensation statute, the consultant shall provide adequate insurance, satisfactory to the Department, for the protection of its employees not otherwise protected.

The consultant selected under this RFSOQ shall secure and maintain during the life of the Contract comprehensive general liability coverage with limits of not less than \$1,000,000 per occurrence and \$3,000,000 annual aggregate, comprehensive automobile liability coverage with limits of not less than \$3,000,000 combined single limit, and professional liability coverage with limits of not less than \$1,000,000 per claim and \$1,000,000 annual aggregate. The consultant shall list the Department as an additional insured on each of the coverages described above. The consultant's current certificate of insurance shall contain a provision that the insurance will not be canceled for any reason except after

thirty (30) days written notice to the Department's Contracts Administrator and shall reference the DEP Contract Number.

The selected consultant's current certificate of insurance shall contain a provision that the insurance will not be canceled or modified for any reason except after thirty (30) days written notice to the Department's Contract Manager, with the exception of ten (10) days-notice for non-payment of premium by the insured.

The selected consultant shall be required to submit insurance certificates evidencing all of the above insurance coverage prior to the execution of a contract with the Department. The insurance certificate must name the Department as an additional insured and reference the DEP Contract Number. Copies of new insurance certificates must be provided to the Department's Contract Manager with each insurance renewal.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 35, Insurance Requirements.

4.16. Invoicing and Payment. As consideration for the commodities rendered under this RFSOQ, the Department shall pay the vendor(s) as specified on the purchase order(s). Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., which govern time limits for payment of invoices. Invoices that must be returned to the Respondent due to preparation errors will result in a delay in payment. All bills for amounts due under this RFSOQ shall be submitted in sufficient detail as may be required by the Department for a proper pre-audit and post-audit.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 15, Invoicing and Payments.

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

4.18. Limitation of Liability. Liability will not be limited in any contract(s) resulting from the RFSOQ. Limitation of Liability is deleted in its entirety.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 20, Limitation of Liability.

4.19. Misrepresentations. All information submitted and representations made by the Respondent are material and important and will be relied upon by the Buyer in awarding the contract. Any misstatement or omission (a "Misrepresentation") shall be treated as a fraudulent concealment of the true facts relating to submission of the RFSOQ. A misrepresentation shall be a basis for the Buyer to disqualify the Respondent from participating in this RFSOQ, and any re- RFSOQ pertaining to this subject matter (regardless of whether the re- RFSOQ resulted from the Respondent's misrepresentation) and shall be punishable under law, including, but not limited to, Chapter 817, F.S.

4.20. MyFloridaMarketPlace Transaction Fee. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide e-procurement system. Pursuant to Rule 60A-1.032(1), F.A.C., the contract resulting from this RFSOQ shall be exempt from the transaction fee.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Paragraph 14, Transaction Fee.

4.21. Performance Bond. The Department may request that the consultant shall supply a Performance Bond. The surety shall be in a form acceptable to the Department, such as a bond, cashier's check, certified check or money order. A Surety must be authorized to do business in the State of Florida. If requested, the Performance Bond shall be executed and furnished to the Department within ten (10) calendar days prior to the consultant beginning work under the contract. The Performance Bond must state that it includes coverage of liquidated damages assessed against the consultant.

4.22. Public Requests for Responses.

- A. If a public records request is made for the Response, the Department will provide the requestor access to the Redacted Copy, bearing Respondent's assertion of exemption from disclosure. If a public records request is made for the un-redacted Response challenging the assertion of exemption, the Department will notify Respondent that the requested records contain asserted Confidential Information. Respondent shall be solely responsible for taking whatever action it deems appropriate to legally defend its claim of exemption from disclosure under the Public Records Law.
- B. Respondent shall obtain either an agreement with the requestor withdrawing its request, or commence an action in a court of competent jurisdiction requesting an injunction prohibiting its disclosure within seventy-two (72) hours (excluding weekends and state and federal holidays) of Respondent's receipt of notice of the public records request.
- C. By submitting its response, the Respondent agrees that no right or remedy for damages against the Department will arise from disclosure by the Department of the alleged Confidential Information following the Respondent's failure to promptly protect its claim of exemption.
- D. By submitting a Response to this Solicitation, the Respondent agrees to protect, defend, and indemnify the Department for any and all claims arising from or relating to the Respondent's assertion that the redacted portions of its response are Confidential Information not subject to disclosure.

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

4.24. Subcontracting. The selected consultant shall not subcontract, assign, or transfer any work identified under this RFSOQ.

4.25. Terms and Conditions. All responses are subject to the terms of the following sections of this RFSOQ, which, in case of conflict, shall have the order of precedence listed:

- 1. Section 1.00, Introductions;
- 2. Section 3.00, Scope of Services;
- 3. Section 4.00, Special Conditions;
- 4. Section 2.00, General Instructions to Respondents (PUR1001); and
- 5. Section 5.00, General Contract Conditions (PUR1000).

Note: Any requirement of this RFSOQ which indicates the consequence of any noncompliance shall be strictly enforced.

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Paragraph 4, Terms and Conditions.

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SECTION 5.00 – GENERAL CONTRACT CONDITIONS (PUR 1000)

Standard terms and conditions that will apply to the contract which results from the solicitation event are provided in this section. General Contract Conditions (Form PUR 1000 – incorporated herein by reference) is a downloadable document which must be downloaded for review. This document need not be returned with the Respondent's Reply. Form PUR 1000 may be accessed at http://dms.myflorida.com/business_operations/state_purchasing under "Documents, Forms, References and Resources"; "Purchasing Forms".

In the event of any conflict between the PUR 1000 form and any other Special Conditions, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the F.S., in which case the statutory requirements shall take precedence.

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SECTION 6.00 – RESPONDENT SUMMARY FORM

Section A	RESPONDENT IDENTIFICATION (To Be Completed By The Respondent.)
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As Respondent to this RFSOQ, I / we intend to utilize the following Team in connection with this project: In the spaces provided below, list the name of the Respondent/Subcontractor and indicate the Office of Supplier Diversity business category of each one listed.

	INDICATE THE ONE OFFICE OF SUPPLIER DIVERSITY CATEGORY THAT BEST DESCRIBES EACH ORGANIZATION LISTED																						
	STATE NON-MINORITY BUSINESS CLASSIFICATION				CERTIFIED MBE				NON-CERTIFIED MBE				NON-PROFIT ORG.										
	NON-MINORITY (A)	SMALL BUSINESS (STATE) (B)	SMALL BUSINESS (FEDERAL) (C)	GOVERNMENTAL AGENCY (D)	NON-PROFIT ORGANIZATION (F)	P.R.I.D.E. (G)	VETERAN BUSINESS ENTERPRISE (L)	AFRICAN AMERICAN (H)	HISPANIC (I)	ASIAN/HAWAIIAN (J)	NATIVE AMERICAN (K)	AMERICAN WOMAN (M)	VETERAN BUSINESS ENTERPRISE (W)	AFRICAN AMERICAN (N)	HISPANIC (O)	ASIAN/HAWAIIAN (P)	NATIVE AMERICAN (Q)	AMERICAN WOMAN (R)	VETERAN BUSINESS ENTERPRISE (Y)	BOARD IS 51% OR MORE MINORITY (S)	51% OR MORE MINORITY OFFICERS (T)	51% OR MORE MINORITY COMMUNITY SERVED (U)	OTHER NON-PROFIT (V)
LIST NAMES OF RESPONDENT(S)/SUBCONTRACTOR(S)																							

Section B

ACKNOWLEDGEMENT (To Be Completed By The Respondent(s)).

I / WE HEREBY CERTIFY that, as Respondent to this RFSOQ, that the information provided herein is true and correct.

Name of Respondent #1

Name of Respondent #2

Signature

Date

Signature

Date

Print Name/Title

Print Name/Title

*****IMPORTANT*****

BOTH SECTIONS OF THIS FORM MUST BE COMPLETED AND SECTION B MUST BE DATED AND BEAR THE RESPONDENT'S SIGNATURE FOR THIS FORM TO BE DEEMED RESPONSIVE.

Please review to ensure all sections are complete and the form is acknowledged correctly.

SECTION 7.00 – CERTIFICATION OF DRUG-FREE WORKPLACE

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, which are equal with respect to price, quality, and service, are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

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

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

(Signature)

(Type Name)

(Company Name)

(Address)

(City, State, Zip)

SECTION 8.00 – CLIENT REFERENCES FORM

The Respondent must provide a minimum of five (5) separate and verifiable Clients, for which work similar to that specified in this RFSOQ has been performed. The same client may not be listed for more than one (1) reference. Information on each Client must be provided on the following pages; however, additional pages may be used as necessary. Confidential Clients shall not be included. **Respondents who do not submit the required information will be deemed non-responsive and therefore, rejected.**

NOTE: Period of Service dates must verify that the services have been ongoing for at least five (5) years.

Client #1:		
Name:		
Address:		
Contract Person:	Email Address:	
Phone Number:	Fax Number:	
Period of Services: <i>(dates must demonstrate at least one (1) continuous year of service)</i>	From:	To:
Approximate Contract Value:		
Brief description of services provided:		
Client #2:		
Name:		
Address:		
Contract Person:	Email Address:	
Phone Number:	Fax Number:	
Period of Services: <i>(dates must demonstrate at least one (1) continuous year of service)</i>	From:	To:
Approximate Contract Value:		
Brief description of services provided:		

Client #3:		
Name:		
Address:		
Contract Person:	Email Address:	
Phone Number:	Fax Number:	
Period of Services: <i>(dates must demonstrate at least one (1) continuous year of service)</i>	From:	To:
Approximate Contract Value:		
Brief description of services provided:		
Client #4:		
Name:		
Address:		
Contract Person:	Email Address:	
Phone Number:	Fax Number:	
Period of Services: <i>(dates must demonstrate at least one (1) continuous year of service)</i>	From:	To:
Approximate Contract Value:		
Brief description of services provided:		
Client #5:		
Name:		
Address:		
Contract Person:	Email Address:	
Phone Number:	Fax Number:	
Period of Services: <i>(dates must demonstrate at least one (1) continuous year of service)</i>	From:	To:
Approximate Contract Value:		

Brief description of services provided:

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SECTION 9.00 – EVALUATION CRITERIA

	Maximum Raw Score Possible		Weight Factor		Weighted Score
I. Acknowledgement Form					
II. Services Response					
A. Introduction					
B. Company Background ¹	5	X	4	=	20
C. Qualifications and Experience					
1. Multi-Discipline Availability ¹	5	X	5	=	25
2. Drinking Water & Stormwater Facilities Design, Engineering, Surface Water Hydrology & Hydrogeology ¹	5	X	4	=	20
3. Knowledge and Experience in Petroleum Engineering ¹	5	X	4	=	20
4. Coastal Planning and Environmental Design, Engineering and Geology ¹	5	X	4	=	20
5. Habitat & Wetlands Restoration, and Land Management, on mined lands ¹	5	X	4	=	20
6. Dam Safety Engineering and Planning ¹	5	X	4	=	20
D. Project Management					
1. Project Organization ¹	5	X	4	=	20
2. Management Methods ¹					
a. Document Management ¹	5	X	3	=	15
b. Schedule Controls ¹	5	X	3	=	15
c. Cost Controls ¹	5	X	3	=	15
d. Modifications / Corrective Actions ¹	5	X	3	=	15
3. Project Staffing ¹	5	X	3	=	15
E. Personnel Assigned – Standard Form 330					
F. Location					
G. Past Performance					
1. Client #1 ²	30	X	1	=	30
2. Client #2 (DEP, if applicable) ²	30	X	1	=	30
H. Respondent / Subcontractor Summary Form					
Total Numerical Rating ³					300

Notes:

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

Raw Score

0	=	This element of the evaluation criteria was not addressed .
1	=	This element of the evaluation criteria is unsatisfactory .
2	=	This element of the evaluation criteria is below average .
3	=	This element of the evaluation criteria is average .
4	=	This element of the evaluation criteria is above average .
5	=	This element of the evaluation criteria is superior .

2. Past performance will be scored based on answers to a standard group of questions (see Section 10.00) received from two (2) of the respondent's clients. Evaluation questionnaires will be emailed to the selected references with a due date for responding. If questionnaires are not received by the due date the Department will attempt to contact each selected reference by phone up to two (2) times during the duration of one (1) week. In the event that the contact person cannot be reached following the specified number of attempts, the respondent shall receive a score of zero (0) for that reference evaluation. The Department will not attempt to correct incorrectly supplied information.
3. Failure of the respondent to provide any of the information required in the services response portion of the response shall result in a score of zero (0) for that element of the evaluation.

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**SECTION 10.00 – EVALUATION OF PAST PERFORMANCE
(FOR DEP USE ONLY)**

The following questions will be posed to the Client references you identified in your Response. Answers will be scored according to the points specified for each of the below questions.

Name of the Reference: _____
Respondent's Name: _____
Date of Interview: _____
Person Conducting Interview: _____

Reference's Signature and Date: _____

The following questions will be asked of two (2) client references chosen at the discretion of the Department:

1. Briefly describe the work the consultant performed for your company. _____

 2. Did the consultant respond in a timely manner and/or adhere to the agreed upon schedule?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 3. Did the consultant provide an adequate number of personnel?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 4. Were the consultant's personnel knowledgeable and efficient?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 5. Was the consultant responsive to suggestions, comments or modifications regarding work plans, reports or projects?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 6. Were the consultant's reports and invoices accurate, well-documented and submitted within the agreed upon terms?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 7. Were consultant's designs/reports well written and complete?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 8. Was the work completed within an agreed upon price or a cost that you consider reasonable?
Never = 0, Sometimes = 1, Most of the Time = 2, Always = 3 _____
 9. Would you utilize this consultant again?
Never = 0, Possible = 1, Yes = 3 _____
 10. How would you rate the quality of the consultant's work?
Excellent = 6; Good = 4; Satisfactory = 2; Unsatisfactory = 0 _____
- Total Score (Out of possible 30): _____

SECTION 11.00 – PROPOSED CONTRACT

The proposed contract language contained below should be reviewed by all prospective consultants. In responding to DEP RFSOQ No. 2018008 a prospective consultant has agreed to accept the terms and conditions of the contract contained in this Section. The Department reserves the right to make modifications to this contract if it is deemed to be in the best interest of the Department or the State of Florida.

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CONTRACT

THIS CONTRACT is entered into between the **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION** (hereinafter referred to as "Department"), whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 and **[NAME OF ENTITY]** whose address is [Specify Address] (hereinafter referred to as "Contractor"), a [Specify Type of Organization], to provide professional services in support of the water resource management programs.

NOW, THEREFORE, the parties agree as follows:

SERVICES AND PERFORMANCE

1. SERVICES. Department does hereby retain, and Contractor agrees to provide professional services in support of the water resource management programs ("services"), {as described in 2018008} and Contractor's response thereto, incorporated herein by reference, and in accordance with **Attachment A**, Scope of Work (the "Scope") and all exhibits and Attachments named and incorporated herein by reference. Contractor has been determined to be a vendor to the Department under this Contract.

2. WORK.

A. Contractor shall provide the services specified in the Scope ("Work"). Department shall authorize all work assignments by Task Assignment Notification Form ("TA") or Task Assignment Change Order Form ("TACO") (copies attached hereto and made a part hereof as Attachment C and D respectively)

B. Contractor, or its subcontractors if authorized under this Contract, shall not commence Work until a TA/TACO has been fully executed by both Department and Contractor.

C. In the event services are required that are within the general description of services, but are not specifically set out in the Scope, Department and Contractor reserve the right to negotiate the Task Assignments covering performance of those required services.

D. There is no minimum amount of Work guaranteed as a result of this Contract. Any and all Work assigned will be at the sole discretion of the Department.

E. Department reserves the right to not authorize any Work, and may suspend or terminate for cause any Work assigned to Contractor under this or any other contract, if and in the event that the Department and Contractor (or any of its affiliates or authorized subcontractors) are adverse in any litigation, administrative proceeding or alternative dispute resolution, until such adverse relationship is resolved either by agreement or by final non-appealable order of a court.

3. STANDARD OF CARE FOR PERFORMANCE.

A. Contractor shall perform as an independent contractor and not as an agent, representative, or employee of the Department.

B. Contractor shall perform the services in a proper and satisfactory manner as determined by the Department. Any and all such equipment, products or materials necessary to perform these services, or requirements as further stated herein, shall be supplied by the Contractor.

C. Contractor shall provide competent, suitably qualified personnel. Contractor must notify the Department's Contract Manager of any changes in the personnel identified in this Contract. Notification shall include a detailed explanation of the need to change personnel and the Contractor's documentation that proposed replacement personnel have equal or greater qualifications and experience.

D. Contractor shall perform the services in a manner consistent with that level of care and skill ordinarily exercised by other contractors performing the same or similar services under similar circumstances at the time performed.

4. TERM OF CONTRACT.

A. Initial Term. This Contract shall begin upon execution by both parties and shall remain in effect for a period of five (5) years, inclusive.

B. Renewal Term. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

This Contract may be renewed, in writing, on the same terms and conditions as the original Contract and any amendments thereto, for a period no greater than the term above. All renewals are contingent upon satisfactory performance by Contractor. Renewals may be for the entire period or in increments.

This Contract may not be renewed.

5. COMPENSATION.

A. As consideration for the services rendered by Contractor under the terms of this Contract, the Department shall pay the Contractor on a fixed cost/fee schedule/cost reimbursement/combination basis as specified in each Task Assignment/Task Assignment Change Order Form. Funding under this Contract shall be authorized by and for each Task Assignment as issued by the Department.

B. Contractor shall not be compensated for services performed prior to execution of this Contract or for services not included in an executed Task Assignment/Task Assignment Change Order. Contractor shall not be compensated for services that exceed the funding amount specified in each individual Task Assignment/Task Assignment Change Order..

6. **ANNUAL APPROPRIATION.** Department's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Florida Legislature. Authorization for continuation and completion of Work and payment associated therewith may be rescinded with proper notice at the discretion of the Department if state or federal appropriations are reduced or eliminated.

7. PAYMENT METHOD.

A. Contractor shall submit invoices as specified in the Scope. If subcontractors are used, the Contractor shall complete and submit **Attachment X**, Subcontractor Utilization Report Form (**Subcontractor Report**) with each invoice. Failure to provide Subcontractor Report with an invoice shall result in a delay in processing the invoice for payment.

B. All invoices submitted must be sufficient detail for a proper pre-audit and post-audit review.

C. Department must approve the final deliverable(s) before the Contractor may submit final invoice and any forms.

D. Each invoice, including appropriate supporting documentation as required herein, shall be submitted via email to the following:

Florida Department of Environmental Protection
XXXXX Program
Attn: XXXXX
Email address: XXXXX

E. Contractor shall submit invoices to the Department within thirty (30) days after the date of the Department's written approval of each interim deliverable or the final deliverable specified in the Scope. Contractor's failure to submit invoices within this timeframe may result in **forfeiture** of retainage, if applicable, suspension or termination of remaining work, or the Contractor's **forfeiture** of any unpaid balance for such deliverables.

8. **INVOICING REQUIREMENTS FOR COST REIMBURSEMENT CONTRACTS.** The following provisions apply to any cost reimbursement payments. The State of Florida Department of Financial Services (DFS) requires detailed supporting documentation of all costs under a cost reimbursement contract. Contractor shall comply with the minimum **Contract Payment Requirements** (attached hereto

and made a part hereof as **Attachment X**.) Invoices shall be accompanied by supporting documentation and other requirements as follows:

A. Contractual (Subcontractors) - Reimbursement requests for payments to subcontractors associated with activities not included in **Attachment X**, must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor. Invoices for reimbursement of fixed price subcontracts shall be documented by copies of the paid invoices.

B. Equipment – (Capital outlay \$1,000 or more in value) – Reimbursement for the purchase of non-expendable equipment costing \$1,000 or more is not authorized. Include copies of invoices or receipts to document charges.

C. Rental/Lease of Equipment – Include copies of invoices or receipts to document charges.

D. Handling Fee –A handling fee of 5% will be allowed on subcontracted work.

E. Travel – Travel costs shall be paid on a cost reimbursement basis in accordance with Section 112.061, Florida Statutes (F.S.).

F. Other Expenses – For example, materials, supplies, non-excluded phone expenses, reproduction, mailing, and other expenses must be documented by itemizing and including copies of receipts or invoices. Additionally, independent of the Contractor's contract obligations to its subcontractor, the Department shall not reimburse any of the following types of charges: cell phone usage, attorney's fees, civil or administrative penalties, or handling fees, such as set percent overages associated with purchasing supplies or equipment.

9. TRAVEL. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

Travel is not authorized under this Contract.

Travel costs are included in the fixed cost amounts of this Contract.

Travel costs shall be paid on a cost-reimbursement basis in accordance with the paragraph contained herein of this Contract.

10. SUBCONTRACTOR PAYMENTS AND RELEASES. In addition to the invoicing requirements above, the following requirements for payment of invoices for Services shall apply if subcontractors are utilized:

A. Contractor shall pay all subcontractors and vendors under this Contract within seven (7) working days from the date of receipt of payment from the Department, excluding the final payment. If the Contractor receives less than full payment from the Department for the services or goods of the subcontractors or vendors, the Contractor shall pay subcontractors and vendors in at least the same proportion as that paid by the Department. Penalties for non-compliance and provisions for legal assistance for subcontractors are included in Subsection 287.0585(1), F.S.

B. Contractor shall submit, with each invoice for Work where subcontractors or suppliers performed Work during the previous invoice period, lien waivers or other documentation of payment from each subcontractor or supplier for Work done during the previous invoice period.

11. PROMPT PAYMENT.

A. Department's Contract Manager shall have five (5) business days, unless a greater period is specified herein, to inspect and approve an invoice. Department shall submit a request for payment to DFS within twenty (20) business days; and DFS shall issue a warrant within ten (10) business days thereafter. Days are calculated from the latter of the date the invoice is received or services received, inspected, and approved. Invoice payment requirements do not start until a proper and correct invoice has been received. Invoices which have to be returned to the Contractor for correction(s) will result in an uncompensated delay in payment. A Vendor Ombudsman has been established within DFS who may be contacted if a Contractor is experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be contacted at (850) 413-5516, per Section 215.422, F.S.

B. If a warrant in payment of an invoice is not issued within forty (40) business days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services, the Department shall pay the Contractor interest at a rate as established by Section 55.03(1), F.S., on the unpaid balance of the invoice. Interest payments of less than \$1 will not be issued unless Contractor requests such payment. The interest rate for each calendar year for which the term of this Contract is in effect can be obtained from DFS' Vendor Ombudsman at the telephone numbers provided above, or the Department's Procurements Section at (850) 245-2361, per Section 215.422, F.S.

12. RELEASE OF CLAIMS. Upon payment for satisfactory completion of any portion of the Work, the Contractor shall execute and deliver to the Department a release of all claims against the Department arising under, or by virtue of, the Work, except claims which are specifically exempted by the Contractor to be set forth therein (**Contractor Release**, using **Attachment X**, - Contractor Affidavit/Release of Claims). Receipt by the Department of the Contractor's Release is a condition of final payment under this Contract. Unless otherwise provided in this Contract, by State law or otherwise expressly agreed to by the parties to this Contract, final payment or settlement upon termination of this Contract shall not constitute a release or waiver of the Department's claims against the Contractor, or the Contractor's sureties, subcontractors, successors or assigns under this Contract or as against applicable performance and payment bonds.

13. PHYSICAL ACCESS AND INSPECTION. As applicable, the Department personnel shall be given access to and may observe and inspect Work being performed under this Contract, including by any of the following methods:

A. Contractor shall provide access to any location or facility on which the Contractor is performing Work, or storing or staging equipment, materials or documents;

B. Contractor shall permit inspection of any facility, equipment, practices, or operations required in performance of any Work; and,

C. Contractor shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any Work or legal requirements.

PARTY REPRESENTATIVES

14. NOTICE. All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

15. IDENTIFICATION OF CONTRACT MANAGERS. All matters shall be directed to the Contract Managers for appropriate action or disposition. Any changes to the Contract Manager information identified below must be noticed, in writing, to the other party within ten (10) calendar days of the change. Either party may provide notice to the other party by email identifying a change of a designated Contract Manager and providing the new contact information for the newly designated Contract Manager. Such notice is sufficient to effectuate this change without requiring a written amendment to the Contract. Department and the Contractor Contract Managers and contact information are provided below:

<u>Contractor</u>	<u>Department</u>
«NAME	Department of Environmental Protection
«Contractor_Address»	XXXX Program
«City», «State» «Zip»	XXXX, MS# XXXX
Attn: «Contractor_Contract_Mgr»	Tallahassee, Florida 32399-XXXX
«Contractor_Phone_Number»	Attn: XXXX
«Contractor_Email»	Phone Number: (850) 245-XXXX
	Email: XXXX

16. CHANGE ORDERS AND AMENDMENTS. Department may at any time, by written order designated to be a Change Order, make any change in the Work within the general scope of this Contract (e.g.,

specifications, method or manner of performance, requirements, etc.). All Change Orders are subject to the mutual agreement of both parties as evidenced in writing. Any change which causes an increase or decrease in Contractor's cost or time shall require an appropriate adjustment and modification by Amendment to this Contract. Following execution of this Contract, any future Amendments or Change Orders may be executed by the Department representative with appropriate delegated authority.

CONSEQUENCES FOR FAILURE TO PERFORM

17. DISPUTE RESOLUTION. Any dispute concerning performance of the Contract shall be decided as follows:

A. All claims or disputes (Claims) must be presented to the Department in writing within thirty (30) days of the date such Claim arises (Notice of Dispute). The Notice of Dispute shall set out in detail all aspects of the disputed matters to be resolved, including the specific relief sought by the Contractor. Claims not presented by Notice of Dispute to Contract Manager shall be deemed waived by the Contractor.

B. The parties shall make a good faith attempt to resolve Claims which may arise from time to time by informal conference within ten (10) days of the Notice of Dispute.

C. Within ten (10) days of the informal conference, the Department shall provide Contractor a detailed written response to the Claim. A formal conference of the parties shall be convened no later than thirty (30) days following the Department's response to the Notice of Dispute, unless the parties mutually agree in writing to a longer period of time within which to schedule a formal conference.

- 1) All persons necessary to resolution of the claim or disputed matter shall attend the formal conference.
- 2) Minutes of the formal conference shall be taken, recorded, transcribed, and signed by the Department and the Contractor. Any terms of settlement and/or resolution reached shall be signed by all persons authorized to resolve the Claim.

D. Either party may request mediation of unresolved Claims, with the party seeking mediation to bear the expense of mediation.

E. Any Claim not resolved at formal conference or mediation, may be the subject of a complaint filed in a court of competent jurisdiction in Leon County, Florida.

18. FINANCIAL CONSEQUENCES FOR UNSATISFACTORY PERFORMANCE.

A. No payment will be made for deliverables deemed unsatisfactory by the Department. In the event that a deliverable is deemed unsatisfactory by the Department, the Contractor shall re-perform the services needed for submittal of a satisfactory deliverable, at no additional cost to Department, within thirty (30) days of being notified of the unsatisfactory deliverable.

B. If a satisfactory deliverable is not submitted within the specified time frame, the Department may, in its sole discretion: 1) assess liquidated damages if specified in the Contract or its attachments; 2) request from the Contractor agreement to a reduction in the amount payable; 3) suspend all Work until satisfactory performance is achieved, or 4) terminate the Contract for failure to perform.

19. CORRECTIVE ACTION PLAN. In the event that deliverables are unsatisfactory or are not submitted within the specified timeframe, the Department Contract Manager may, by letter specifying the failure of performance under the Contract, request that a proposed Corrective Action Plan (**CAP**) be submitted by the Contractor to the Department. All CAPs must be able to be implemented and performed in no more than sixty (60) days.

A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the Department. The CAP shall be sent to the Department Contract Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the Department shall notify the Contractor in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the Contractor shall have ten (10)

calendar days from receipt of the Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the Department approval of a CAP as specified above shall result in the Department's termination of the Contract for cause as authorized in the Contract.

B. Upon the Department's notice of acceptance of a proposed CAP, the Contractor shall have ten (10) calendar days, or longer if specified in the approved CAP, to commence implementation of the accepted plan. Acceptance of the proposed CAP by the Department does not relieve the Contractor of any of its obligations under the Contract. In the event the CAP fails to correct or eliminate performance deficiencies by the Contractor, the Department shall retain the right to require additional or further remedial steps, or to terminate the Contract for failure to perform. No actions approved by the Department or steps taken by the Contractor shall estop the Department from subsequently asserting any deficiencies in performance. Contractor shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the Department as requested by the Department Contract Manager.

C. Failure to respond to a Department request for a CAP shall result in suspension or termination of the Contract.

20. PAYMENT AND PERFORMANCE BONDS. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- No Payment or Performance bonds are required.
- Contractor shall provide executed Payment and Performance Bonds naming the Department as obligee, issued by a surety acceptable to the Department, in the amount(s) of \$_____.
- Contractor may be required to provide executed Payment and/or Performance Bonds naming the Department as obligee, issued by a surety acceptable to the Department, in an amount of up to one hundred and twenty percent (120%) of the total anticipated cost of any Work.

21. Liquidated Damages. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- No liquidated damages will be assessed.
- In addition to other remedies elsewhere in this Contract, and as provided by law, unless otherwise stipulated in the Scope, the Contractor hereby covenants and agrees to pay liquidated damages to the Department as follows:
 - A. Contractor acknowledges that time is of the essence for all services provided under this Contract, and whereas the actual damages to be suffered by late performance are incapable of accurate calculation, the parties agree to the following as a reasonable estimation thereof as liquidated damages. In addition to any other provisions of this Contract, in the event that the deliverable identified in the Scope, is not completed and submitted by the close of business on the date the deliverable is due, the compensation amount stated for that portion of the Work may be reduced by 5% per week for each week the deliverable is late, with the total amount of the liquidated damages not to exceed the total compensation amount of the Scope deliverable.
 - B. The date of submission shall be the date of receipt by the Department.
 - C. If no Department receipt date appears or the date is illegible, the date of submission shall be deemed to be five (5) days prior to receipt by the Contract Manager.
 - D. If completion is or will be justifiably delayed due to reasons as set out in paragraph contained herein, the Department may grant an extension of time as evidenced by a properly executed Amendment.
 - E. If the deliverable(s) fail to comply with the requirements of this Contract, or if questions arise from review and the Contractor is so notified and requested to respond, the Contractor shall furnish the required additions, deletions, or revisions in accordance with the Scope at no additional cost to the Department.

- F. If the additions, deletions, and revisions are not submitted to the Department's Contract Manager in accordance with the Scope, the compensation stated for that portion of the Work may be reduced by 5% for each week that the requested deliverable is late, as specified. The total reduction shall not exceed the total amount of the Work.
- G. Contractor's failure to respond to a request to correct the deliverables will result in termination of the Work and **forfeiture** of any unpaid balance for such deliverables. Additionally, the Department, at its discretion, may re-assign future Work.

22. RETAINAGE

A. Department reserves the right to establish the amount and application of retainage on the Work to a maximum of 0%. Any retainage to be applied shall be specified in the Scope. Retainage shall be withheld from each payment to the Contractor pending satisfactory completion of Work and approval of all deliverables.

B. Department reserves the right to withhold payment of retainage for the Contractor's failure to respond to or correct identified deficiencies within the timeframe stipulated in the Scope. Department shall provide written notification to the Contractor of identified deficiencies and the Department's intent to withhold retainage on the Work. Contractor's failure to rectify the identified deficiency within the timeframe stated in the Department's notice will result in forfeiture of retainage by the Contractor.

C. If the Contractor fails to perform the requested Scope, or fails to perform the Work in a satisfactory manner, Contractor shall forfeit its right to payment for the Work and the retainage called for under the entire Scope. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed.

D. No retainage shall be released or paid for uncompleted Work while a Contract is suspended.

E. Except as otherwise provided above, the Contractor shall be paid the retainage associated with the Work, provided the Contractor has completed the work and submits an invoice for retainage held in accordance with paragraph contained herein above.

LIABILITY

23. INSURANCE.

A. To the extent required by law, the Contractor will be self-insured against, or will secure and maintain during the life of this Contract and any renewals, Workers' Compensation Insurance for all of its employees connected with the work of this project. The Contractor shall require any and all subcontractors, if authorized under this Contract, to provide Workers' Compensation Insurance for all employees unless such employees are covered by the protection afforded by Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of its employees not otherwise protected.

B. Contractor shall secure and maintain, or provide evidence of self-insurance, and require any subcontractors, if authorized under this Contract, to secure and maintain the following types of insurance in the specified amounts during the life of the Contract and any renewals: An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- Comprehensive general liability coverage with limits of not less than \$500,000_____ per occurrence and \$1,000,000_____ annual aggregate
- Comprehensive general liability coverage is not required, if self-insured.
- Comprehensive automobile liability coverage with limits of not less than \$1,000,000_____ per occurrence.
- Comprehensive automobile liability coverage is not required, if self-insured.
- Professional liability coverage with limits of not less than \$1,000,000_____ per claim.

- Professional liability coverage is not required, if self-insured.
- Marine Insurance. Longshoremen's and Harbormaster's Insurance and Jones Act insurance in an amount sufficient to cover Contractor's forces.
- Marine Insurance is not required, if self-insured.

C. Contractor shall provide a certificate of insurance that contains a provision that the insurance will not be canceled for any reason on less than thirty (30) days written notice [with the exception of non-payment of premium which requires a ten (10) day notice] to the Department's Contract Manager and shall reference the Contract Number. In the event that the statutory insurance requirements are changed, coverage limits specified herein will change concurrently. Such insurance shall include the State of Florida, the Department, and the Program Area as the certificate holder for the entire length of the Contract and any renewals.

For additional risks, the State of Florida Board of Trustees of the Internal Improvement Trust Fund shall be added as Additional Insureds for the entire length of the Contract and any renewals. This provision does not apply to governmental entities which are self-insured.

24. INDEMNIFICATION.

A. To the extent permitted by Florida law, the Contractor shall be fully liable for the actions of its contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier, or their respective employees; and shall fully indemnify and hold harmless the State of Florida, the Department, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund, and their officers, agents, and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Contract.

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

THIRD PARTIES

25. SUBCONTRACTING. An "X" beside the correct provision in this section signifies that the provision is applicable to the Contract.

- Contractor shall not subcontract any work under this Contract.
- A. Contractor shall not subcontract any work under this Contract without the prior written consent of the Department's Contract Manager. Department reserves the right to reject any proposed subcontractor based upon the Department's prior experience with subcontractor, subcontractor's reputation, or the Department's lack of adequate assurance of performance by subcontractor. Contractor agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract.

- B. Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether the Department has approved such subcontract or subcontractor. Contractor shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under any subcontract. Any subcontracts made under or in performance of this Contract must include the same conditions specified in this Contract, with the exception of insurance requirements (paragraph contained herein), and shall include a release of any rights, claims or liabilities against the Department. The level of insurance to be carried by subcontractors performing work under this Contract shall be at the discretion of Contractor.

26. NONASSIGNABILITY. Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Contract (its **Rights and Duties**), without the prior written consent of the Department. Contractor shall remain liable for performance of its Rights and Duties, regardless of any assignment to or assumption by any third party, notwithstanding any approval thereof by the Department. However, the Department may expressly release the Contractor from any and all Rights and Duties through a novation accompanying an approved assignment. Department may assign the Department's Rights and Duties, but shall give prior written notice of its intent to do so to the Contractor. The foregoing notwithstanding, the Contractor hereby assigns to the State any and all claims it has with respect to the Contract under the antitrust laws of the United States and the State.

27. THIRD PARTY BENEFICIARIES. This Contract is neither intended nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.

SUSPENSION AND TERMINATION

28. SUSPENSION.

A. Department may order the Contractor in writing to suspend, delay or interrupt all or any part of the Work for failure to perform, or as otherwise specified herein, such period of time as the Department may determine to be appropriate for any of the following reasons:

- 1.) Contractor fails to timely and properly correct deficiencies in or performs unsatisfactory work;
- 2.) Contractor's or subcontractor's insurer or surety notifies the Department that any of its required insurance or bonds has lapsed or will lapse, and the Contractor fails to provide replacement insurance or bonds acceptable to the Department before the insurance or bond cancellation or termination date;
- 3.) Contractor or subcontractor materially violates safety laws or other constraints;
- 4.) Department determines that there is a threat to the public health, safety or welfare that necessitates such suspension; or
- 5.) For the convenience of the Department.

B. If the performance of all or any part of the Work is suspended, delayed or interrupted for an unreasonable period of time by an act of the Department in administration of the Work, or by the Department's failure to act within a reasonable time to review or approve an invoice, the Department shall provide an equitable extension of the time allowed to complete the Work and modify the Scope accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption if and to the extent that:

- 1.) Performance would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or
- 2.) Equitable adjustment is provided for (or excluded) under any other provision of this Contract.

C. Contractor shall not be compensated for Work performed subsequent to a notice of suspension by Department.

29. TERMINATION.

A. Department may terminate this Contract at any time for cause, in the event of the failure of the Contractor to fulfill any of its obligations. Prior to termination, the Department shall provide ten (10) calendar days written notice of its intent to terminate for cause, including the reasons for such, and shall provide the Contractor an opportunity to consult with the Department regarding the reason(s) for termination. Contractor may be afforded the possibility of curing any default at the sole discretion of the Department.

B. The Department may terminate this Contract without cause and for its convenience by giving thirty (30) calendar days written notice to the Contractor. Termination for convenience shall not entitle either party to any indirect, special or resulting damages, lost profits, costs or penalties, and the Contractor shall be entitled only to recover those amounts earned by it for authorized deliverables completed up to the date of termination (or as may be agreed to in writing by the Department for completion of all or any portion of the Work in process).

GENERAL CONDITIONS

30. ATTORNEY'S FEES. In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

31. CONFLICT OF INTEREST. Contractor covenants and warrants that it presently has no interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance of this Contract or the Services required hereunder.

32. COMPLIANCE WITH APPLICABLE LAW. Contractor shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Contract including, but not limited to, local health and safety rules and regulations. This provision shall be included in all subcontracts issued as a result of this Contract.

33. DISQUALIFICATION.

A. The employment of unauthorized aliens by the Contractor/vendor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Contract. Contractor shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Contract.

B. Contractor is required to use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees used by the Contractor under this Contract, pursuant to State of Florida Executive Order No.: 11-116. Also, the Contractor shall include in related subcontracts, if authorized under this Contract, a requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify employment eligibility of all employees used by the subcontractor for the performance of the Work.

C. If Contract value exceeds one (1) million dollars, Contractor certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, Contractor agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Contract. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Contract for cause if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Contract. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

34. EXECUTION IN COUNTERPARTS. This Contract, and any Change Orders or Amendments thereto, may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid

and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

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

36. FORUM SELECTION, SEVERABILITY, AND CHOICE OF LAW. This Contract has been delivered in the State of Florida and shall be construed in accordance with substantive and procedural 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 with this Contract shall be brought in a court of competent jurisdiction located in Leon County, Florida.

37. GOVERNMENTAL RESTRICTIONS. If the Contractor believes that any governmental restrictions require alteration of the material, quality, workmanship or performance of the products offered under this Contract, the Contractor shall immediately notify the Department so in writing, identifying the specific restriction and alteration. Department reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Department. Contractor's failure to timely notify the Department of its asserted belief shall constitute a waiver of such claim.

38. HEADINGS. The headings contained herein are for convenience only, do not constitute a part of this Contract and shall not be deemed to limit or affect any of the provisions hereof.

39. INTEGRATION. This Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Department and the Contractor. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Contract, unless otherwise provided herein. No oral agreements or representations shall be valid or binding upon the Department or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Department. Contractor may not unilaterally modify the terms of this Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying

or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. Department's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

40. INTERPRETATION OF CONTRACT.

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

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

41. MODIFICATIONS REQUIRED BY LAW. Department reserves the right to revise this Contract to include additional language required by Federal agency(ies) or other sources awarding funding to the Department in support of this Contract, if applicable, and to include changes required by Florida Administrative Code rule changes.

42. MYFLORIDAMARKETPLACE TRANSACTION FEE. The State of Florida, through DMS, has instituted MyFloridaMarketPlace, a statewide e-procurement system. Pursuant to Rule 60A-1.031, Florida Administrative Code, payments under this Contract are exempt from the MyFloridaMarketPlace transaction fee.

43. NONDISCRIMINATION.

A. Contractor certifies that no person, on the grounds of race, creed, color, religion, national origin, age, gender, 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. Contractor certifies that neither it nor any affiliate is or has been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services ("DMS") is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

C. Contractor shall comply with the Americans with Disabilities Act.

44. NON-SOLICITATION. Contractor covenants and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm,

other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract.

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

46. ORDER OF PRECEDENCE. In the event of a conflict in terms between any of the components of this Contract, the order of precedence for resolving such conflict shall be as follows (1 being the highest precedence):

1. Body of this Contract;
2. Scope;
3. All other attachments to this Contract;
4. Documents, agreements and exhibits incorporated herein by reference;
5. Solicitation, including all attachments, addenda, and questions and answers; and
6. Contractor's Response to the Solicitation.

In the case of conflict between the terms and conditions of this Contract and the terms and conditions under which the Department is receiving federal funding, the terms and conditions authorizing federal funding shall control.

47. OWNERSHIP OF DOCUMENTS. All plans, specifications, maps, computer files, databases and/or reports prepared or obtained under this Contract, as well as data collected together with summaries and charts derived therefrom, shall be considered works made for hire and shall be and become the property of the Department upon completion or termination of this Contract, without restriction or limitation on their use, and shall be made available upon request to the Department at any time during the performance of such services and/or upon completion or termination of this Contract. Upon delivery to the Department of said document(s), the Department shall become the custodian thereof in accordance with Chapter 119, F.S. Contractor shall not copyright any material and products or patent any invention developed under this Contract.

48. P.R.I.D.E. When possible, the Contractor agrees that any articles which are the subject of, or required to carry out, this Contract shall be purchased from P.R.I.D.E. as specified in Chapter 946, F.S., if available, in the same manner and under the same procedures set forth in Section 946.515(2) and (4), F.S.; and for purposes of this Contract the person, firm or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with P.R.I.D.E. are concerned.

The "Corporation identified" is PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC. (P.R.I.D.E.) which may be contacted at:

P.R.I.D.E.
12425 28th Street, North
St. Petersburg, Florida 33716-1826
Toll Free: 1-800-643-8459
Website: <http://www.pride-enterprises.org/>

49. PUBLIC ENTITY CRIMES. A person or affiliate (as defined) who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount for Category Two (as defined in Section 287.017, F.S.), for a period of 36 months from the date of being placed on the convicted vendor list, pursuant to Section 287.133, F.S. Contractor certifies that neither it nor any affiliate has been placed on such convicted vendor list, and shall notify the Department within five (5) days of its, or any of its affiliate's, placement thereon.

50. PUBLIC RECORDS.

A. Contractor shall comply with Florida Public Records law under Chapter 119, F.S. Records made or received in conjunction with this Contract are public records under Florida law, as defined in Section 119.011(12), F.S. Contractor shall keep and maintain public records required by the Department to perform the services under this Contract.

B. This Contract may be unilaterally canceled by the Department for refusal by the Contractor to either provide to the Department upon request, or to allow inspection and copying of all public records made or received by the Contractor in conjunction with this Contract and subject to disclosure under Chapter 119, F.S., and Section 24(a), Article I, Florida Constitution.

C. If Contractor meets the definition of "Contractor" found in Section 119.0701(1)(a), F.S.; [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:

1. Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Contract for services must be made directly to the Department. If the Department does not possess the requested records, the Department shall immediately notify the Contractor of the request, and the Contractor must provide the records to the Department or allow the records to be inspected or copied within a reasonable time. If Contractor fails to provide the public records to the Department within a reasonable time, the Contractor may be subject to penalties under s. 119.10, F.S.

2. Upon request from the Department's custodian of public records, Contractor shall provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

3. Contractor shall identify and ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the Department.

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

D. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS by telephone at (850) 245-2118, by email at public.services@dep.state.fl.us, or at the mailing address below.

**Department of Environmental Protection
Office of the Ombudsman & Public Services
Attn: Public Records Request
3900 Commonwealth Blvd, MS 49**

Tallahassee, Florida 32399

51. RECORD KEEPING AND AUDIT.

A. Contractor shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with United States generally accepted accounting principles (**US GAAP**) consistently applied. Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Contract and for five (5) years following Contract completion or termination. In the event any work is subcontracted, the Contractor shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

B. The Contractor understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the Department's Inspector General in any investigation, audit, inspection, review, or hearing. The Contractor will comply with this duty and ensure that its subcontracts issued under this Contract, if any, impose this requirement, in writing, on its subcontractors.

52. REMEDIES. All rights and remedies provided in this Contract are cumulative and not exclusive of any other rights or remedies that may be available to the Department, whether provided by law, equity, statute, in any other agreement between the parties or otherwise. Department shall be entitled to injunctive and other equitable relief, including, but not limited to, specific performance, to prevent a breach, continued breach or threatened breach of this Contract. No remedy or election **hereunder** shall be deemed exclusive. A failure to exercise or a delay in exercising, on the part of the Department, any right, remedy, power or privilege hereunder shall not operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

53. RESPECT OF FLORIDA. When possible, the Contractor agrees 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 Section 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 dealing with such qualified nonprofit agency is concerned.

The "nonprofit agency" identified is RESPECT of Florida which may be contacted at:

RESPECT of Florida.
2475 Apalachee Parkway, Suite 205
Tallahassee, Florida 32301-4946
(850) 487-1471
Website: www.respectofflorida.org

54. TAX EXEMPTION. Contractor recognizes that the Department is an agency of the State of Florida, which by virtue of its sovereignty is not required to pay any taxes on the services or goods purchased under the terms of this Contract. Department does not pay Federal excise or sales taxes on direct purchases of tangible personal property. Department will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages.

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

56. WARRANTY OF AUTHORITY. Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to this Contract.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed, the day and year last written below.

[NAME]

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Title: [insert title]

By: _____
Secretary or designee

Date: _____

Date: _____

FEID No. «FEID»

List of attachments/exhibits included as part of this Contract:

Specify Type /

<u>Letter</u>	<u>Description</u>
Attachment A	Scope (___ pages)
Attachment B	Rate Schedule (_____ pages)
Attachment C	Task Assignment Notification Form (___ page)
Attachment D	Task Assignment Change Order Form (___ page)
Attachment E	Contract Payment Requirements (___ page)
Attachment F	Contractor Affidavit / Release of Claim Form (___ page)
Attachment G	Subcontractor Utilization Report Form (___ pages)
Attachment H	Liquidated Damages Assessment Form (___ page)

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SECTION 12.00 – RFSOQ RESPONSE CHECKLIST

To ensure that your response package can be accepted, please be sure the following items are fully completed and enclosed:

- A. _____ The Solicitation Acknowledgement Form must be completed and signed. If a Respondent fails to submit a completed Solicitation Acknowledgement Form with their response the Department reserves the right to contact the Respondent by telephone for submission of this document via fax with follow up via mail. This right shall be exercised when the response has met all other requirements of the RFSOQ. Did you complete the following:
- 1) Respondent Name;
 - 2) Respondent Mailing Address;
 - 3) City, State and Zip Code;
 - 4) Phone Number and Fax Number with Area Code;
 - 5) Email Address;
 - 6) F.E.I.D. Number;
 - 7) Type of Business Entity (Corporation, LLC, Partnership, etc.);
 - 8) Sign Form (by individual authorized to bind company);
 - 9) Type Name of Signatory and Title; and,
 - 10) Primary and Secondary Contact Information.

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

- B. _____ The Services Response Package (see 1.05) must include the following information:
- 1) Introduction;
 - 2) Company Background;
 - 3) Qualification and Experiences;
 - 4) Project Management;
 - 5) Personnel Assigned - Standard Form 330 Part I (Sections A – E only) and Part II;
 - 6) Licenses;
 - 7) Location;
 - 8) Past Performance/Client Reference (use pages provided in Section 8.00).
- C. _____ Respondent Summary Forms, Section 6.00. List the name of the respondent(s), the name of each intended subcontractor, and indicate the one business category for the Respondent.
- D. _____ State Project Plan - State Project Plan that addresses the following:
- 1) Minority-, Women-, and Service Disabled Veteran Business Enterprises;
 - 2) Environmental Considerations;
 - 3) Certification of Drug-Free Workplace (complete and sign, if applicable);
 - 4) Use of RESPECT; and,
 - 5) Use of PRIDE.
- E. _____ Additional Documents - this section of the response shall contain the following:
- Certification of Drug-Free Workplace, Section 7.00 (if applicable).
- F. _____ The Respondent must submit four (4) copies (**one (1) original and three (3) duplicate electronic copies**) of the entire response to the Department in accordance with Section 1.06. The hard copy of the response shall bear original signatures and be marked as the "Original". The electronic copies of the response may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format. The Department will reject responses submitted in alternate file formats or which contain information different from that in the hard copy of the response. **If you assert that any portion of your Response is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Response as well.**

This "Checklist" is provided merely for the convenience of the Respondent and may not be relied upon in lieu of the instructions or requirements of this RFSOQ.