



**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
REQUEST FOR PROPOSALS
SOLICITATION ACKNOWLEDGEMENT FORM
CONTRACTUAL SERVICES**

Page 1 of 87	SUBMIT BID TO: Florida Department of Environmental Protection Procurement Section, Carr Building, Room 235 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 Telephone Number: 850-245-2361
AGENCY RELEASE DATE: Monday, April 11, 2016	

SOLICITATION TITLE: Abandoned Drum Removal Services	SOLICITATION NO.: 2016039C
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PROPOSALS WILL BE OPENED: @ 3:00 p.m. on Monday, May 9, 2016
and may not be withdrawn within **180** days after such date and time.

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

TYPE OF BUSINESS ENTITY (Corporation, LLC, partnership, etc.):	
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I certify that the material terms and the proposed prices contained in this response to this Request for Proposal (this Solicitation) have been kept confidential by the Respondent (and all people and entities affiliated with this Respondent who have or may have had knowledge of the same) and that, to the best of my knowledge, they have not been disclosed to any third party including, but not limited to, any other respondent to this Solicitation. Further, I certify that the prices proposed herein were arrived at and submitted without prior understanding, agreement, or in cooperation with any other entity submitting a response to this Solicitation, or to induce an entity to forbear from filing a response, and that this response is in all respects made without collusion or in an effort to perpetrate a fraud on the agency.

I certify that I am authorized to sign this response to this Solicitation for the Respondent and that the Respondent is in compliance with all requirements of this Solicitation; including, but not limited to, the certification requirements contained in this Solicitation as well as those contained above. In submitting this response, the Respondent offers and agrees that if the response is accepted, the Respondent 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 Respondent.

Respondent agrees to abide by all conditions of this Response and, if selected, to perform in accordance with all terms of the Solicitation and any contract arising there from.

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:	

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 Proposal as confidential, trade secret or otherwise not subject to Florida Public Records Law. Any Proposal 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 Proposal is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Proposal along with the un-redacted version, per Section 1.07, Submittal of Proposal of this Solicitation. The redacted copy shall be clearly titled “Redacted Copy.”

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

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SCHEDULE OF EVENTS

DATES	EVENTS	METHOD
Monday, April 11, 2016	Bid Advertised	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_main_menu
Monday, April 18, 2016 @ 3:00 pm	Questions Submitted in Writing	Procurement Contact: Florida Department of Environmental Protection Kaye Robertson, Procurement Officer Procurement Section, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 Fax: (850) 245-2412 E-mail: kaye.robertson@dep.state.fl.us
On or about, Monday, April 25, 2016	Answers to Questions Posted	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_main_menu
MUST BE RECEIVED NO LATER THAN: Monday, May 9, 2016 @ 3:00 pm	SEALED BIDS DUE AND OPENED	Submit to: Florida Department of Environmental Protection Kaye Robertson, Procurement Officer Procurement Section, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 SOLICITATION NUMBER MUST BE ON ENVELOPE
On or about, Monday May 6, 2016	Anticipated Posting of Recommended Award	Vendor Bid System http://www.myflorida.com/apps/vbs/vbs_main_menu
June 27, 2016	Anticipated Contract Effective Date	

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SECTION 1.00 – INTRODUCTION

1.01. Purpose and Scope. The Department of Environmental Protection (hereinafter referred to as the "Department" and/or "DEP") is requesting proposals from qualified vendors to provide statewide abandoned drum removal services when the responsible party is unknown or refuses to cooperate. Removal services will include both inland and coastal drums, involving one (1) to ten (10) drums per incident. A more detailed description of the services being requested is provided in Section 3.00, Scope of Services.

1.02. Procurement Officer.

Kaye Robertson, Procurement Officer
Procurement Section, Carr Building, Room 215
Florida Department of Environmental Protection
3800 Commonwealth Boulevard, MS#93
Tallahassee, Florida 32399-3000
Telephone Number: (850) 245-2358
Kaye.robertson@dep.state.fl.us

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 Solicitation documents or formally noticed and issued by the DEP Procurement Section.

Any questions from prospective Respondents concerning this Solicitation shall be submitted in writing, identifying the submitter and Solicitation 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.

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Section 2.05, Questions.

1.04. Addenda. If the Department finds it necessary to supplement, modify, or interpret any portion of the Solicitation 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 proposal. The proposal(s) submitted by the Respondents at the time of Solicitation opening will remain firm and cannot be changed.

1.05. Response Form. Section 6.00 must be completed with all applicable rates and be submitted with the Proposal or the Response will be rejected. The Department will not accept any other type "Response Form" as a valid Response to this Solicitation. By affixing authorizing signature, the Respondent hereby affirms and agrees to all terms, conditions, provisions, and specifications within the Solicitation. Prior to issuance of a contract, the selected Respondent must be properly licensed to do business within the State of Florida, if required by federal or state law, for the services or commodities the Respondent will provide to the Department.

1.06. General Instructions for Preparation of the Proposal. The instructions for this Solicitation have been designed to help insure that all proposals 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.**

- **Part I, Technical Proposal: The Technical Proposal shall consist of the following parts:**
 - A. Solicitation Acknowledgement Form (Tab A): The Solicitation Acknowledgement Form (original copy provided in solicitation package) shall be completed as instructed. The original signed copy

shall be submitted in one (1) printed copy of the Proposal package marked "Original". Three (3) additional hard copies of the Technical Proposal package, including a copy of the signed original Solicitation Acknowledgement Form, shall be submitted to the Department. Two (2) duplicate electronic copies of the complete Technical Proposal, 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 Technical and Price Proposals have met all other requirements of the Solicitation.

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

- B. Technical Response (Tab B): The Technical 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. **Each Respondent shall limit each section of the Technical Response Package to no more than the page limits specified below for each section. The page limit excludes Samples of similar projects, Appendix of Resumes, and Past Performance.** Any photographs, maps, diagrams, charts or other non-text material which provides information about the Respondent will be included in the page limitation of that section of the Technical Response Package.

If the specified page limit for a particular section or subsection is exceeded, the extra pages for that section or subsection will not be reviewed. Pages not used for a particular section or subsection cannot be added to the page allowance for another section. *For example, if only two (2) of the four (4) pages allocated for the Project Approach section in the Technical Response Package are used, the number of pages cannot be increased for any other section in the Technical Response Package. The total page count of the Technical Response Package, in this example, would therefore be eighty-two (82) pages.*

Using the description of work outlined in the Technical Specifications, Respondents shall prepare their Technical Response Package in the order outlined below for ease of the identification and review by the evaluators. However, the Respondent shall not use the tab pages to present additional information. **Tab pages which present information shall be counted in the page limit for that section.**

The Technical Response Package shall contain the following sections:

1. Introduction (Limit 3 pages): This section should provide a general description of how the Respondent will accomplish statewide Abandoned Drum Removal Services. These efforts shall include the following:
 - a. Sampling of abandoned drums;
 - b. Personnel / Equipment needed to implement the abandoned drum removal services; and
 - c. Transportation/Disposal of abandoned drums.
2. Qualification and Experience (Limit 4 pages): A Respondent should describe in detail their qualifications and experience in the field of response action, hazardous substances, material or waste identification, transportation and disposal. A Respondent should include documentation of the following licenses and permits:
 - RCRA storage permit in Florida;
 - RCRA transfer facility in Florida;
 - RCRA treatment facility in Florida;
 - RCRA recycling facility in Florida;
 - Non-hazardous soil thermal treatment facility in Florida; and
 - Florida used oil recycling facility.

3. Organization and Operational Procedures (Limit 5 pages): A Respondent should describe its corporate organization and affiliates (subcontractors) for this contract. Explain how the organization and affiliates will contribute to the Department abandoned drum response contract, and how the Respondent decides between similar subcontractors for disposal of a particular waste stream.
 4. Personnel (Limit 5 pages): A Respondent should identify the key individuals within its organization who will be responsible for services performed under the contract. For each key individual, provide their level of education, work experience and a brief description of their responsibilities.
 5. Six (6) Hour Response (Limit 5 pages): A Respondent should describe its ability to meet the six (6) hour response time and their 24-hour communication system as described in Section 3.00, Scope of Services. This should include locations of Response facilities.
 6. Standards and Procedures (Limit 5 pages): A Respondent should provide the appropriate documentation demonstrating compliance with OSHA, EPA, and DOT, i.e. employee certifications.
- C. PAST PERFORMANCE/CLIENT REFERENCES (Must use pages provided) (Not included in page count) (Tab C): In the space provided on Client Reference Form (Section 9.00), the Respondent must list all names under which it has operated during the last eight (8) years. The Department will review its records to identify all contracts that the Respondent has undertaken with the Department, where the Respondent was the prime contractor, during the last eight (8) years (contracts in effect during or after July 2007).

In the spaces provided on Client Reference Form (Section 10.00), the Respondent must provide the required information for a minimum of five (5) separate and verifiable clients which have been completed for clients of the Respondent (not intended subcontractors) for projects of similar breadth in scope to that provided in the Solicitation. The clients listed must be for work similar in nature to that specified in this Solicitation. 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 because the client, the Florida Department of Transportation, is the same).

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

In the event that the Respondent has had a name change since the time work was performed for a listed reference, the name under which the Respondent operated at the time that the work was performed must be given, at the end of the project description for that reference, on the Client Reference Form (Section 10.00).

In the event that Respondents submit a proposal as a joint venture, at least one (1) past performance client must be listed for each member of the joint venture. However, the total minimum number of clients to be listed remains five (5).

References should be available to be contacted during normal working hours. The Department will choose, at its own discretion, two (2) of the Respondent's references to contact in order to complete an evaluation questionnaire (Evaluation of Past Performance, Section 11.00) as provided in Client Reference Form (Section 10.00). In the event that the Respondent has performed work as a prime contractor for the Department within the timeframe specified above, the Department shall attempt to contact one Department and two non-Department references. In the event that the Respondent has not performed work as a prime contractor for the Department within the timeframe specified above, the Department shall attempt to contact two (2) non-Department references. The total number of clients who will be contacted to complete an evaluation for any proposal shall be two (2).

A Department representative will contact the references via telephone to complete the Evaluation of Past Performance form (Section 11.00). The Department will attempt to contact each selected reference by phone up to two (2) times during the duration of one 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.

Failure to provide the required information for a minimum of three (3) separate and verifiable clients in the spaces provided on the Client Reference Form (Section 10.00), or failure to provide the required information for each reference shall result in the Respondent receiving a score of zero (0) for the Past Performance section of the evaluation criteria.

- D. Respondent/Subcontractor Summary Form (Must use pages provided) (Not included in page count) (Tab D): On the Respondent/Subcontractor Summary Form (Section 8.00) provided the Respondent shall list the name of the Respondent(s) and indicate the **one** business category of the Respondent.
 - E. State Project Plan (Not included in page count) (Tab E): The Respondent shall submit a written plan addressing the State's five (5) objectives listed in Section 1.19, State Project Plan, 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 contractor's Proposal 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.**
 - F. Additional Documents (Not included in page count) (Tab F): This section of the proposal shall contain the following:
 - 1. Certification of Drug-Free Workplace, Section 7.00; and
 - 2. Disclosure of any current or pending Litigation involving Respondent or any of its associated business entities.
- **Part II, Price Response: (Not included in page count)**: A Respondent shall provide, on Response Form (Section 6.00), its costs for the services requested in this Solicitation. A Respondent **shall not** use Response Form (Section 6.00) as a supplement for providing additional technical information unless directly related to the cost or price of services. All information supplied in the schedule of prices must include the cost of all things necessary to accomplish the work outlined in this Solicitation, including, but not limited to, personnel, travel/per diem, equipment, vehicles, response, sampling, transportation, subcontractor costs, MyFloridaMarketPlace transaction fee and any other costs. It is the responsibility of each Respondent to determine its prices for all costs, considering the above factors as well as response time and any contingencies.
 - A. A numerical U.S. dollar value must be given for each category on Response Form (Section 6.00). The Department will not accept blank spaces or entries for amounts such as "cost" or "Cost plus a %". Footnoted or conditional prices (i.e. price does not include . . . " or "extra charge for . . . ") will not be accepted. Failure by the Respondent to use the Response Form (Section 6.00), failure to provide a cost for any of the items listed, or failure to properly complete the Response Form (Section 6.00) shall result in the Proposal being deemed non-responsive and therefore, rejected.
 - B. The requirements for this section must be met in order for the Department to make direct price comparisons between Respondents.
 - C. Charges for services or expenses, including services and expenses of subcontractors, directly identifiable to a particular assignment of work, which are not included in Response Form (Section 6.00), shall be compensated on a "cost plus %" basis only and must be evidenced by an executed work assignment form. Such approvals will not be common, but will enable the Department to obtain special analytical or response/disposal services that may be unanticipated, but which are related to this Solicitation. In the event that the Department determined that such rates should become a part of the rate schedule attached to the contract resulting from this Solicitation, the

Department shall initiate a change order evidencing rates mutually agreed to by both parties for inclusion in Response Form (Section 6.00).

- D. At any time either party may request a decrease in the rates. Each party shall review the other party's written request. If an agreement cannot be reached regarding a decrease in the rates, the contract may be terminated pursuant to paragraph 19 of the proposed contract, termination.

1.07. Submittal of Proposal. Both Technical and Price Responses (Response) must be received in accordance with VBS and Schedule of Events. Sealed Proposals must be executed and submitted in two (2) parts and be marked as follows:

- Part I – Technical Response (One Separately Sealed package for Technical Response); and
- Part II – Price Response (One Separately Sealed package for Price Response)

THE SEPARATELY SEALED PACKAGES MAY BE MAILED TOGETHER IN ONE ENVELOPE OR BOX.

The face of the envelope shall contain the Solicitation number and opening date. All Solicitations are subject to the conditions specified herein. Those that do not comply with these conditions are subject to rejection.

The Respondent must submit four (4) copies (one (1) Original hard copy and three (3) duplicate copies) and two (2) duplicate electronic copies of the Proposal (Part 1 and Part II) must be submitted for review by the Department. The original hard copy of the Proposal shall bear original signatures and be marked as the "Original". The electronic copies of the Proposal may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format. The Department will reject Proposals submitted in alternate file formats or which contain information different from that in the hard copy of the Proposal.

If you assert that any portion of your Proposal is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Proposal 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 Proposals are advised to ensure 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) Section 2.03, Electronic Submission of Responses.

1.08. Alternate Proposals. A Respondent may not submit more than one (1) Proposal. The Department seeks each Respondent's single-best proposal.

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

1.10. General Evaluation Information. The Department reserves the right to accept or reject any or all proposals 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 proposals 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 proposal. In submitting its Proposal, 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 Solicitation which indicates the consequence of any noncompliance shall be strictly enforced.

1.11. Evaluation Criteria Scoring. With the exception of the cost and past performance reviews, each proposal 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 Scoresheet. A Department representative will contact references via telephone to obtain the past performance reviews. The DEP Procurement Section will evaluate the cost section of the proposal. The scores for the past performance reviews and the cost evaluation shall be provided to the evaluators for inclusion on their scores 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 proposal for all evaluators. The DEP Procurement Section shall present the average rankings to the Secretary or his designee, who will then determine the recommended contract award or 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 proposals must comply with the terms of this Solicitation.

1.12. Basis of Award. The Department intends to make award to the highest ranked responsible, responsive Respondent(s) meeting all specifications and conditions. The Department, in its sole discretion, reserves the right to make awards to multiple Respondent(s).

There is no minimum amount of work guaranteed to any contractor as a result of being selected and placed under contract. The Department shall assign work to any selected contractor at its discretion.

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.

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 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 solicitation number

NOTE: This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Section 2.13, Electronic Posting of Notice of Intended Award.

1.14. Type of Contract Contemplated. A combination fee schedule/cost reimbursement contract is anticipated. However, the Department reserves the right to award another contract type if such will be most advantageous to the Department and the State of Florida, price and other factors considered.

A copy of the proposed contract containing all requirements is included as Section 13.00. The requirements contained in the proposed contract should be closely reviewed by the offeror since modifications proposed by the Respondent may not be considered.

No minimum amount of work is guaranteed under any contract resulting from this Solicitation.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000) Section 5.02, Purchase Orders.

1.15. 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.

1.16. Contract Renewal. The Department reserves the right to renew any contract resulting from this Solicitation. Renewal shall be subject to the terms and conditions set forth in the existing contract and shall be limited to no more than an additional term not to exceed three (3) years or the original term of the contract, whichever is longer. 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 contractor and the availability of funds.

At any time either party may request a decrease in the rates. Each party shall review the other party's written request. If an agreement cannot be reached regarding a decrease in the rates, the contract may be terminated.

1.17. 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>.

1.18. MyFloridaMarketPlace Vendor Registration. Prior to the issuance of a purchase order 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:

- 76121900, Hazardous Waste Disposal.

1.19. 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 proposal 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 / SUBCONTRACTOR SUMMARY FORM (SECTION 8.00) 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 Service-Disabled Veteran Business Enterprises.** The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the state. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

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

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

Information on certified Woman / Minority Business Enterprises (W/MBE) and certified Service-Disabled Veteran Business Enterprises (SDVBE) is available from the Office of Supplier Diversity at: http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/.

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE contractors (agents or subcontractors) as a result of any award shall be provided to the Department's Procurement Office by the Prime Contractor 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 company. Reference Rule 62-730.160, Florida Administrative Code (F.A.C.). It is a requirement of the Department that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of the Respondent's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of waste.
- 3. Certification of Drug-Free Workplace Program:** The State supports and encourages initiatives to keep the workplace of Florida's suppliers and contractors drug free. Section 287.087, 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 subcontractor shall be required to provide written proof of a subcontractor agreement for this Solicitation with RESPECT with their Response. The written documentation shall be a one (1) page letter supplied by the subcontractor on its letterhead stationery, clearly identifying the Solicitation Number, the project title, and the prime contractor 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 this 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>.

1.20. 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)

2.01. Definitions. The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
- (b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
- (c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
- (d) "Response" means the material submitted by the respondent in answering the solicitation.
- (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

2.02. General Instructions. Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

2.03. Electronic Submission of Responses. Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- A. an electronic signature on the response, generally,
- B. an electronic signature on any form or section specifically calling for a signature, and
- C. an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

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

- A. Scope of Services,
- B. Special Conditions and Instructions,
- C. Instructions to Respondents (PUR 1001),
- D. General Conditions (PUR 1000), and
- E. Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

2.05. Questions. Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in Section 2.20 of these Instructions.

2.06. Conflict of Interest. This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

2.07. Convicted Vendors. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- A. submitting a bid on a contract to provide any goods or services to a public entity;
- B. submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- C. submitting bids on leases of real property to a public entity;
- D. being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- E. transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

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

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

2.09. Respondent's Representation and Authorization. In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- A. The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- B. To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- C. Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- D. The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- E. The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- F. The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- G. Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:

- Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- H. The product offered by the respondent will conform to the specifications without exception.
- I. The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- J. If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- K. The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- L. The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- M. All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

2.10. Manufacturer's Name and Approved Equivalents. Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

2.11. Performance Qualifications. The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

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

2.12. Public Opening. Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

2.13. Electronic Posting of Notice of Intended Award. Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

2.14. Firm Response. The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

2.15. Clarifications/Revisions. Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

2.16. Minor Irregularities/Right to Reject. The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

2.17. Contract Formation. The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

2.18. Contract Overlap. Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

2.19. Public Records. Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

2.20. Protests. Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

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

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

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

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

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SECTION 3.00 – SCOPE OF SERVICES

3.01. Purpose. The intent of this Solicitation is to obtain contractor(s) to provide sampling, transportation and disposal of abandoned drums found within the state of Florida.

3.02. Scope of Service. Abandoned containers often hold hazardous materials, hazardous wastes and substances, pollutants or other materials that may pose potential or actual hazards to public safety and the environment. The Florida Department of Environmental Protection (Department), Office of Emergency Response (OER) requires emergency response contractors for addressing incidents statewide, for both inland and coastal drums, involving one (1) to ten (10) drums per incident. The "average" drum incident involves about four (4) drums. However, the Department reserves the right to allow the Contractor(s) to handle a slightly greater number of drums (such as an incident involving drums plus a small amount of contaminated soil may exceed ten (10) drums, or an 11 drum incident). The services performed under this contract are expected to be primarily for drum removal only, with occasional small amounts of soil. Incidents that are anticipated to involve a significant amount of soil, or a large number of drums, will normally be handled as "spill response" under another contract scheme.

The contractor will be required to arrive on-site within six (6) hours on a 24 hours / 365 days per year emergency basis, to sample, overpack, transport, and provide for the storage, analysis, and disposal of the abandoned materials.

The contractor must maintain a quick, reliable means of 24-hour communication, with a manned 24-hour phone number. Neither a pager nor answering machine will be considered a manned 24-hour phone service. The use of an answering service will meet the requirement. The Department will call and authorize a contractor response to an incident. The contractor must arrive on-site within six (6) hours of notification by the Department, with all appropriate equipment, supplies and personnel for handling the incident. However, if the Department On-Scene Coordinator (OSC) approves, the contractor may secure an on-site security service, at its expense, for the purposes of providing security of the drums until the contractor can arrive on-site, as long as the security service arrives within the required six (6) hour time frame.

The Department may waive the six (6) hour time frame on a case-by-case basis, at its discretion. The contractor should note, however, that such waivers would be rare, and typically only in unusual, verifiable circumstances.

Note: For the purposes of this Contract, the words drums, containers and materials are used synonymously. The majority of incidents involve 55 gallon drums that may need to be overpacked, but other types of containers and gas cylinders are also encountered and are a part of this Contract.

3.03. Number of Incidents. The Tampa and West Palm offices as described in the Response Region, typically generate the majority of abandoned drum incidents. The busiest counties tend to be Dade, Broward, Palm Beach, Pinellas, Hillsborough, Polk, Duval, Orange and Brevard.

- Inland: Roughly 45% of inland incidents were in the Tampa office region and roughly 40% were in the West Palm office region, leaving 15% for the rest of the State.
- Coastal: Roughly 70% of the incidents were in the West Palm office region with the remaining 30% spread fairly evenly throughout the rest of the State.

While relative proportions are expected to remain similar, there is no guarantee that future numbers will follow these trends.

3.04. Types and Amounts of Materials. The majority of coastal drums involve seawater, oil, and oil/water mixtures; but fuels, fuel/water mix and empty drums are also frequently found. In addition, other hazardous materials are occasionally encountered, but to a much lesser extent. Coastal incidents typically involve one (1) drum, sometimes two (2).

The "average" inland incident involves about four (4) drums, with approximately 50% of the incidents involving one (1) / two (2) drums, and a smaller percentage involving more than five (5) drums. Oils,

solvents, paint-related materials, and fuels tend to be the most common materials for inland incidents. However, some drums are found empty or contain water or solid waste.

While the relative proportions are expected to remain similar, there is no guarantee that future numbers will follow these trends.

3.05. Licenses and Permits. The contractor must remain a licensed hazardous waste transporter during the term of this contract. All subcontractors must also be licensed hazardous waste transporters.

3.06. Response Activities. The contractor shall sample each container, and overpack any container as directed by the Department OSC. The contractor shall remove small amounts of contaminated soils or other debris (in case of minor drum leakage), as directed by the OSC. The contractor shall transport the materials to a storage area approved by the OSC.

When transporting the abandoned drums from the field to the storage destination, the contractor shall comply with the U.S. DOT hazardous material transportation regulations, which shall include the use of a shipping paper or a manifest, which gives tentative shipping descriptions. The Department's "Shipping Paper for Suspected Hazardous Materials" form may be used by the contractor to satisfy this requirement. The contractor shall provide all appropriate containers, placards, drum labels and markings.

While in the field, before transporting the materials, the contractor shall conduct field tests on each material. The exact type of field tests will be determined by the OSC, but the contractor is expected to have, at a minimum:

- pH paper;
- vapor detector; and
- a means to conduct field ignition tests (matches and watch glass or other container for checking each sample for ignitability).

The contractor will handle the drums from "cradle to grave" (i.e. the Contractor will handle all phases, including the response, transporting the drum to its facility or to the OER Temporary Storage Area (TSA) for storage until a hazardous waste determination is completed and the drums are shipped for disposal). OER will be the generator of the waste.

The contractor's facility must be located in Florida and must be registered with the Department as a hazardous waste storage transfer facility and/or permitted hazardous waste storage facility. The samples must be analyzed as directed by the Department, with the minimum criteria as specified in the Analytical Parameters section below. Upon completion of the hazardous waste determination, a transfer facility must have the drums shipped off-site for disposal within ten (10) days, as required of transfer facilities. If the facility is a permitted storage facility, then the drums must be shipped within the time frame specified in the facility's permit.

NOTE: The Tampa office does not have a TSA. The contractor shall be responsible for transporting the drums for storage and disposal.

3.07. Quality Assurance. The contractor is required to comply with all DEP Quality Assurance (QA) rules. For sampling activities, the contractor will use the DEP "Emergency Response Sampling Procedures" standard operating procedures.

The Contractor shall also use the DEP Emergency Response "Chain-of-Custody" form, and shall use the strict custody and sample security procedures. (Some of the samples may be used in civil and/or criminal enforcement cases.) In addition, all laboratories used by the contractor must hold certification from the Department of Health (DOH) Environmental Laboratory Certification Program (ELCP) using standards established by the National Environmental Laboratory Accreditation Conference (NELAP) as specified in Ch. 64E, F.A.C., for each matrix/test method/analyte combination.

3.08. Equipment. The contractor must possess adequate equipment to accomplish the activities described herein. This includes, but is not limited to, safety equipment, 85-gallon metal and plastic overpack drums, 55-gallon drums (type 1A2) for contaminated soil and debris, smaller drums for

overpacking small (e.g., 5-gallon and 1-gallon) containers, spill control and cleanup supplies (including absorbents and neutralizing agents), drum liners, visqueen, response/transfer vehicle(s) of adequate capacity to transport 1-10 85- gallon overpack drums and drums of contaminated soil/debris in one trip, drum lifting equipment to assist in overpacking and drum loading and unloading operations, placards and drum labels, reference books such as DOT regulations, appropriate paperwork and office supplies for completing forms in the field, manifest and land disposal restriction forms, lighting and other appropriate equipment.

3.09. Timely Performance. In addition to the above-mentioned six (6) hour response time, the contractor shall provide for timely shipments, sample shipment, paperwork processing, information requests, and invoicing. If the DEP Contract Manager deems that the contractor is failing to perform in a timely and safe manner, or is not in compliance with applicable regulations, the contract may be suspended or canceled.

3.10. Liquidated Damages. It is acknowledged that time is of the essence, 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:

If the contractor fails to arrive on-site or make arrangements within the six (6) hour time limit, as specified above, liquidated damages will be assessed at the rate of \$100 per hour for each hour (or prorated portion thereof) that exceeds the six (6) hour response time frame.

3.11. Safety. All work must be performed in a safe, competent and professional manner. The contractor must comply with all applicable safety regulations, including OSHA emergency response and hazardous waste safety regulations in 29 CFR 1910.120. The contractor must develop a generic Site Safety Plan for abandoned drums and spill/leaks that may result from drums. A copy of the plan must be submitted to the DEP Contract Manager within 15 days of contract execution.

3.12. Standards and Procedures. The contractor(s) will be expected to adhere to the standards and procedures that were addressed in their response to the Solicitation

3.13. Compliance. The contractor shall comply with all applicable Federal, State and local laws, rules, regulations, statutes, codes, etc., that are applicable in the performance of the Contract.

3.14. Additional Requirements. The Department may add to, or modify, any of the general procedures outlined in this solicitation as necessary and as mutually agreed upon by the Department and the contractor(s).

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3.15. Response Regions. The Department has divided the state into seven (7) response regions. The Response regions follow the county lines as outlined below:

Jacksonville Region	West Palm Region	Ft. Myers Region	Tampa Region
Alachua	Broward	Charlotte	Citrus
Baker	Indian River	Collier	Hardee
Bradford	Martin	Desoto	Hernando
Clay	Miami-Dade	Glades	Hillsborough
Columbia	Okeechobee	Hendry	Manatee
* Duval	* Palm Beach	Highlands	Pasco
Flagler	St. Lucie	* Lee	Pinellas
Levy		Monroe	Polk
Nassau		Sarasota	
Putnam			
St. Johns			
Union			

Tallahassee Region	Orlando Region	Pensacola Bay Region
Calhoun	Brevard	Bay
Dixie	Lake	* Escambia
Franklin	Marion	Holmes
Gadsden	* Orange	Okaloosa
Gilchrist	Osceola	Santa Rosa
Gulf	Seminole	Walton
Hamilton	Sumter	Washington
Jackson	Volusia	
Jefferson		
Lafayette		
* Leon		
Liberty		
Madison		
Suwannee		
Taylor		
Wakulla		

* Counties with Department TSA's

3.16. Analytical Parameters. The Groups listed below are the analytical parameters for which those materials must be analyzed. However, based on field tests or knowledge, the DEP On Scene Coordinator (OSC) may add or waive parameters on a case-by-case basis, or approve the use of estimated values or ranges in lieu of testing for certain parameters. Field tests may also be used by the contractor to reduce parameters, as approved by the OSC.

The exact test methods are not specified, allowing certain judgement by the lab, but good detection limits are expected. The hazardous waste determination requirements in 40 CFR, Part 261 must be satisfied, and any testing scheme must comply with all Federal, State and local regulations.

Compositing of samples must be approved by the Department OSC. The contractor may add parameters at its own expense, if so desired. The contractor must use a lab that can provide reasonable turnaround times as defined by industry standards. Sufficient sample material shall be collected in case repeat or additional testing is needed. Duplicate samples may need to be collected occasionally as part of an enforcement case. TCLP extractions are not necessary unless the case is an enforcement case, and the OSC directs the use of extractions.

Each Group is given a name, which may be used as a shortcut on Chain-of-Custody forms rather than specifying each parameter in detail.

The contractor is advised that many of the materials encountered by the Department have multiple phases, which can affect the analytical testing.

3.17. Explanation of Parameters:

- VOC vials must be used for samples to be tested for volatiles/solvents analyses.
- "Solvents", as used below means halogenated and non-halogenated solvents. Solvents must include enough parameters to adequately evaluate the TCLP solvents, plus "F-listed" solvents in 40 CFR 261.31.
- "Total halogens" may be a total halogen test or a total organic halogens (TOX) test. However, if the sample is expected to contain significant amounts of sea water or inorganic halogens, then the test must be a TOX.
- "Pesticides" means a broad range of chlorinated and organophosphate pesticides (and herbicides), including but not limited to those in the TCLP list.
- "TCLP" is the Toxicity Characteristic Leaching Procedure. But, "totals" may be used instead of the extraction, unless the case is an enforcement case.
- "Reactivity" means an evaluation of the reactivity characteristics in 40 CFR 261.23. It must include tests for cyanide and sulfide, plus evaluation of mixing with water, and evaluation of explosion potential (e.g., heating).
- "Metals" means the 8 RCRA metals in 40 CFR 261.24. They may each be tested as a "total: rather than via TCLP extraction, unless the case is an enforcement case and the OSC directs the use of TCLP.
- "PCBs" means polychlorinated biphenyls. Unless directed otherwise by the OSC, the detection limit is 50 ppm.
- "Total hydrocarbons" means total recoverable petroleum hydrocarbons or similar test to approximate the amount of hydrocarbons.

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Group	Minimum Parameters (unless changed by the OSC)	
Oils	solvents flash point metals	% water PCBs total halogens
Solvents	solvent flash point (pH on aqueous mixture)	
Paints	(Same as Solvents Group, but OSC may tailor if latex paint only as metals only)	
Fuels	solvent flash point (TRPH optional)	
Corrosives	pH % water reactivity (if not acidic); Organic Acids: add flash point; If acid: determine anion (e.g., sulfate, chloride, nitrate, phosphate, fluoride, acetate, etc.)	
Pesticides	pesticides flash point Metals solvents pH	
Aqueous	solvents pH	metals total hydrocarbons % water
Unknowns	solvents* pH Reactivity Total halogens % ash pesticides All TCLP parameters (may be "totals") (* all F001-F005 Solvents)	
Other	The Department will specify parameters	

3.18. Invoicing Procedures. The Department will require that one (1) invoice be submitted, for each project, within 60 days of project completion. The invoice must have all appropriate attachments (test results, profiles, manifest, certificate of disposal, etc.). The DEP Contractual Services Invoice form will be required as a cover sheet for the project invoice. Due to different disposal timeframes, the Contractor may submit invoices for those portions of the work that are completed in their entirety. In the event that a project is longer than six (6) months, the Contractor may submit invoices on a monthly basis. All invoices must be submitted in detail sufficient for a proper pre audit and post audit thereof.

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SECTION 4.00 – SPECIAL CONDITIONS

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

- a) “Associated Business Entity” shall mean a Business Entity that, directly or indirectly, through one (1) 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 Solicitation, 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), Section 5.05, Additional Quantities.*

4.03. Additions or Deletions. During the term of the contract resulting from this Solicitation, the Department shall have the right to make product changes that result in additions, deletions, or revisions to awarded items or 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. Proposals 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 Proposal, 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 Proposal.
- 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 Proposals, 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 Proposal.

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 Chapter 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, or 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 Florida statutes and rules applicable to this Solicitation after evaluations are complete.

4.08. Disclosure of Litigation. The contractor shall promptly notify the Department of any criminal litigation, investigations or proceedings which arise during the term involving the contractor, or, to the extent the contractor is aware, any of the contractor's subcontractors or any of the foregoing entities' then-current officers or directors. In addition, the contractor shall promptly notify the Department of any civil litigation, arbitration or proceeding which arises during the term of the contract and extensions thereto, to which the contractor (or, to the extent the contractor is aware, any Subcontractor hereunder) is a party, and which involves:

A. a claim or written allegation of fraud against the contractor or, to the extent the contractor is aware, any subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. All notices under this section must be provided to the Department within thirty (30) business days following the date on which the contractor first becomes aware of any such litigation, investigation, arbitration or other proceeding (collectively, a Proceeding). Details of settlements, which are prevented from disclosure by the terms of the settlement, may be annotated as such.

4.09. E-VERIFY Program for Employment Verification.

A. The employment of unauthorized aliens by any contractor or vendor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor or vendor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract. The contractor 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, the 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 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: 1) terminate the contract for failure to perform; 2) suspend all work until satisfactory resolution is achieved; 3) request a reduction in requested payment; or 4) 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 contractor in writing whether the CAP proposed has been accepted. If the CAP is not accepted, 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 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 Department's notice of acceptance of a proposed CAP, contractor shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by 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 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 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 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), Section 2.14, Firm Response.

4.12. 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.

4.13. Insurance. The contractor selected under this Solicitation 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 contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the contractor. Such 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 contractor shall provide adequate insurance, satisfactory to the Department, for the protection of its employees not otherwise protected.

The contractor shall secure and maintain comprehensive general liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury and property damage; and comprehensive automobile liability coverage with limits of not less than \$2,000,000 combined single limit. The contractor shall also maintain pollution liability coverage with limits of not less than \$3,000,000 aggregate for personal injury or death, \$1,000,000 per occurrence for personal injury or death, and \$1,000,000 per occurrence for property damage. The contractor's current certificate of insurance shall contain a provision that the insurance will not be cancelled for any reason except after thirty (30) days written notice to the Department's Contract Manger.

The selected contractor'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 contractor 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), Section 5.35, Insurance Requirements.

4.14. Invoicing and Payment. As consideration for the commodities rendered under this Solicitation, the Department shall pay the vendor(s) as specified on the purchase order(s). Payments shall be made in accordance with Section 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 Solicitation 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), Section 5.15, Invoicing and Payments.

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

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

4.17. Performance Bond. No Performance Bond is required, however, the Department reserves the right to require Performance Bonds for specific tasks under any contract resulting from this Solicitation. 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. The Performance Bond shall be executed and furnished to the Department within ten (10) calendar days prior to the contractor beginning work under the contract. The Performance Bond must state that it includes coverage of liquidated damages assessed against the contractor.

4.18. Public Requests for Proposals.

- A. If a public records request is made for the Proposal, 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 Proposal 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 Proposal, 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 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 Proposal are Confidential Information not subject to disclosure.

4.19. Qualifications. The Respondent must prove to the satisfaction of the Department that they have available under their direct supervision, the necessary organization, experience, equipment and staff to properly fulfill all the conditions, requirements, and specifications required under this Solicitation. The Respondent must provide contact information for references from at least five (5) separate and verifiable clients of the bidder OTHER THAN the Department which have been in place for at least one (1) continuous year. The clients listed shall be for services similar in nature to that described in this Solicitation. The Department shall contact three (3) of the client references, chosen at the discretion of the Department, in order to determine the prospective bidder's ability to provide the required services listed in Section 3.00, Scope of Services. (See Client References Form, Section 10.00 and Evaluation of Past Performance, Section 11.00). Failure to receive a satisfactory or better performance evaluation shall result in the prospective proposal being rejected. 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 week. In the event that the contact person cannot be reached, the Respondent shall receive an unsatisfactory evaluation.

Any Respondent or associated business entity who has provided the services listed in Section 3.00, Scope of Services over the past five (5) years for the Department will also be evaluated as described above. Failure to receive a satisfactory or better performance evaluation shall result in the bid being rejected.

FAILURE TO PROVIDE ANY OF THE INFORMATION REQUESTED SHALL RESULT IN THE PROPOSAL BEING DEEMED NON-RESPONSIVE AND THEREFORE REJECTED.

4.20. Quality Assurance. The contractor(s) shall be required to follow DEP Quality Assurance rules. For sampling activities, the contractor(s) may either 1) follow DEP "Emergency Response Sampling Procedures" standard operating procedure; or 2) obtain DEP Environmental Assessment Section approval for their own sampling plan (See A.31, Item C.5). Failure to follow DEP quality assurance rules may result in suspension or cancellation of the contract.

4.21. Samples. The Department reserves the right to request samples of Respondents product for testing and evaluation during the Solicitation process. Samples will be provided within twenty (20) days at no cost to the Department. The Department will return samples to Respondent within sixty (60) days after the award of the contract if written request and return, postage paid packaging is provided by Respondent at the time of sample submission.

4.22. Subcontracting. The prospective contractor shall not subcontract, assign, or transfer the obligation to provide or perform any of the services sought under this Solicitation, with the exception of those subcontractors identified in the prospective contractor's proposal, without the prior written consent of the Department.

The selected contractor will be responsible for the fulfillment of all work elements included in all subcontracts and shall be solely responsible for payment of all monies due under any subcontract. The Department shall not be responsible for any expenses or liabilities incurred under any subcontract.

The Respondent shall take all actions necessary to ensure that their employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

In accordance with the terms of the Acknowledgment Form, should a Respondent respond to this Solicitation as both prime contractor and as a subcontractor, the Respondent may not disclose to any other Respondent or subcontractor what prices or terms Respondent has included in its Response as a prime contractor.

All proposals to this Solicitation to provide services as prime contractors which are received from affiliated entities (those with any common ownership, management or control), shall be rejected if discovered prior to selection and any award or contract thereon shall be terminated if discovered subsequent thereto.

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

4.23. Transaction Fee. The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(22), F.S. (2015), all payments shall be assessed a Transaction Fee established in the DMS Rule 60A-1.031, F.A.C. and any future amendments thereto which the contractor shall pay the State.

- a) For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.
- b) Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

NOTE: This section supersedes Section 5.00, General Contract Conditions (PUR-1000), Section 5.14, Transaction Fee.

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SECTION 5.00 – GENERAL CONTRACT CONDITIONS (PUR 1000)

5.01. Definitions. The definitions in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) “Contract” means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
- (b) “Customer” means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The “Customer” may also be the “Buyer” as defined in the PUR 1001 if it meets the definition of both terms.
- (c) “Product” means any deliverable under the Contract, which may include commodities, services, technology or software.
- (d) “Purchase order” means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

5.02. Purchase Orders. In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor’s order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsection 287.057 (15) and (16) of the Florida Statutes.

5.03. Product Version. Purchase orders shall be deemed to reference a manufacturer’s most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

5.04. Price Changes Applicable only to Term Contracts. If this is a term contract for commodities or services, the following provisions apply.

- (a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchased of any products offered under the Contract. State Customers shall document their files accordingly.
- (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
- (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
- (d) Trade-in. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

5.05. Additional Quantities. For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the responses to the solicitation.

5.06. Packaging. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

5.07. Inspection at Contractor's Site. The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

5.08. Safety Standards. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and State and Federal requirements relating to clean air and water pollution.

5.09. Americans with Disabilities Act. Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

5.10. Literature. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

5.11. Transportation and Delivery. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

5.12. Installation. Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least

inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

5.13. Risk of Loss. Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

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

- a) For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.
- b) Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.
- c) Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.

5.15. Invoicing and Payments. Invoices shall contain the Contract number, purchase order number is applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

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

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

5.16. Taxes. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes

levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

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

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

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

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

The Contractor's obligation under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable

for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

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

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has not been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

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

5.22. Termination for Convenience. The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

5.23. Termination for Cause. The Buyer may terminate the Contract if the Respondent fails to (1) deliver the product within the time specified in the contract or any extension; (2) maintain adequate progress, thus endangering performance of the contract; (3) honor any term of the contract; or (4) abide by any statutory, regulatory or licensing requirement. In addition, the Buyer may terminate the contract if it discovers or determines that response to the solicitation, which led to award of the contract to Respondent. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

5.24. Force Majeure, Notice of Delay, and No Damages for Delay. The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent

to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contract shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may 1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or 2) purchase from other sources (without recourse to any 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.

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

5.26. Renewal. Upon mutual agreement, the Customer may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

5.27. Purchase Order Duration. Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

5.28. Advertising. Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

5.29. Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

5.30. Antitrust Assignment. The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

5.31. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

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

5.32. Employees, Subcontractors, and Agents. All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

5.33. Security and Confidentiality. The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the

Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

5.34. Contractor Employees, Subcontractors, and Other Agents. The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

5.35. Insurance Requirements. During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

5.36. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

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

5.38. Notices. All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

5.39. Leases and Installment Purchases. Prior approved of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

5.40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

5.41. Products Available from the Blind or Other Handicapped. Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this

contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

5.42. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

5.43. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16) (a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

5.44. Waiver. The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

5.45. Annual Appropriations. The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

5.46. Execution in Counterparts. The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

5.47. Severability. If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

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SECTION 6.00 – RESPONSE FORM

Each section must be completed on the “Response Form” or the proposal shall be deemed non-responsive and rejected. Award will be made to the highest ranked responsible, responsive Respondent meeting all specifications and conditions set forth in the Solicitation.

The Respondent shall provide the Mobilization Fee and the total cost per category size for each year. For “Cost plus %” prices, a maximum markup of ten percent (10%) will be allowed. Failure by the Respondent to provide a cost for any of the services listed, or markups higher than ten percent (10%), shall result in the Response being deemed non-responsive and therefore, rejected. Footnotes, notations, and exceptions made to this form will not be considered.

Explanation of terms.

- "Mobilization fee": the charge for responding to abandoned containers within six (6) hours on an emergency response basis, with equipment and personnel.
- Please round all prices to whole-dollar amounts. Mobilization fee includes all costs to handle the incident, incl. admin., response, equipment, PPE, personnel, per diem, travel, storage, transport, vehicles, supplies, etc., EXCEPT disposal and analytical. Quote disposal/analytical charges in the table. Fill in all blanks. Unless directed, do not use terms like "cost +", "\$___/lb", "___ not included", etc.
- Examples of the categories are given below. Some common waste codes are given, but may vary. The analytical is typical parameters, but may be modified; most are "totals", but sometimes TCLP.
- Not all containers will receive lab testing; some may be composited with OSC approval; others might be profiled without analytical with OSC approval based on field tests, knowledge, etc.
- In each case, the OSC will determine if lab testing is needed, the parameters, compositing, and will ascertain what hazardous waste codes, if any, will apply. For each category and size, mark a price.
- One price will be for profiling the material without analytical; the other price will be for when analytical is done. Profile-only materials are typically profiled and disposed conservatively.

CATEGORY	EXAMPLES	TYPICAL ANALYTICAL, WHEN REQUESTED.
oil, haz.	motor oil, etc. D006, D007, D008, D018, sometimes solvents.	solvents, metals, TOX, %water, flash point, PCBs
oil, non-haz.	non-haz oils, motor oil, hydraulic oil, trans. fluid, etc.	solvents, metals, TOX, %water, flash point, PCBs
gasoline	gasoline (all types); D001, D018; D008 sometimes.	solvents, metals, %water, flash point
diesel fuel	diesel fuel (all grades); D001, D018 sometimes.	solvents, metals, %water, flash point
kerosene	kerosene; D001, sometimes D018.	solvents, metals, %water, flash point
misc. petroleum	tars, asphalts, etc. Sometimes D001.	solvents, metals, %water, flash point
petrol. contact water	oil- or fuel-contaminated water under FAC 62-740	solvents, metals, %water, flash point
acid	inorganic and organic acids; D002, sometimes metals	pH, metals, sometimes anions; flash point for organics
alkali	inorganic and organic bases; D002, sometimes metals	pH, metals, sometimes cations; flash point for organics
corrosive solid	corrosive salts; solid hydroxides, etc.	pH in aqueous solution; metals/cations
pesticide/herbicide	organophosphates, organochlorines, carbamates, etc.	pesticide/herbicide scans; metals; solvents, flash point, pH
poison, misc.	poisons not in another category	solvents; metals; flash point; particular poison parameter
cyanide, reactive	cyanide salts/solutions with D003 code	cyanide or reactive cyanide; pH; metals
paint, ignitable	oil-based paints or coatings, stains, etc. D001, metals	solvents, metals, flash point
paint, latex	latex paints, caulking, etc. Sometimes D009.	metals
paint, misc.	paints, etc. that are not ignitable but may have solvents/metals	solvents, metals, flash point
solvents, ignitable	paint thinners, solvents, etc. D001, F003, F005, etc.	solvents, metals, flash point
solvents, non-ign.	solvents with flash point >141 degrees F; codes vary	solvents, metals, flash point
solvents, halocarbon	chlorinated solvents, etc. F001/F002, others.	solvents, metals, flash point
resin, ignitable	polyester resins, epoxy resin, etc. D001, sometimes solvents.	solvents, metals, flash point
resin, non-ign.	solidified resins; non-ign. resins; usually non-haz.	solvents, metals, flash point
PCBs, liquid	PCBs in liquid form	PCBs, solvents, flash point
PCBs, solid	PCBs in solid form	PCBs, solvents
lab pack, incineration	lab chemicals or other small containers; codes vary	usually profiled without analytical
lab pack, landfill	lab chemicals or other small containers; codes vary	usually profiled without analytical
lab pack, spray cans	spray cans of common consumer products; codes vary	usually profiled without analytical
misc. liquid, haz.	liquid materials not better specified elsewhere, but haz.; codes vary	solvents, metals, flash point, pH
misc. liquid, non-haz.	non-haz liquids not listed elsewhere	solvents, metals, flash point, pH
misc. solid, haz.	solid materials not better specified elsewhere, but haz.; codes vary	solvents, metals, flash point; aqueous pH
misc. solid, non-haz.	non-haz solids not listed elsewhere	solvents, metals, flash point; aqueous pH

oxidizer (not org. perox.)
 empty container
 gas cylinder
 explosive
 reactive
 special hazardous
 unlisted item
 extra analytical param.:

misc. oxidizers (org. peroxides covered under "reactives"); often D001
 empty containers, per 40 CFR 261.7; may not be DOT empty
 gas cylinders other than spray cans; codes vary
 explosive by DOT criteria; D003
 water-reactives, flammable solids, org. peroxides, etc.; D003
 dioxins, furans, pentachlorophenol, pentaborane, etc.
 (used only when OSC decides other categories inappropriate)
 used when OSC asks for extensive testing beyond normal, or requests an unusual parameter

tailored to particular compound
 no analytical
 tailored to particular suspected compound
 tailored to particular suspected compound, when needed
 tailored to particular suspected compound
 tailored to particular suspected compound
 tailored to particular suspected compound

MOBILIZATION FEE (PER MOBILIZATION):	ORIGINAL TERM CONTRACT					RENEWAL				
	Year 1	Year 2	Year 3	Year 4	Year 5	Renewal Year 1	Renewal Year 2	Renewal Year 3	Renewal Year 4	Renewal Year 5
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

Contractor: _____

PRICE SCHEDULE – YEAR 1

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		

Contractor: _____

PRICE SCHEDULE – YEAR 1

Category	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		
NOTE: Maximum allowable markup for the below items is ten percent (10%)																		
Gas cylinder	Cost +	<u> </u>	%															
Explosive	Cost +	<u> </u>	%															
Reactive	Cost +	<u> </u>	%															
Special hazardous	Cost +	<u> </u>	%	Biohazardous waste	Cost +	<u> </u>	%											
Unlisted item	Cost +	<u> </u>	%	Radioactive waste	Cost +	<u> </u>	%											
				Extra analytical parameter requested by OSC:	Cost +	<u> </u>	%											

Contractor: _____

PRICE SCHEDULE – YEAR 2

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resin, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

Contractor: _____

PRICE SCHEDULE – YEAR 2

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Gas cylinder	Cost +	_____ %																	
Explosive	Cost +	_____ %																	
Reactive	Cost +	_____ %					Biohazardous waste					Cost +	_____ %						
Special hazardous	Cost +	_____ %					Radioactive waste					Cost +	_____ %						
Unlisted item	Cost +	_____ %					Extra analytical parameter requested by OSC:					Cost +	_____ %						

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Contractor: _____

PRICE SCHEDULE – YEAR 3

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resin, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

Contractor: _____

PRICE SCHEDULE – YEAR 3

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Gas cylinder	Cost +	_____	%																
Explosive	Cost +	_____	%																
Reactive	Cost +	_____	%				Biohazardous waste				Cost +	_____	%						
Special hazardous	Cost +	_____	%				Radioactive waste				Cost +	_____	%						
Unlisted item	Cost +	_____	%				Extra analytical parameter requested by OSC:				Cost +	_____	%						

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Contractor: _____

PRICE SCHEDULE – YEAR 4

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resin, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

Contractor: _____

PRICE SCHEDULE – YEAR 4

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Gas cylinder	Cost +	_____	%																
Explosive	Cost +	_____	%																
Reactive	Cost +	_____	%				Biohazardous waste				Cost +	_____	%						
Special hazardous	Cost +	_____	%				Radioactive waste				Cost +	_____	%						
Unlisted item	Cost +	_____	%				Extra analytical parameter requested by OSC:				Cost +	_____	%						

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Contractor: _____

PRICE SCHEDULE – YEAR 5

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Contractor: _____

PRICE SCHEDULE – YEAR 5

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110	
Gas cylinder	Cost +	_____ %																	
Explosive	Cost +	_____ %																	
Reactive	Cost +	_____ %									Biohazardous waste			Cost +	_____ %				
Special hazardous	Cost +	_____ %									Radioactive waste			Cost +	_____ %				
Unlisted item	Cost +	_____ %									Extra analytical parameter requested by OSC:			Cost +	_____ %				

Signature: _____

Name of Respondent /Company: _____

Printed/Typed Name of Authorized Signatory and Title: _____

Footnotes, notation, and exceptions made on this form shall not be considered.

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Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 1

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 1

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Gas cylinder	Cost +	_____ %																
Explosive	Cost +	_____ %																
Reactive	Cost +	_____ %																
Special hazardous	Cost +	_____ %																
Unlisted item	Cost +	_____ %																
			Biohazardous waste										Cost +	_____ %				
			Radioactive waste										Cost +	_____ %				
			Extra analytical parameter requested by OSC:										Cost +	_____ %				

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Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 2

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 2

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Gas cylinder	Cost +	_____ %																	
Explosive	Cost +	_____ %																	
Reactive	Cost +	_____ %					Biohazardous waste					Cost +	_____ %						
Special hazardous	Cost +	_____ %					Radioactive waste					Cost +	_____ %						
Unlisted item	Cost +	_____ %					Extra analytical parameter requested by OSC:					Cost +	_____ %						

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Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 3

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 3

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Gas cylinder	Cost +	_____ %																
Explosive	Cost +	_____ %																
Reactive	Cost +	_____ %																
Special hazardous	Cost +	_____ %																
Unlisted item	Cost +	_____ %																
													Biohazardous waste	Cost +	_____ %			
													Radioactive waste	Cost +	_____ %			
													Extra analytical parameter requested by OSC:	Cost +	_____ %			

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Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 4

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Contractor: _____

PRICE SCHEDULE – RENEWAL YEAR 4

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Gas cylinder	Cost +	_____ %																
Explosive	Cost +	_____ %																
Reactive	Cost +	_____ %																
Special hazardous	Cost +	_____ %																
Unlisted item	Cost +	_____ %																
			Biohazardous waste										Cost +	_____ %				
			Radioactive waste										Cost +	_____ %				
			Extra analytical parameter requested by OSC:										Cost +	_____ %				

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Contractor: _____

PRICE SCHEDULE – YEAR 5

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110
Oil, haz.																		
Oil, non-haz.																		
Gasoline																		
Diesel fuel																		
Kerosene																		
Misc. petroleum																		
Petroleum contact water																		
Acid																		
Alkali																		
Corrosive solid																		
Pesticide / herbicide																		
Poison, misc.																		
Cyanide, reactive																		
Paint, ignitable																		
Solvents, non-ign.																		
Solvents, halocarbon																		
Resin, ignitable																		
Resign, non-ign.																		
PCBs, liquid																		
PCBs, solid																		
Lab pack, incineration																		
Lab pack, landfill																		
Lab pack, spray cans																		
Misc. liquid, haz.																		
Misc. liquid, non-haz.																		
Misc. solid, haz.																		
Misc. solid, non-haz.																		
Oxidizer (not org. perox.)																		
Empty container																		

NOTE: Maximum allowable markup for the below items is ten percent (10%)

Contractor: _____

PRICE SCHEDULE – YEAR 5

	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	Profile	Analytical	
Category Size in Gal	1	1	5	5	10	10	15	15	20	20	30	30	55	55	85	85	110	110	
Gas cylinder	Cost +	_____ %																	
Explosive	Cost +	_____ %																	
Reactive	Cost +	_____ %									Biohazardous waste			Cost +	_____ %				
Special hazardous	Cost +	_____ %									Radioactive waste			Cost +	_____ %				
Unlisted item	Cost +	_____ %									Extra analytical parameter requested by OSC:			Cost +	_____ %				

Signature: _____

Name of Respondent /Company: _____

Printed/Typed Name of Authorized Signatory and Title: _____

Footnotes, notation, and exceptions made on this form shall not be considered.

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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)

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SECTION 8.00 – RESPONDENT / SUBCONTRACTOR OR (TEAM, IF NOT SUBCONTRACTOR) SUMMARY FORM

Section A	RESPONDENT IDENTIFICATION (To Be Completed By The Respondent.)
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As Respondent to this Solicitation, I / we intend to utilize the following Team in connection with this project: In the spaces provided below, list the name of the Respondent 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 @	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) AND SUBCONTRACTORS																							

Section B

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

I / WE HEREBY CERTIFY that, as Respondent to this Solicitation, 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 9.00 – EVALUATION CRITERIA
(FOR DEP USE ONLY)

Respondent's Name: _____

Reviewer Code: _____

	Maximum Raw Score Possible	Raw Score		Weight Factor		Maximum Points Possible
PART I – TECHNICAL RESPONSE						
Tab A. Solicitation Acknowledgement Form	0		X	0	=	0
Tab B. Technical Response						
1. Introduction ¹	2		X	1	=	2
2. Qualifications and Experience ¹	4		X	2	=	8
3. Organization and Operational Procedures ¹	4		X	2	=	8
4. Personnel	4		X	2	=	8
5. Six (6) Hour Response	4		X	2	=	8
6. Quality Assurance Methods ¹	4		X	2	=	8
7. Standards and procedures	4		X	2	=	8
Tab C. Past Performance ³						
A. Client #1 (DEP, if applicable) ³	10		X	1	=	10
B. Client #2 ³	10		X	1	=	10
Tab D. Respondent/Subcontractor Summary Form (Section 8.00) Subcontractor Documentation: Failure to submit subcontractor documentation shall result in the disallowance of that particular subcontractor's qualifications from consideration in the Response package.	0		X	0	=	0
Tab E. State Project Plan	0		X	0	=	0
Tab F. Additional Documents	0		X	0	=	0
PART II – PRICE RESPONSE						
Price Response ⁴	30		X	1	=	30
Maximum Total Numerical Rating:						100

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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 average .
3	=	This element of the evaluation criteria is above average .
4	=	This element of the evaluation criteria is superior .

2. Failure to submit a letter of commitment from an intended subcontractor identified in the response shall result in the disallowance of the qualification and experience of that subcontractor from consideration in the evaluation process.
3. References: Past performance will be scored based on answers to a standard group of questions (see Section 11.00) received from two (2) of the Respondent's clients, including one (1) DEP reference, if applicable. (If no DEP reference is applicable, the second reference will then also be a non-DEP reference.) 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 scores sheets for calculation of the total numerical rating. The Department will attempt to contact the reference by phone up to a maximum of two (2) times. In the event that the contact person for the reference cannot be reached following the specified number of attempts, the Respondent shall receive a score of zero (0) for this element of the evaluation. The Department will not attempt to correct incorrectly supplied information.
4. Price: For purposes of this Solicitation the lowest cost will be calculated by totaling a weighted list of the costs and drum disposal categories representative of the ones most frequently needed by the Department
5. Failure of the Respondent to provide any of the information required in the technical Response portion of the proposal shall result in a score of zero (0) for that element of the evaluation, with the exception of the cost/price, which shall result in the Response being deemed non-responsive and rejected.

Please notify the DEP Procurement Officer (see Section 1.02) at least ten (10) days prior to the due date for Responses if an accommodation because of a disability is required in order to participate in this procurement opportunity.

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SECTION 10.00 – 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 Solicitation 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 one (1) year.

Client #1:		
Name:		
Address:		
Contact 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:		
Contact 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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Client #3:		
Name:		
Address:		
Contact 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:		
Contact 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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Client #5:		
Name:		
Address:		
Contact 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 11.00 – 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: _____

Describe the work the Respondent performed for your company:

1. Briefly describe the work the contractor performed for your company.

2. Did the contractor respond in a timely manner and/or adhere to the agreed upon schedule?
Yes = 3 points; No = 0 points _____

3. Was the project completed with the agreed upon budget?
Yes = 2 points; No = 0 points _____

4. How would you rate the overall quality of the work?
Satisfactory = 3 points; Unsatisfactory = 0 points _____

5. Did the contractor communicate effectively during the project?
Yes = 1 point; No = 0 points _____

6. Were the contractor's invoices accurate, well documented and submitted within the agreed upon terms?
Yes = 1 point; No = 0 points _____

Total Score (Out of possible 10): _____

SECTION 12.00 – WORK AUTHORIZATION FORM

**OFFICE OF EMERGENCY RESPONSE
REVISED WORK AUTHORIZATION FORM**

Contractor: Contract No.: Rep:	DEP Incident#: Incident Date:
Site Name: Location: City: County:	DEP OSC: Phone(s): Office: Cell:

Description of Work (check all that apply):

<input type="checkbox"/> spill response	<input type="checkbox"/> overpack drums	<input type="checkbox"/> transport drums to TSA	<input type="checkbox"/> remove soil
<input type="checkbox"/> abandoned drum	<input type="checkbox"/> sampling	<input type="checkbox"/> transport drums to TDFS	<input type="checkbox"/> other :

Suspected materials and amounts:

Level of Effort (check all that apply): use subcontractor per OSC

Personnel	Vehicles	Equipment	
<input type="checkbox"/> supervisor:	<input type="checkbox"/> 1-ton Response Vehicle	<input type="checkbox"/> overpack drums:	<input type="checkbox"/> visqueen
<input type="checkbox"/> recovery tech:	<input type="checkbox"/> 2-ton Response Vehicle	<input type="checkbox"/> 55 gal. Drums:	<input type="checkbox"/> roll-off containers:
<input type="checkbox"/> field chemist:	<input type="checkbox"/> vacuum truck	<input type="checkbox"/> sampling gear, Level 1	<input type="checkbox"/> vapor detector
<input type="checkbox"/> equip. oper.:	<input type="checkbox"/> pickup or van	<input type="checkbox"/> sampling gear, Level 2	<input type="checkbox"/> PPE level:
<input type="checkbox"/>	<input type="checkbox"/> stakebed truck	<input type="checkbox"/> other:	
<input type="checkbox"/>	<input type="checkbox"/>		

Comments:

Analytical & Disposal Arrangements (analytical will usually be listed in Chain-of Custody or other form):

via Laidlaw via Contractor via subcontractor other:

Work Assignment Type:

<input type="checkbox"/> fixed price	<input type="checkbox"/> cost estimate est'd. amount \$	Reimbursement Potential:
		<input type="checkbox"/> yes <input type="checkbox"/> not likely <input type="checkbox"/> OPA -'90 reimbursement
		<input type="checkbox"/> likely <input type="checkbox"/> no <input type="checkbox"/> Resp. Party reimbursement

Comments:

Funding Information:

Project No.	Organization Code	EO	Object Code	Fund	Category/Yr	Module/OCA	Grant	Amount

Approvals:
DEP Representative: _____ Date: _____

Contractor Representative: _____ Date: _____

Budget Representative to sign after Work Authorization executed, but prior to transmittal of copies to Procurement and Finance & Accounting to confirm funding information.

OER Budget Representative: _____ Date: _____

SECTION 13.00 – PROPOSED CONTRACT

The proposed contract language contained below should be reviewed by all prospective contractors. In responding to DEP Solicitation No. 2016039C a prospective contractor 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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PROPOSED CONTRACT

THIS CONTRACT is entered into between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "Department") and _____ (Name of Entity) whose address is (Specify Address) and Contractor (hereinafter referred to as the "Contractor"), a _____ (Specify Type of Organization), to provide support services for abandoned drum removal services.

In consideration of the mutual benefits to be derived herefrom, the Department and Contractor do hereby agree as follows:

- 1. Services.** The Department does hereby retain the Contractor to provide abandoned drum removal services, as defined herein and the Contractor does hereby agree to perform such services as outlined in DEP Solicitation No. 2016039C and Contractor's response thereto, incorporated herein by reference, and in accordance with Attachment A, Scope of Services, attached hereto and made a part hereof. Any terms and conditions of this Contract which vary from those contained in the Solicitation or Contractor's response thereto shall have precedence. The Contractor does hereby agree to conduct these services for the Department upon the terms and conditions set forth in this Contract and all attachments named herein which are attached hereto and incorporated by reference. The Contractor has been determined to be a vendor to the Department under this Contract.
- 2. Standard of Care for Performance.**
 - A. The Contractor shall perform as an independent contractor and not as an agent, representative, or employee of the Department.
 - B. The 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.
- 3. Term of Contract.**
 - A. Initial Term. This Contract shall begin upon execution by both parties and remain in effect for five (5) years, inclusive. The Contractor shall not be eligible for reimbursement for services rendered prior to the execution date of the Contract.
 - B. Renewal Term. This Contract may be renewed, in writing, on the same terms and conditions for a period no greater than five (5) years or the original term of the Contract. All renewals are contingent upon satisfactory performance by the Contractor.
- 4. Work Assignment.**
 - A. The Department shall authorize all work assignments utilizing a Work Authorization Form (copy attached hereto and made a part hereof as Attachment C) for the products and services to be provided under this Contract.
 - B. The Contractor hereby agrees that the Contractor or its subcontractors shall not commence any work assignment until a Work Authorization Form has been fully executed by both the Department and the Contractor.
 - C. In the event that services are required to be performed that are not specifically set out in Attachment A, but are within the general scope of the services, the Department and the Contractor hereby reserve the right to negotiate task assignments covering the required services.
 - D. Notwithstanding any other provisions of this Contract, the Contractor may, at its sole discretion, elect not to participate in a proposed task assignment. Such election shall not preclude the Contractor from participating in other task assignments as the Department may request. The Contractor shall notify the Department orally, with confirmation in writing, within three (3) business days of receipt of a Work Authorization Form, of the Contractor's decision.

5. Compensation.

- A. The Department does not guarantee any minimum or maximum compensation under the Contract. The Department will authorize payments to the Contractor on an invoice-by-invoice basis.
- B. As consideration for the services rendered by the Contractor under the terms of this Contract, the Department shall pay the Contractor on a combination fee schedule, fixed price, and cost reimbursement basis as specified in each Work Authorization Form (Attachment C). Funding under this Contract shall be authorized by and for each Work Authorization as issued by the Department. The Contractor is not authorized to perform services that exceed the funding amount issued for each Work Authorization. Upon completion and final payment of each Work Authorization, all funds remaining from that particular Work Authorization shall be unencumbered by the Department. The Contractor hereby agrees that the Contractor or its subcontractors shall not commence work on a Work Authorization, or continue additional work under an Authorization for a Change in Scope of Work, until said Work Authorization, and additional Authorization(s) for a Change in Scope of Work, if required, has/have been fully executed by both the Department and the Contractor.
- C. On those Work Authorization or portions thereof, in which the Contractor is to be compensated on a cost reimbursement basis, the Contractor shall notify the Department when the Contractor believes that the services cannot be completed for the estimated cost established for the task assignment. In such event and after a review of the explanation provided to the Department, the Department and the Contractor shall mutually agree upon the extent to which 1) the Scope of Services shall be adjusted so that the task assignment may be completed for the estimated cost, or 2) the estimated cost shall be increased in order to complete the Work Authorization, or 3) the Work Authorization shall be completed at the original estimated cost. In no event, however, shall the Contractor continue to provide services once the estimated cost for the Work Authorization has been reached.
- D. Charges for rates or expenses which are not included in Attachment B, but which are required by the Department on a Work Authorization Form, shall be compensated at rates mutually acceptable to the Department and the Contractor, and shall be evidenced by an executed Work Authorization Form. In the event that the Department determines that such rates should become a part of the rate schedule attached to this Contract, the Department shall initiate a change order evidencing the rates mutually agreed to by both parties for inclusion in this Contract.
- E.
 - 1. The rates in Attachment B, which will be viewed as maximum rates, shall be current and effective for the term of the Contract.
 - 2.
 - 3. At any time either party may request a decrease in the rates. Each party shall review the other party's written request. If an agreement cannot be reached regarding a requested decrease in the rates, the Contract may be terminated pursuant to paragraph 19. B. as a termination for convenience.

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

7. Payment Method.

- A. The Contractor shall submit invoices as specified in each executed Work Authorization Form. Each invoice shall be itemized in accordance with the authorized budget categories listed below and in Attachment B, Rate Schedule, for the costs listed therein, as provided in the Contractor's response to DEP Solicitation No. 2016040C, or shall be accompanied by an executed copy of the Work Authorization Form evidencing a fixed price. Attachment E, Subcontractor Utilization Report Form, shall be completed and submitted with each invoice. Failure to provide Attachment E with an invoice shall result in a delay in processing the invoice for payment. All invoices must be submitted in detail sufficient for a proper pre-audit and post-audit review thereof.
- B. The review for approval of the final deliverable(s) will be completed within thirty (30) days of receipt. The final invoice will be submitted after approval of the final deliverable(s).

8. Invoicing Requirements.

- A. The State Chief Financial Officer requires detailed supporting documentation of all costs under a cost reimbursement task assignments. In accordance with the Contract Payment Requirements, (attached hereto and made a part hereof as Attachment ____), the Contractor shall comply with the minimum requirements set forth therein. Invoices shall be accompanied by supporting documentation and other requirements as follows:
1. Contractual (Subcontractors) - Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours/time spent on the project. All multipliers used (i.e. fringe benefits, overhead, and/or general and administrative rates) shall be supported by audit. If the Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, the Contractor shall be required to reimburse such funds to the Department within thirty (30) days of written notification. Interest on the excessive charges shall be calculated based on the prevailing rate used by the State Board of Administration. Invoices for reimbursement of fixed price subcontracts approved by the Department shall be documented by copies of the paid invoices.
 2. Travel - Travel expenses **will not** be compensated as part of this contract.
 3. Equipment - (Capital outlay over \$1,000 in value) – Are not authorized under this Contract.
 4. Rental/Lease of Equipment - Equipment usage rental rates apply to use in the field only and not transportation time. The rental rates charged for equipment usage shall be invoiced to the Department in the most favorable terms (i.e., the sum of the hourly rental rate for a given day shall not exceed the daily rental rate; the sum of the daily rental rate for up to a seven (7) day period shall not exceed the weekly rental rate; the sum of the weekly rental rate for up to a four (4) week period shall not exceed the monthly rental rate) as specified in Exhibit **. Include copies of invoices or receipts to document charges.
 5. Handling Fee – A markup or handling fee of 5% (as identified in Exhibit **) will be allowed on subcontracted work or purchased capital equipment used to provide or perform the scope of work identified in Exhibit * if identified and approved by the Department.
 6. Other Expenses - e.g., Materials, supplies, phone, reproduction, mailing, must be documented by itemizing and including copies of receipts or invoices.

9. Prompt Payment.

- A. Pursuant to Section 215.422, Florida Statutes (F.S.), the Department's Contract Manager shall have five (5) working days, unless otherwise specified herein, to inspect and approve the services for payment; the Department must submit a request for payment to the Florida Department of Financial Services within twenty (20) days; and the Department of Financial Services is given ten (10) days to issue a warrant. Days are calculated from the latter 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 a contractor for correction(s) will result in a delay in the payment. A Vendor Ombudsman has been established within the Florida Department of Financial Services who may be contacted if a contractor is experiencing problems in obtaining timely payment(s) from a State of Florida agency. The Vendor Ombudsman may be contacted at (850) 410-9724 or 1-800-848-3792.
- B. In accordance with Section 215.422, F.S., the Department shall pay the Contractor interest at a rate as established by Section 55.03(1), F.S., on the unpaid balance, if a warrant in payment of an invoice is not issued within forty (40) days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services. Interest payments of less than \$1 will not be enforced unless a contractor requests payment. The interest rate for each calendar year for which the term of this Contract is in effect can be obtained by calling the Department of Financial Services, Vendor Ombudsman at the telephone number provided above, or the Department's Procurements Section at (850) 245-2361.

10. Notice. Any notices or other written communication, except invoices, between the parties shall be considered delivered when posted by Certified Mail, return receipt requested, electronic mail, read receipt requested or delivered in person to the Contract Managers at the following addresses:

<u>Contractor</u>	<u>Department</u>
[Contractor's Name]	Department of Environmental Protection
[insert]	Bureau of [insert name]
Attn: [insert name]	Attn: [insert name]
[insert street address]	[insert street address]
[insert city, state, zip code]	[insert city, state, zip code]
[insert email address]	[insert email address]

11. Identification of Contract Managers. The Department's Contract Manager is _____, Phone (850) 245-____. The Contractor's Contract Manager is _____, Phone _____. All matters shall be directed to the Contract Managers for appropriate action or disposition.

12. Financial Consequences for Unsatisfactory Performance. 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; 2) suspend all work until a satisfactory deliverable is received; 3) request a reduction in payment amount; or 4) 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 Contractor in writing whether the CAP proposed has been accepted. If the CAP is not accepted, 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 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 Department's notice of acceptance of a proposed CAP, Contractor shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by 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 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 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.

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.

13. 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, Workers' Compensation Insurance for all of his employees connected with the work of this project and, in case any work is subcontracted, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of its employees unless such employees are covered by the protection afforded by the Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. 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 his employees not otherwise protected.

- B. The Contractor shall secure and maintain comprehensive general liability coverage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury and property damage; and comprehensive automobile liability coverage with limits of not less than \$2,000,000 combined single limit. The Contractor shall also maintain pollution liability coverage with limits of not less than \$3,000,000 aggregate for personal injury or death, \$1,000,000 per occurrence for personal injury or death, and \$1,000,000 per occurrence for property damage. The Contractor'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 (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 DEP Contract Number. In the event that the insurance requirements in statute are changed, the coverage limits specified herein will also be increased.

14. Indemnification. The Contractor shall save and hold harmless and indemnify the State of Florida and the Department against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this Contract, resulting from any negligent act, or failure to act, by the Contractor, its subcontractor, or any of the employees, agents or representatives of the Contractor or subcontractor to the full extent allowed by law.

15. Nonassignability and Subcontracting.

- A. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract without the prior written consent of the Department; provided however, 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. In the event of any assignment, the Contractor remains liable for performance of the Contract, unless the Department expressly waives such liability. The Department may assign the Contract but shall give prior written notice of its intent to do so to the Contractor.
- B. The Contractor shall not subcontract, assign, or transfer any work under this Contract, with the exception of _____; without the prior written consent of the Department's Contract Manager. The Department reserves the right to reject any subcontractor based upon prior experience. The Contractor agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the Department and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Contractor that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- C. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether 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 13), and shall include a release of any rights, claims or liabilities against Department. The level of insurance to be carried by subcontractors performing work under this Contract shall be at the discretion of Contractor.

16. Access and Inspection. The Contractor specifically agrees to allow authorized Department personnel to observe and inspect the work being performed under any work assignment under this Contract, including:

- A. Access to any public records that must be kept under this Contract; and,
- B. Access to any location or facility on which the Contractor is performing work, or storing or staging equipment, materials or documents.

17. 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.

18. Suspension.

- A. The Department may order the Contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as the Department may determine to be appropriate for any of the following reasons:
1. the Contractor fails to timely and properly correct deficiencies or faulty work;
 2. the Contractor's insurer or surety notifies the Department that any of its insurance or bonds has lapsed or will lapse, and the Contractor fails to provide replacement insurance or bonds acceptable to the Department before the cancellation date;
 3. the Contractor or subcontractor materially violates safety laws;
 4. the Department determines that there is a threat to the public health, safety or welfare that necessitates such suspension;
 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 Scope of Services, or by the Department's failure to act within a reasonable time, the Department shall make an adjustment for any increase in the cost of performance of those services (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and modify the Scope of Services. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent:
1. That performance would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or
 2. For which an equitable adjustment is provided or excluded under any other provision of this Contract.
- C. The Contractor shall not be compensated for work performed subsequent to a notice of suspension by the Department.

19. Termination.

- A. The Department may terminate this Contract at any time in the event of the failure of the Contractor to fulfill any of its obligations under this Contract. Prior to termination, the Department shall provide ten (10) calendar days written notice of its intent to terminate and shall provide the Contractor an opportunity to consult with the Department regarding the reason(s) for termination.
- B. The Department may terminate this Contract without cause and for its convenience by giving thirty (30) calendar days written notice to the Contractor.
- C. The Department reserves the right to terminate this Contract for convenience in the event that, during the term of this Contract, there is a merger or acquisition by the Contractor of any other entity or the Contractor is acquired by or merged with any other entity under DEP Solicitation No. 2016016C. In the event of termination for convenience under this paragraph, the Contractor shall be compensated for work satisfactorily performed and irrevocable commitments made under outstanding purchase orders, without liability for anticipated profits for work not yet performed.

20. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within ten (10) days from the date of receipt, the Contractor files with the Department a petition for administrative hearing. The Department's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120, F.S. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability

to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120 F.S.

21. Public Records.

- A. The Contractor shall keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services under this Contract.
- B. The Contractor shall provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
- C. The Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D. The Contractor shall meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Contractor upon termination of the Contract. The Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. All records that are stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.
- E. This Contract may be unilaterally canceled by the Department for refusal by the Contractor to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), F.S.

22. Change Orders. The 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, time, 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 order which causes an increase or decrease in the Contractor's cost or time shall require an appropriate adjustment and modification (formal amendment) to this Contract.

23. Purchase of Equipment. The purchase of non-expendable personal property or equipment costing \$1,000 or more purchased for purposes of this Contract remains the property of the Department. The Department's Contract Manager shall be responsible for any required documentation and reporting.

24. P.R.I.D.E. 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., if available, in the same manner and under the same procedures set forth in Section 946.515(2), (4), F.S.; and for purposes of this Contract the person, firm or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.

The "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>

25. RESPECT of Florida. 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 dealing with such qualified nonprofit agency are 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

- 26. Non-solicitation.** The Contractor 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.
- 27. Conflict of Interest.** The Contractor covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.
- 28. Force Majeure.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either 1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or 2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Department. The Contractor shall not be entitled to an increase in the Contract 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.
- 29. Forum Selection and Choice of Law.** This Contract has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Contract shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract. Any action hereon or in connection herewith shall be brought in Leon County, Florida.
- 30. Document Retention and Audit.** The Contractor shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. The 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. 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.

31. 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. The Contractor shall not copyright any material and products or patent any invention developed under this Contract.

32. Non-Waiver of Rights. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either 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.

33. Tax Exemption. The Contractor recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Contract. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer on a purchase order or other special contract condition.

34. Disqualification.

A. The employment of unauthorized aliens by any contractor/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 this Contract. The Contractor 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 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.

35. Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

36. Nondiscrimination.

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

B. 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 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. The Contractor must comply with the Americans with Disabilities Act (“ADA”).

37. Compliance with Applicable Law. The Contractor shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Contract. The Contractor acknowledges that this requirement includes, but is not limited to, compliance with all applicable federal, state and local health and safety rules and regulations. The Contractor further agrees to include this provision in all subcontracts issued as a result of this Contract.

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

39. MyFloridaMarketPlace Transaction Fee.

A. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide e-procurement system. Pursuant to Section 287.057(22)(c), F.S. (2015), all payments shall be assessed a Transaction Fee established in the DMS Rule 60A-1.031 F.A.C., and any future amendments thereto which the Contractor shall pay the State.

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

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

D. Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.

40. Modifications Required by Law. The 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; or to include changes necessitated by DEP rule changes

41. Attorneys Fees. In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorneys fees and costs.

42. 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):

1. Body of the Contract;
2. Scope of Services;
3. Specifications;
4. Price Sheet;
5. All other attachments to the Contract;

6. DEP Solicitation No. 2016040C, inclusive of all attachments, addenda and questions and answers to the Solicitation; and,
7. Contractor's Response to the Solicitation.

43. 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 Agreement; words such as "herein," "hereof" and "hereunder" shall refer to the entire document in which they are contained and not to any particular provision or section; words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings; references to Persons include their respective permitted successors and assigns and, in the case of Governmental Persons, Persons succeeding to their respective functions and capacities; and words of any gender used herein shall include each other gender where appropriate.
- B. Unless otherwise specified, lists contained in the Contract shall not be deemed all-inclusive. Contractor acknowledges and agrees that it had the opportunity and obligation, prior to submission of its Response, to review the terms and conditions of the Contract and to bring to the attention of the Department any conflicts or ambiguities contained therein. Contractor further acknowledges and agrees that it has independently reviewed the 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) the 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.

44. 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.

45. Execution in Counterparts. This Contract, and any Change Orders or Amendments thereto, may be executed in two (2) 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.

46. 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 Agreement. 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. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

47. Integration. This Contract represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Contract, unless otherwise provided herein.

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

[CONTRACTOR'S NAME]

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Title: [insert title]

By: _____
[insert title] or designee

Date: _____

Date: _____

DEP Contract Manager

DEP Contract Administrator

Approved as to form and legality:

DEP Attorney

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

<u>Specify Type</u>	<u>Letter/ Number</u>	<u>Description</u>
Attachment	A	Scope of Services;
Attachment	B	Rate Schedule;
Attachment	C	Work Authorization Form;
Attachment	D	Subcontractor Utilization Report Form.

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SECTION 14.00 – SOLICITATION PROPOSAL CHECKLIST

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

Part I, Technical Response:

- 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 Solicitation. 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 Acknowledgement Form.

- B. _____ The Technical Response Package (see 1.07) must include the following information:
- 1) Introduction (3 page limit);
 - 2) Qualification and Experience (5 pages limit);
 - 3) Organization and Operational Procedures (5 pages limit);
 - 4) Personnel (5 pages limit);
 - 5) Six (6) Hour Response (5 pages limit);
 - 6) Standards and Procedures (5 pages limit); and
- C. _____ Past Performance and Client Reference Form, Section 9.00
- D. _____ Respondent / Subcontractor Summary Forms, Section 8.00. List the name of the Respondent(s), the name of each intended subcontractor, and indicate the one business category for the Respondent.
- E. _____ 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.
- F. _____ Additional Documents - this section of the Proposal shall contain the following:
- Certification of Drug-Free Workplace, Section 7.00 (if applicable); and
 - Disclosure of Litigation.

Part II, Price Response:

- A. _____ The Response Form (Section 6.00) must be completed and signed. **If a Respondent fails to submit a completed Response Form with their submittal, the submittal will be rejected.**

Did you complete the following?

- 1) Prices;
- 2) Sign Form;
- 3) Respondent/Company Name; and
- 4) Print/Type name of Signatory and Title.

The Respondent must submit four (4) hard copies (one (1) original and three (3) copies) and two (2) duplicate electronic copies of the entire Proposal to the Department in accordance with Section 1.07, Submittal of Proposal. The hard copy of the Proposal shall bear original signatures and be marked as the "Original". The electronic copies of the Proposal may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format. The Department will reject Proposals submitted in alternate file formats or which contain information different from that in the hard copy of the Proposal. **If you assert that any portion of your Proposal is exempt from disclosure under the Florida Public Records law, you must submit a redacted version of the Proposal 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 Solicitation.