

INVITATION TO BID

23-ITB00306/TC

HERNANDO COUNTY SOLID WASTE ADMINISTRATION FACILITY

County of Hernando  
15470 Flight Path Drive  
Brooksville, FL 34604



RELEASE DATE: May 31, 2023

DEADLINE FOR QUESTIONS: June 30, 2023

RESPONSE DEADLINE: July 17, 2023, 10:00 am

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

<https://secure.procurenow.com/portal/hernandocounty>

County of Hernando  
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Hernando County Solid Waste Administration Facility

I. Introduction.....

II. SOLICITATION - OFFER - AWARD.....

III. SOLICITATION .....

IV. OFFER .....

V. AWARD .....

VI. ADVERTISEMENT OF BID.....

VII. SOLICITATION INSTRUCTIONS.....

VIII. GENERAL CONDITIONS.....

IX. SPECIAL CONDITIONS.....

X. SCOPE AND SPECIFICATIONS.....

XI. GENERAL REQUIREMENTS AND TECHNICAL SPECIFICATIONS .....

XII. Pricing Proposal .....

XIII. Vendor Questionnaire.....

Attachments:

A - Drawings

B - Specifications

C - Admin Building Geotech Report (Oct. 13 2016)

D - Sample Construction Agreement

E - Documents required after Award

## 1. INTRODUCTION

### 1.1. Summary

Hernando County Solid Waste Facility requires construction of a 5,264 GSF administration building at the main landfill site located at 14450 Landfill Road, Brooksville, FL 34614.

The project will require the Bidders to provide bids on at least one of 2 options.

- Option 1: Concrete Masonry (CMU) Unit structure; and/or
- Option 2: Pre-engineered metal building (PEMB).

### 1.2. Contact Information

**Fran Hallet**

Purchasing Agent II

Email: [fhallet@co.hernando.fl.us](mailto:fhallet@co.hernando.fl.us)

Phone: [\(352\) 754-4020](tel:(352)754-4020)

**Department:**

County Admin

**Department Head:**

Jeff Rogers

County Administrator

### 1.3. Timeline

<b>Release Project Date</b>	May 31, 2023
<b>Pre-Proposal Meeting (Mandatory)</b>	June 8, 2023, 10:00am Hernando County Solid Waste, 14450 Landfill Road, Brooksville, FL 34614
<b>Question Submission Deadline</b>	June 30, 2023, 5:00pm
<b>Proposal Submission Deadline</b>	July 17, 2023, 10:00am

## 2. SOLICITATION - OFFER - AWARD

**ISSUED BY:**

BOARD OF COUNTY COMMISSIONERS

HERNANDO COUNTY, FLORIDA

John Allocco, Chairman

Elizabeth Narverud, Vice Chairman

Steve Champion, Second Vice Chairman

Brian Hawkins

Jerry Campbell

**SUBMIT BID OFFER TO:**

HERNANDO COUNTY

PURCHASING AND CONTRACTS

via Hernando County's [eProcurement Portal](#)

Toni Brady

Chief Procurement Officer

### **3. SOLICITATION**

SEALED OFFERS, FOR FURNISHING THE SERVICES, SUPPLIES OR EQUIPMENT DESCRIBED HEREIN WILL BE RECEIVED BY THE OFFICE OF HERNANDO COUNTY PROCURMENT DEPARTMENT, VIA THE COUNTY'S [eProcurement Portal](#) UNTIL 10:00 am, LOCAL TIME ON Monday, July 17, 2023. NO BID OFFERS WILL BE ACCEPTED AFTER THE ABOVE STIPULATED DATE AND TIME. THIS IS AN ADVERTISED SOLICITATION AND THE RESPONDING BIDDERS WILL BE PUBLICLY READ IN THE PROCUREMENT DEPARTMENT CONFERENCE ROOM AT 10:00 am ON Monday, July 17, 2023. PURSUANT TO FS 119.071 (current version). SEALED BIDS, PROPOSALS, OR REPLIES RECEIVED BY AN AGENCY PURSUANT TO A COMPETITIVE SOLICITATION ARE EXEMPT FROM FINAL INSPECTION UNTIL SUCH TIME AS THE AGENCY PROVIDES NOTICE OF AN INTENDED DECISION OR UNTIL THIRTY (30) DAYS AFTER OPENING THE BIDS, PROPOSALS, OR FINAL REPLIES, WHICHEVER IS EARLIER.

#### **4. OFFER**

THE UNDERSIGNED, BEING DULY AUTHORIZED TO SUBMIT THIS BID ON BEHALF OF THE BIDDER, AGREES THAT IF THIS OFFER IS ACCEPTED WITHIN ONE HUNDRED TWENTY (120) DAYS FROM THE BID OPENING DATE, TO FURNISH TO HERNANDO COUNTY ANY AND ALL ITEMS FOR WHICH PRICES ARE OFFERED IN THIS BID SOLICITATION AT THE PRICE(S) SO OFFERED, DELIVERED AT DESIGNATED POINT(S), WITHIN THE TIME PERIOD SPECIFIED, AND AT THE TERMS AND CONDITIONS SO STIPULATED IN THE SOLICITATION FOR BIDS.

## **5. AWARD**

Upon Award please SUBMIT INVOICES TO:

Hernando County  
HERNANDO COUNTY SOLID WASTE  
14450 Landfill Road, Brooksville, FL 34614

## 6. ADVERTISEMENT OF BID

### 6.1. ADVERTISEMENT OF BID

#### INVITATION TO BID

NOTICE IS HEREBY GIVEN that the Board of County Commissions of Hernando County, Florida, is accepting Bids for:

CONSTRUCTION CONTRACT ITB NO. SOLICITATION NO. 23-ITB00306/TC

FOR

Hernando County Solid Waste Administration Facility

Hernando County Board of County Commissioners is soliciting for a General Contractor's, Electrical, MEP, earthwork, and/or metal building subcontractors that are active and experienced in the construction of Concrete Masonry (CMU) Unit structures or Pre-engineered metal buildings (PEMB).

Offers for furnishing the above will be received and accepted up to 10:00 a.m. (local time), Monday, July 17, 2023, via Hernando County Procurement Department's [eProcurement Portal](#). Only electronic submittals shall be accepted by the County.

The Board of County Commissioners of Hernando County, Florida reserves the right to accept or reject any or all bids and waive informalities and minor irregularities in offers received in accordance with the bid documents and the Hernando County Procurement Ordinance.

Interested firms may secure the bid documents and plans and drawings and all other pertinent information by visiting the County's eProcurement Portal. For additional project information, please visit the Hernando County Board of County Commissioners Procurement Department at [www.hernandocounty.us](http://www.hernandocounty.us), or by submitting a question via the Q&A Tab in the County's [eProcurement Portal](#).

Bid offers shall be accompanied by either a Bid Bond, Certified Check, Cashier's Check, or Official Bank Check in the dollar amount representing not less than five percent (5%) of the total amount bid as a guarantee to enter into a contract and furnish a contract performance and payment bond in the amount of one hundred percent (100%) of the total bid price within fifteen (15) calendar days from the date of notification of the award.



Exparte Communication: Please note that to ensure the proper and fair evaluation of a submittal, the County prohibits exparte communication (i.e., unsolicited) initiated by the Respondent to the County official or employee evaluating or considering the submittals prior to the time a decision has been made. Communication between Respondent and the County will be initiated by the appropriate County official or employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the submittal. Exparte communication may be grounds for disqualifying the offending Respondent from consideration or award of the solicitation or any future solicitation.

Procurement Department will post addenda on [eProcurement Portal](#) to all questions in accordance with the Solicitation Instructions. It is the responsibility of prospective Bidders to visit the County's portal to ensure that they are aware of all Addenda issued relative to this Solicitation.

Pursuant to Florida Statutes 119.071 (current version) sealed bids, proposals or replies received by an agency pursuant to a competitive Solicitation are exempt from inspection until such time as the agency provides notice of an intended decision or until thirty (30) days after opening the bids, proposals, or final replies whichever is earlier.

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY  
TONI BRADY  
CHIEF PROCUREMENT OFFICER, HERNANDO COUNTY

#### NOTICE TO BIDDERS

To ensure that your bid is responsive, you are urged to request clarification or guidance on any issues involving this Solicitation before submission of your response. Your method of contact for this solicitation is the Q&A Tab in the County's [eProcurement Portal](#).

#### 6.2. [MANDATORY Pre-Bid Conference](#)

MANDATORY Pre-Bid Conference will be held

Thursday, June 8, 2023,

at 10:00 a.m.,

at the

Hernando County Solid Waste, 14450 Landfill Road, Brooksville, FL 34614.

Representatives of Owner will be present to discuss the project. Bidders are recommended to attend and participate in the conference. THIS CONFERENCE WILL BE HELD ONLY ONCE AND FAILURE TO ATTEND AND SIGN IN SHALL DISQUALIFY ANY BIDDER NOT ATTENDING FROM SUBMITTING A BID. ATTENDEES MUST BE PRESENT AT THE START OF THE PRE-BID CONFERENCE. ARRIVAL AFTER THE START OF THE PRE-BID CONFERENCE SHALL BE CAUSE FOR DISQUALIFICATION.

## 7. SOLICITATION INSTRUCTIONS

### 7.1. DEFINITION OF TERMS

**DEFINITION OF TERMS** Where the following terms, or their pronouns, occur herein, the intent and meaning shall be as follows:

- A. **ADDENDA:** Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Contract Documents.
- B. **AGENCY:** the Federal or State agency named as such in the Agreement. This project is financed in whole or in part through NA and the term Agency, as used herein, shall refer to NA.
- C. **AGREEMENT:** The written instrument which is evidence of the Agreement between Owner and Vendor/Contractor covering the work.
- D. **APPLICATION FOR PAYMENT:** The form acceptable to Engineer which is to be used by Vendor/Contractor during the course of the work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
- E. **BID:** The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- F. **BID BOND/GUARANTEE:** The certified check or surety bond furnished by the Bidder with his bid as evidence of good faith.
- G. **BID DOCUMENTS:** The bidding requirements and the proposed Contract Documents, including all addenda.
- H. **BIDDER:** The term "Bidder" used herein refers to the dealer/manufacturer or business organization submitting a bid to the County in response to this Solicitation.
- I. **CHANGE ORDER:** A document recommended by Engineer which is signed by Vendor/Contractor and Owner and Agency and authorizes an addition, deletion, or revision in the work or an adjustment in the contract price or the contract times, issued on or after the Effective Date of the Agreement.
- J. **CONSTRUCTION ADMINISTRATOR:** Scott Harper, shall act as the "Construction Administrator" for the work relative to the acceptance and approval of Applications for Payment pursuant to the provisions of the Florida Prompt Payment Act, Part VII, Ch. 218.735, F.S (current version).
- K. **CONTRACT:** The Agreement executed by the Owner and Vendor/Contractor for the performance of work and the other documents (plans, specifications, notice to Bidders, proposal, surety bonds, addenda and other incorporated or referenced documents) whether attached thereto or not.

- L. **CONTRACT PRICE:** The moneys payable by Owner to Vendor/Contractor for completion of the work in accordance with the Contract Documents as stated in the Agreement.
- M. **CONTRACT TIMES:** The number of days within which, or the dates by which, the work is to be substantially completed and ready for final payment as set forth in the Agreement. The contract times will commence on the date indicated in the Notice to Proceed.
- N. **CONTRACT WORK:** Any and all obligations, duties and responsibilities necessary to the successful completion of the project assigned to or undertaken by the Vendor/Contractor under the Contract Documents, including the furnishing of all labor, materials, equipment, and other incidentals.
- O. **CONTRACTOR:** The individual or entity with whom the County has entered into the Agreement.
- P. **COUNTY:** The Board of County Commissioners, Hernando County, or its duly authorized representative.
- Q. **ENGINEER:** Under Contract to the Owner, the Engineer in the administration of this Contract and any references to the Engineer or the Professional shall be deemed to mean Locklear & Associates in conjunction with Walker Architects, WSE Wayland, and Akin Brooks Engineering, for the plans and specifications referenced in these contract documents. Engineer may delegate or designate certain duties to be performed by other qualified professionals.
- R. **FDEP:** Florida Department of Environmental Protection.
- S. **FDOT:** Florida Department of Transportation.
- T. **FIELD ORDER:** A written order issued by Engineer which requires minor changes in the work but which does not involve a change in the contract price or the contract times.
- U. **ISSUING OFFICE:** The office from which the bid documents are to be issued and where the bidding procedures are to be administered. Specifically - Hernando County, Procurement Department, 15470 Flight Path Drive, Brooksville, Florida 34604.
- V. **MUTCD:** Manual on Uniform Traffic Control Devices <https://mutcd.fhwa.dot.gov>
- W. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM:** NPDES
- X. **NOTICE-WRITTEN:** Notice shall be served upon the Vendor/Contractor either personally or by leaving the said notice at its residence or with its Agent in charge of the work, or addressed to the Vendor/Contractor at the residence or place of business given in the bid and deposited in a postpaid wrapper in any post box regularly maintained by the United States Post Office.
- Y. **NOTICE OF AWARD:** The written notice by Owner to the successful Bidder stating that upon timely compliance by the successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
- Z. **NOTICE OF INTENT:** NOI

AA. **NOTICE TO PROCEED:** A written notice given by Owner to Vendor/Contractor fixing the date on which the contract times will commence to run and on which Vendor/Contractor shall start to perform the work under the Contract Documents. A Notice to Proceed may be given at any time after the effective date of the Agreement.

BB. **OCCUPATIONAL SAFETY AND HEALTH ACT:** OSHA.

CC. **OWNER:** Hernando County Board of County Commissioners (County).

DD. **OWNER DESIGNATED REPRESENTATIVE:** The Owner Designated Representative will act as the Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to the Owner Designated Representative in the Contract Documents in connection with the completion of the work in accordance with their respective scope of work and the contract documents. Fran Hallet, shall act as the Owner Designated Representative for the work relative to this contract.

EE. **PAYMENT AND PERFORMANCE BONDS:** The approved forms of security furnished by the Vendor/Contractor and his surety as a guaranty on the part of the Vendor/Contractor to execute the work in accordance with the terms of the contract and to pay all obligations associated with the project.

FF. **PROJECT BUDGET/ESTIMATE:** The project budget and/or estimate is the amount of funds the county has projected for this solicitation. The County estimates this solicitation to fall within the following dollar Threshold G: \$2,500,000.01- \$5,000,000. **Note: The County/Engineer's probable cost estimate for this project is \$2,553,333.00. This is only an estimate and should not be the basis to determine the Vendor/Contractor bid submission amount.**

1. Threshold A: less than \$100,000
2. Threshold B: \$100,000.01- \$250,000
3. Threshold C: \$250,000.01- \$500,000
4. Threshold D: \$500,000.01 - \$1,000,000
5. Threshold E: \$1,000,000.01 - \$1,500,000
6. Threshold F: \$1,500,000.01- \$2,500,000
7. Threshold G: \$2,500,000.01- \$5,000,000
8. Threshold H: greater than \$5,000,000.01

GG. **PROFESSIONAL:** The professional independent **Architectural/Engineering firm** designated to be the Engineer of Record (per Florida Administrative Code). Any references to the Engineer or the Professional shall be deemed to mean Locklear & Associates in conjunction with-Walker Architects, WSE Wayland and Akin Brooks Engineering, and its designee for the plans and specifications referenced in these Contract Documents.

- HH. **PROJECT MANAGER:** The duly authorized representative of the County during the construction period. The Project Manager of record for this Solicitation is: Scott Harper.
- II. **SCOPE OF WORK:** All materials, labor and equipment in order to accomplish the Project, as described in the specifications and construction plans showing the proposed improvements. The Vendor/Contractor shall accomplish the work in a manner providing for the safety of their equipment and workers and for the safety of the general public.
- JJ. **SHOP DRAWINGS:** All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Vendor/Contractor, a subcontractor, a manufacturer, supplier or distributor and which illustrate the equipment, material and/or some portion of the work.
- KK. **SITE:** Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Vendor/Contractor. The site or location for the work to be performed in this Contract will be 14450 Landfill Road, Brooksville, FL 34614.
- LL. **SUBCONTRACTOR:** Any person, firm or corporation other than employees of the Vendor/Contractor who or which contracts with the Vendor/Contractor to furnish, or actually furnishes labor, materials and/or equipment for the performance of a part of the work on the project.
- MM. **SURETY:** Any person, firm or corporation which is bound by Public Construction Bond and Payment Bond with and for the Vendor/Contractor and which engages to be responsible for his acceptable performance of the work and for payment of all debts pertaining thereto.
- NN. **VENDOR/CONTRACTOR:** The individual or entity with whom the County has entered into the Agreement.
- OO. **WORK:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

## 7.2. AVAILABILITY OF BIDDING DOCUMENTS:

Interested firms may secure bid documents, plans, drawings, site locations, and other pertinent information by visiting Hernando County's [eProcurement Portal](#). For additional information please contact the Hernando County Board of County Commissioners, Procurement Department via the County's [eProcurement Portal](#) Q&A Tab.

### 7.3. PREPARATION OF BID

To ensure acceptance of your bid, please follow these instructions:

- A. Interested firms are required to register via the County's [eProcurement Portal](#) . Once registered, to submit a response please click on the "DRAFT RESPONSE" button and provide an answer to all of the prompts/questions. You must respond to all required questions, and, if any, acknowledge addenda so that your response will be considered complete by the County. Bidders submitting more than one (1) bid with different pricing shall cause the Bidder to be rejected. All bids are subject to the conditions specified herein. Those bids which do not comply with these conditions may be subject to rejection.
- B. Submit Bids via the Hernando County's [eProcurement Portal](#). The responsibility for delivering the bid to the County on or before the stated time and date will be solely and strictly the responsibility of the Bidder.
  1. Bids will be rejected unless submitted electronically via the County's electronic bidding system along with all required bid line items. All bid forms enclosed are required to be completed and submitted using the instructions listed herein.
  2. The County will not honor any explanation or change in the bid documents unless a written addendum has been issued.
  3. The County will not honor any explanation or change in the bid documents unless written addendum has been issued.
  4. The County reserves the right to reject any and all bids and to waive any informalities related thereto.
  5. All bids must be firm for a period of one hundred twenty (120) days after the time set for opening bids. Upon award, prices quoted will be in effect for the term of the contract.
  6. No material, labor, or facilities will be furnished by the County unless specifically stated.
  7. Blank spaces in the bid must be properly filled in and the phraseology of the bid must not be changed. Additions must not be made to items mentioned therein and any unauthorized conditions, limiting any provision, attached to a bid shall render irregular and may cause its rejection.
  8. Communications: All technical, scope, and/or project related questions shall be submitted through the project [Q&A Tab](#) before the deadline and according to these specifications herein. Any and all other bidding communications shall only be the County using the contact information herein. Companies bidding on this project shall not communicate with any other County Staff members or they risk being disqualified.

#### 7.4. MANDATORY PREBID CONFERENCE

- A. A Mandatory Pre-Bid Conference will be held Thursday, June 8, 2023 at 10:00 am at Hernando County Solid Waste, 14450 Landfill Road, Brooksville, FL 34614.
- B. A Mandatory Site Visit will immediately follow the Pre-Bid Conference.
- C. Only Bidders present at the Pre-Bid Conference and Site Visit may submit a bid for this solicitation.
- D. Attendees must be present at the beginning of the Pre-Bid Conference. Arrival after the start of the Pre-Bid Conference shall be cause for disqualification.

#### 7.5. BID OPENING

Bids received after the date and time disclosed in this Solicitation will not be accepted. Bids will be opened immediately after this date and time, and will remain binding upon the Bidder for a period of one hundred twenty (120) days thereafter. Pursuant to Florida Statutes 119.071 (current version) sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from inspection until such time as the agency provides notice of an intended decision or until thirty (30) days after opening the bids, proposals, or final replies whichever is earlier.

#### 7.6. SITE VISIT

Bidder may request access the site to conduct examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a bid by contacting the Procurement Department via the County's [eProcurement Portal Q&A tab](#), if no mandatory site visit is scheduled. All questions after the site visit shall be submitted to the Procurement Department in writing via the County's [eProcurement Portal Q&A tab](#). The Procurement Department will coordinate a site visit between the Bidder and the Project Manager for this project. Bidder agrees to restore the site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable laws and regulations relative to excavation and utility locations while accessing the site.

#### 7.7. BIDDER'S RESPONSIBILITIES

It is the responsibility of each Bidder before submitting a bid to:

- A. Read and completely understand the requirements and the specifications of the items bid.
- B. Use complete sets of bid documents in preparing bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bid documents.
- C. Examine and carefully study the bid documents, other related data identified in the bid documents, and any Addenda.
- D. Make all investigations necessary to thoroughly inform themselves regarding all drawings, specifications, delivery requirements, performance requirements, site locations, and all solicitation instructions to satisfy themselves of conditions affecting submission of their bid and

the terms and cost of performing the contract. No pleas of ignorance by the Bidder of conditions that exist or may hereafter exist as a result of failure or omission on the part of the Bidder to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the Contract Documents, will be accepted as a basis of varying the requirements of the County or the compensation of the Bidder. Bidder agrees that submittal of a bid for the work is prima facie evidence they have conducted such examinations.

- E. Request access to the site to become familiar with general, local, and site conditions that may affect cost, progress, and performance of the work.
- F. Become familiar with all Federal, State, and local laws and regulations that may affect cost, progress, or performance of the work.
- G. Obtain and carefully study all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the site which may affect cost, progress, or performance of the work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the bid documents, and safety precautions and programs incident thereto.
- H. Agree at the time of submitting its bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its bid for performance of the work at the price(s) bid and within the times and in accordance with the other terms and conditions of the bid documents.
- I. Become aware of the general nature of the work to be performed by Owner and others at the site that relates to the work as indicated in the bid documents.
- J. Correlate the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the bid documents, and all additional examinations, investigations, explorations, tests, studies, and data with the bid documents.
- K. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the bid documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder.
- L. Determine that the bid documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the work.
- M. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of bid security. This bid will remain subject to acceptance for one hundred twenty (120) days after the bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.



- N. Bidder has enclosed a Certified check, Cashier's Check or Bid Bond in the amount of not less than the five percent (5%) of the Total Base Bid Amount payable to the Hernando County Board of County Commissioners as a guarantee for the purpose set out in the Instructions to Bidders.

#### 7.8. QUESTIONS REGARDING SPECIFICATIONS OR BIDDING PROCESS:

To ensure fair consideration for all Bidders, the County prohibits communication to or with any department, division or employee during the bid process, except as provided below:

- A. All questions relative to interpretation of the specifications or the bid process shall be addressed in writing via Hernando County's [eProcurement Portal Q&A Tab](#), prior to the date set for submittal and opening of the bids.
- B. Any interpretation or clarification made to prospective Bidders will be expressed in the form of an addendum which, if issued, will be posted on the County's [eProcurement Portal Q&A tab](#):. Oral answers will not be authoritative.
- C. It will be the responsibility of the Bidder to visit <https://secure.procurenow.com/portal/hernandocounty> to insure they are aware of all addenda issued for this solicitation.
- D. Questions will only be accepted through Friday, June 30, 2023
- E. All addenda must be acknowledged via the County's eProcurement Portal. Failure of any Bidder to submit any addenda may be found non-responsive and subject to rejection.

#### 7.9. COMMUNICATION

There shall be no communication between the Vendor/Contractor, their employees or subcontractors and County employees and elected officials (hereafter referred to as "County Representative"), except through the Purchasing and Contracts Department. Any attempt to communicate with any County Representative outside the Purchasing and Contracts Department will be considered a violation of the Purchasing Policy and may result in the rejection of your bid.

#### 7.10. WITHDRAWAL OF BIDS:

Bids may be withdrawn prior to the Thursday, June 8, 2023, 10:00 am via the County's [eProcurement Portal](#). Negligence on the part of the Bidder in preparing the bid confers no right for the withdrawal of the Bid after it has been opened. Faxed or electronically mailed withdrawals will not be recognized. No Bidder may withdraw their bid after the scheduled opening time for receipt of bids.

#### 7.11. BID PROTESTS

Any Bidder who protests the bid specifications or Award or Intent to Award, must file with the County a Notice of Protest and formal written protest in compliance with Chapter 28-110, Florida Administrative Code, and applicable provisions in Section 120.57, F.S. (current version). Failure to timely file such documents will constitute a waiver of proceedings under Chapter 120, F.S. (current version).

## 7.12. QUALIFICATION OF BIDDERS

- A. The Vendor/Contractor shall have previous experience in the type of construction work specified herein, and experience in the installation of the materials to be provided for the project specified herein.
- B. The Vendor/Contractor and/or subcontractors shall be an appropriately licensed Contractor in the State of Florida at the time of the bid and must have successfully completed a minimum of two (2) projects of similar size and complexity in the past seven (7) years. These requirements are in addition to the requirements in Section entitled, "Reference Documents" below.
- C. The Vendor/Contractor's Project Superintendent must have a minimum of three (3) years' experience as Project Superintendent and must have directed at least two (2) previous projects of similar size and complexity. These requirements are in addition to the requirements in Section entitled, "Reference Documents."
- D. Bidders shall submit evidence of this experience on the forms provided in the bid documents, along with the accompanying information requested below:
  - 1. Overview of construction experience, including a list of projects successfully completed and indicating Owner, location, contract value and completion date.
  - 2. Documentation of two (2) projects, similar in scope and complexity to this project, which have been successfully completed by the Bidder within the past seven (7) years.
  - 3. Identification of firms comprising the Vendor/Contractor's team on the Construction Contractor Qualification Submittal Package attached to Vendor Questionnaire.
  - 4. Resumes of the Vendor/Contractor's Project Superintendent documenting the experience required for these individuals.
- E. **Failure to submit this information may be basis for rejection of the bid.**

## 7.13. QUALIFICATION OF SUBCONTRACTORS, MATERIAL VENDOR, SUPPLIERS, AND OTHERS:

- A. The Vendor/Contractor will, within ten (10) days after execution of the Agreement, submit to the County through the Owner Designated Representative for acceptance a list of the names of subcontractors and such other persons and organizations proposed for those portions of the work as to which the identity of the subcontractors and other persons and organizations must be submitted as specified in the Contract Documents. The Owner Designated Representative will notify the Vendor/Contractor in writing if the Owner Designated Representative, after due investigation, has reasonable objection to any subcontractor, person or organization on such list. The failure of the Owner Designated Representative to make objections to any subcontractor, person or organization on the list shall constitute an acceptance of such subcontractor, person or organization. Acceptance of any such subcontractor, person or

organization shall not constitute a waiver of any right of the County to reject defective work, material or equipment, or work material or equipment not in conformance with the requirements of the Contract Documents.

- B. If the Owner Designated Representative objects to a subcontractor and the apparent successful Bidder declines to make a substitution of said subcontractor, County may award the Contract to the next lowest responsive, responsible Bidder that proposes to use acceptable subcontractors, suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the bid security of any Bidder. Any subcontractor, supplier, individual, or entity so listed and against which the County and Owner Designated Representative makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to the County and Owner Designated Representative subject to revocation of such acceptance after the effective date of the Agreement.
- C. Vendor/Contractor shall not be required to employ any subcontractor, supplier, individual, or entity against whom Vendor/Contractor has reasonable objection.
- D. The Vendor/Contractor agrees that it is as fully responsible to the County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it. Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the County.

#### 7.14. EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE:

- A. Subsurface and Physical Conditions:
  - 1. The Technical Specifications will identify:
    - a. Any reports of explorations and tests of subsurface conditions at or contiguous to the site that Engineer has used in preparing the bid documents.
    - b. Any drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the site (except underground facilities) that Engineer has used in preparing the bid documents.
  - 2. Copies of any reports and drawings referenced in the solicitation documents will be made available by Owner to any Bidder via the County's [eProcurement Portal](#). Bidder is responsible for any interpretation or conclusion Bidder draws from any technical data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
- B. Underground Facilities:

1. Information and data shown or indicated in the bid documents with respect to existing underground facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such underground facilities, including Owner, or others.

C. Hazardous Environmental Condition:

1. The Technical Specifications identify any reports and drawings relating to a hazardous environmental condition identified at the site that Engineer has used in preparing the bid documents.

**7.15. BID GUARANTEE/BID BOND:**

- A. Each bid must be accompanied by a Certified Check, Cashier's Check, Official Bank Check or Bid Bond payable to the Owner for an amount equal to at least five percent (5%) of the amount of bid, as guarantee that the Bidder will within fifteen (15) consecutive calendar days after award, enter into a written contract with the County for the performance of the work as awarded.
- B. **Any submitted Bid Bond must be submitted to the County.**
- C. Any submitted checks shall be drawn on a solvent bank or trust company to the order the Hernando County Board of County Commissioners and shall have all necessary documentary revenue stamps attached, if required by law.
- D. Surety of Bid Bonds shall be a duly authorized surety company authorized to do business in the State of Florida; all such bonds being issued or countersigned by a local producing agent who is a resident of the State of Florida and satisfactory evidence of the authority of the person or persons executing such bond being submitted with the bond. Personal checks are not acceptable to Hernando County.
- E. The County will, within ten (10) days after the Notice of Intent to Award, return the deposit of all Bidders except those posted by the three (3) lowest acceptable Bidders, whose deposit will be returned upon the final award and execution of the Contract between the successful Bidder and County, and after a satisfactory Performance Bond and Payment Bond have been executed.
- F. Attorneys-in-fact who sign bonds or other surety instruments must attach with each bond or surety instrument a certified and effectively dated copy of their power of attorney.
- G. If the successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within fifteen (15) days after the Notice of Award, Owner may withdraw the Notice of Award and the Bid Bond of that Bidder will be forfeited. The Bid Bond of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven (7) days after the effective date of the Agreement

or sixty-one (61) days after the bid opening, whereupon Bid Bonds furnished by such Bidders will be returned.

- H. Bid Bonds of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within thirty (30) days after the Bid opening.
- I. Bidders desiring their original Bid Bonds returned shall enclose a self-addressed stamped envelope with their bids marked "Bid Bond" in the lower left corner.

#### 7.16. PERFORMANCE AND PAYMENT BOND:

- A. Performance and Payment Bond issued in a sum equal to one hundred percent (100%) of the total awarded contract amount by a surety company considered satisfactory by the County and otherwise authorized to transact business in the State of Florida will be required from the successful Bidder for purposes of insuring the faithful performance of the obligations imposed by the resulting contract and for purposes of protecting the County from lawsuits for non-payment of debts as might be incurred during the successful Bidder's performance under such contract. When applicable, the performance and payment bond form will be included in the contract documents and said form must be properly executed by the surety company and successful Bidder within fifteen (15) calendar days after notification by the County of the County's intent to award the contract.
- B. If, within fifteen (15) calendar days after notification by the County of the County's intent to award a contract, the successful Bidder refuses or otherwise neglects to execute the required written contract or fails to furnish the required performance and payment bond, the amount of the Bidder's bid security (check or Bid Bond) shall be forfeited and the same shall be retained by the County. No plea of mistake in the Bid or misunderstanding of the conditions of forfeiture shall be available to the Bidder for the recovery of his bid security or as a defense to any action based upon the neglect or refusal to execute a written contract.
- C. The surety company must provide an Increase Rider to the Performance and Payment Bond or execute the Consent of Surety and Increase of Penalty form provided by the County if the contract is increased by change order.

## 8. GENERAL CONDITIONS

### 8.1. CONTRACT DOCUMENTS

The following constitute the Contract Documents (Title, Subtitles, Headings, Running Headlines, Table of Contents, and Indexes are used merely for convenience purposes):

**Solicitation-Offer-Award**

(Cover Page)

**Advertisement of Bid**

(Section 1)

**Solicitation Instructions**

(Section 7)

**General Conditions**

(Section 8)

**Special Conditions**

(Section 9)

**Scope and Specifications**

(Section 10)

**General Requirements and Technical Specifications**

(Section 11)

Exhibit A--General Requirements and Technical Specifications

Exhibit B--Plans/Drawings

- A. All addenda issued by the County prior to the receipt of bids and all supplementary drawings issued after award of the Contract become part of the Contract Document.
- B. Amending and Supplementing Contract Documents:
  - 1. The Contract Documents may be amended to provide for additions, deletions, and revisions in the work or to modify the terms and conditions thereof by Change Order.
  - 2. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the work may be authorized, by one (1) or more of the following ways:
    - a. A field order;
    - b. Engineer's approval of a shop drawing or sample; or

- c. Engineer's written interpretation or clarification per the provisions described in the Contract Documents.
  3. In resolving such conflicts, errors and discrepancies, the documents shall be given preference in the following order: Agreement, Specifications, Drawings, Solicitation Instructions. Within the specifications the order of preference shall be as follows: Addenda, General Conditions, Technical Specifications. Figure dimensions on drawings shall govern over scale dimensions, and the detailed drawings shall govern over general drawings. Any work that may reasonably be inferred from the specifications or drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In case of conflict the more stringent requirements shall take precedence and govern.
  4. The Vendor/Contractor shall take no advantage of any error or omission in the plans or of any discrepancy between the plans and specifications, and the Engineer shall make such interpretation as may be deemed necessary for the fulfillment of the intent of the plans and specifications as construed by him and his decision shall be final.
- C. All provisions required by law to be inserted in this Contract, whether actually inserted or not.
- D. Exhibits to this Agreement (as follows):
  1. Vendor/Contractor's Bid.
  2. Documentation submitted by Vendor/Contractor after the Notice of Award:
    - a. Insurance Certificate.
    - b. Payment and Performance Bond.
  3. The following which may be delivered or issued on or after the effective date of the Agreement and are not attached hereto:
    - a. Notice to Proceed.
    - b. Change Order(s).
- E. The documents listed in this paragraph are attached to the Agreement (except as expressly noted otherwise).
- F. There are no Contract Documents other than those listed in this paragraph.
- G. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract Documents.

## 8.2. BID PRICE/SUBMITTAL REQUIREMENTS:

- A. The prices bid shall remain firm during the period of the Contract. The prices bid shall be inclusive of all labor, equipment, and materials as specified within this Solicitation. The price bid constitutes the total compensation payable to the Vendor/Contractor for performing the work.
- B. Unless otherwise stated, the prices bid shall include all costs of packing, transporting, delivery, and services to the designated point within Hernando County.
- C. The Bidder hereby certifies that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, services, or equipment and is in all respects fair and without collusion or fraud. Further, the Bidder hereby agrees to abide by all terms and conditions of this bid and certifies that the person executing the Bid Form is authorized to sign this bid for the Bidder.
- D. Bidders shall submit a lump sum bid based on unit price line item components as indicated on the Bid Form, and include a separate price for each alternate described in the bid documents and provided for in the Bid Form. The sum of each unit price line item will be the Total Base Bid. The price for each alternate will be the amount added to or deducted from the Total Base Bid if the County selects the alternate.
- E. Discrepancies between the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.
- F. Bidder must submit the Solicitation-Offer-Award Cover Sheet, Bid Form and all Required Forms and Certifications. Failure to submit these forms may render the bid non-responsive.

## 8.3. HOURS

All work is to be performed during regular working hours, Sunday thru Saturday all times per Chapter 21, Sec. 21-135, Hernando County Ordinances; Monday through Friday, except County holidays. The County may, on certain occasions, approve work outside of these times. Such exception(s) must be approved in writing by the County at least one (1) day in advance. Vendor/Contractor should provide five (5) days' notice when scheduling a County employee to be available outside the normal work hours.



#### **8.4. REJECTION OF BID:**

The County reserves the right to reject any and all bids. Bids which are incomplete, unbalanced, conditional, obscure or which contain additions not required, or irregularities of any kind, or which do not comply with every aspect of this Solicitation, may be rejected at the option of the County. A Bidder shall not be qualified to bid when an investigation by the Chief Procurement Officer finds the Bidder delinquent with a previously awarded contract or in litigation with Hernando County on a previously awarded contract.

#### **8.5. MINOR INFORMALITIES AND IRREGULARITIES:**

Hernando County has the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect price, quality, quantity, delivery, or performance time of the services being procured. If insufficient information is submitted by a Bidder with the bid for Hernando County to properly evaluate the bid, Hernando County has the right to require such additional information as it may deem necessary after the time set for receipt of bids, provided that the information requested does not change the price, quality, quantity, delivery or performance time of the services being procured. The Board of County Commissioners reserves the right to reject any or all bids in whole or in part; to award by any item, group(s) of items or in the aggregate whichever is most advantageous to the County.

#### **8.6. NON-EXCLUSIVE CONTRACT:**

Award of a contract resulting from this bid imposes no obligation on the County to utilize the Vendor/Contractor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The County specifically reserves the right to contract with another company for similar work if it deems such action to be in the County's best interest.

#### **8.7. NON-PERFORMANCE:**

- A. Time is of the essence in this Contract and failure to deliver the services specified within the time period required shall be considered a default.
- B. In case of default, the County may procure the services from other sources and hold the Vendor/Contractor responsible for all costs occasioned thereby and may immediately cancel the Contract.

#### **8.8. ASSIGNMENT**

The successful Bidder is required to perform this Contract and may not assign, transfer, convey, sublet or otherwise dispose of any award or any or all of its rights, title, or interest therein, or the resulting Contractual Agreement in whole or in part without prior written authorization given at the sole discretion of Hernando County.

## 8.9. PUBLIC ENTITY CRIMES:

Any person submitting a bid or proposal in response to this invitation certifies that they are aware of, and in compliance with, all requirements under Section 287.133, Florida Statutes (current version), on Public Entity Crimes. Bidders must provide a response to the section titled VENDOR QUESTIONNAIRE, Sworn Statement to Public Entity Crimes included in these bid documents.

## 8.10. LICENSES AND PERMITS:

- A. Prior to furnishing the requested product(s) or service(s), it shall be the responsibility of the awarded Vendor/Contractor to obtain, at no additional cost to Hernando County, any and all licenses and permits required to complete this contractual service, unless otherwise stated in the Contract Documents. These licenses and permits shall be readily available for review by the Chief Procurement Officer or his/her designee. Failure to have and/or furnish the required licenses or permits may be cause for rejection.
- B. The Vendor/Contractor is hereby notified that a list of fees for construction related County certified licenses and County issued permits can be located at:  
**<https://www.hernandocountygis-fl.us/BldgDept/General>.**
- C. The following permits (which list may not be exhaustive) are necessary for prosecution of the work. Vendor/Contractor and/or subcontractors shall obtain and pay for required permits. Notice to Proceed will not be issued until the permits are provided to the Project Manager.
  1. NPDES-NOI Permit - The NPDES-FDEP legislation and permit information can be found on this site: <http://www.dep.state.fl.us/water/stormwater/npdes/construction1.htm>
  2. Building Permit, Electrical Permit.
- D. Vendor/Contractor and/or subcontractors shall be responsible for complying with all State of Florida and Hernando County license requirements prior to bidding on County projects and shall submit proof of licenses with the Bid. All licenses shall be in the Bidder's name or the key subcontractor's name, as listed in Questionnaire. Failure to submit proof of the required licenses shall deem the Bidder non-responsive. The following licenses (which list may not be exhaustive) are necessary for prosecution of the work:
  1. General Contractor, Electrical, MEP, earthwork, metal building subcontractors.
- E. Vendor/Contractors and/or subcontractors who are not properly licensed and/or do not furnish proof thereof with their bid, may be deemed non-responsive and may be rejected.
- F. Owner shall assist Vendor/Contractor, when necessary, in obtaining such permits and licenses. Vendor/Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the work which are applicable at the time of opening of bids. Owner shall pay all charges of utility owners for connections for providing permanent service to the work.

### 8.11. LAWS, REGULATIONS, PERMITS AND TAXES:

- A. The Bidder's attention is directed to the fact that all applicable Federal and State laws, municipal and county ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written.
- B. Vendor/Contractor shall comply with County's jobsite procedures and regulations and with all applicable local, State and Federal laws, rules and regulations and shall obtain all permits required for any of the work performed hereunder. Vendor/Contractor shall procure and pay for all permits and inspections required for any of the work performed hereunder and shall furnish any bonds, security or deposits required to permit performance of the work. Vendor/Contractor shall, to the extent permissible under applicable law, comply with the jobsite provisions which validly and lawfully apply to work on the specific jobsite being performed under this Contract. County of Hernando is exempt from Federal excise taxes and all sales taxes.
- C. Vendor/Contractor shall give all notices required by and shall comply with all laws and regulations applicable to the performance of the work. Except where otherwise expressly required by applicable laws and regulations, neither Owner nor Engineer shall be responsible for monitoring Vendor/Contractor's compliance with any laws or regulations.
- D. If Vendor/Contractor performs any work knowing or having reason to know that it is contrary to laws or regulations, Vendor/Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such work. However, it shall not be Vendor/Contractor's primary responsibility to make certain that the specifications and drawings are in accordance with laws and regulations, but this shall not relieve Vendor/Contractor of Vendor/Contractor's obligations of reporting discrepancies.
- E. Changes in laws or regulations not known at the time of opening of bids having an effect on the cost or time of performance of the work shall be the subject of an adjustment in contract price or contract times. If Owner and Vendor/Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a claim may be made therefore as provided in the Contract Documents.

### 8.12. SITE AND OTHER AREAS

The site is identified in the Bid documents. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bid documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the work are to be obtained and paid for by Vendor/Contractor.

### 8.13. TAXES

- A. The Board of County Commissioners, Hernando County, Florida, has the following tax exemption certificates assigned:
  - 1. **Sales and Use Tax Exemption Certificate No. 85-8012556945C-8, effective 1/31/2019 – expiring on 1/31/2024.**
- B. This exemption does not apply to purchases of tangible personal property made by Vendor/Contractors who use the tangible personal property in the performance of contracts for improvements of County owned real property (Chapters 192 and 212, F.S. (current version) and applicable rules of the Department of Revenue).
- C. State sales tax and use taxes on materials and equipment are to be incorporated in the price bid.
- D. Vendor/Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Vendor/Contractor in accordance with the laws and regulations of the place of the project which are applicable during the performance of the work.

### 8.14. MANUFACTURERS' NAME AND APPROVED EQUIVALENTS:

Whenever a particular brand or make of material, equipment, or other item is specified, or is indicated on the drawings, it is for the purpose of establishing a standard of quality, design, and type desired and to supplement the detailed specifications. Any other brand or make which is equivalent to that specified or indicated may be offered as an equivalent prior to the Solicitation Last Date of Inquiries deadline, for review and approval by Hernando County subject to the following provisions:

- A. The Vendor/Contractor shall submit for each proposed equivalent sufficient details, complete descriptive literature, and performance data together with samples of the materials, where feasible, to enable the Engineer of Record to determine if the proposed equivalent is equal, in all respects including, but not limited to, quality, performance, ease of maintenance, availability of spare parts, and experience record.
- B. The Vendor/Contractor shall submit certified tests, where applicable, by an independent laboratory attesting that the proposed equivalent is equal.
- C. A list of installations where the proposed equivalent is used. Such listing shall cover a minimum of the previous three (3) years and will furnish project names and contact phone numbers.
- D. Where the acceptance of an equivalent requires excessive review by the Engineer of Record, revision or redesign of any part of the work, all such additional review costs, revisions and redesign, and all new drawings and details required therefore, shall be at the Vendor/Contractor's expense.
- E. In all cases the Engineer of Record and Hernando County shall have the sole right as to whether a proposed equivalent is to be accepted. The Vendor/Contractor shall abide by the Engineer of

Record and Hernando County's decision when proposed equivalent items are judged to be unacceptable and shall in such instances furnish the item as specified. No equivalent items shall be used in the work without written acceptance by the Engineer of Record.

- F. Acceptance of any proposed equivalent shall in no way release the Vendor/Contractor from any of the provisions of the Contract Documents.
- G. Hernando County may require, at Vendor/Contractor's expense, a special performance guarantee or other surety with respect to any equivalent.
- H. Bids which do not comply with these requirements are subject to rejection.

#### **8.15. BID EVALUATION AND AWARD:**

- A. At the time of submitting a bid response, the County requires that the Bidder be properly licensed and registered to do business in the State of Florida in accordance with applicable Florida Statutes (F.S.). Bid responses that fail to provide the required forms listed in [Vendor Questionnaire](#) may be rejected as non-responsive. Bidders whose responses, past performance, or current status do not reflect the capability, integrity or reliability to fully and in good faith perform the requirements of the bid may be rejected as non-responsive. The County reserves the right to determine which responses meet the requirements of this Solicitation, and which Bidders are responsive and responsible. The County reserves the right before awarding the bid, to require a Bidder to submit such evidence of their qualifications as it may deem necessary, and may consider any evidence available to it of the financial, technical, and other qualifications and abilities of a Bidder to perform the work in a satisfactory manner and within the time specified. The Bidder is assumed to be familiar with all Federal, State or local laws, ordinances, rules and regulations that in any manner affect the work, and to abide thereby if awarded the bid. Ignorance of legal requirements on the part of the Bidder will in no way relieve Bidder's responsibility.
- B. Bid evaluation will be based on price, conformance with specifications and the Bidder's ability to perform the Contract in accordance with the terms and conditions required. Bidders must submit all data necessary to evaluate and determine the quality of the item(s) and/or services they are bidding.
- C. The County intends to award this Contract to the lowest, responsive and responsible Bidder or Bidders. However, the County reserves the right to reject any and all bids in accordance with the Hernando County Procurement Ordinance.
- D. The ability of a Bidder to obtain a performance and payment bond shall not be regarded as the sole test of such Bidder's competency or responsibility.
- E. Nothing contained herein shall place a duty upon the Hernando County Board of County Commissioners to reject bids or award a contract based upon anything other than its sole discretion as described herein.

- F. Bidders are not permitted to submit more than one (1) bid for this project. Reasonable grounds for believing that any Bidder has an interest in more than one (1) bid for this project may be cause for disqualification of that Bidder and the rejection of all bids in which that Bidder has an interest.
- G. Owner will consider whether or not the bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- H. Owner will consider the qualifications of Bidders and may consider the qualifications and experience of subcontractors, suppliers, and other individuals or entities proposed for those portions of the work for which the identity of subcontractors, suppliers, and other individuals or entities must be submitted.
- I. The County reserves the right to make such investigations as they may deem necessary to establish the competency and financial ability of any Bidder, proposed subcontractors, supplier, or individuals to perform the work; and if after investigation, the evidence of Bidder's competency or financial ability is not satisfactory, the County reserves the right to reject its bid.
- J. If two (2) or more fully responsive, responsible bids are received for the same total amount or unit price, quality and service being equal, the County reserves the right to award the contract to the Bidder whose place of business is located within the boundaries of Hernando County, Florida. Should tie bids, as described above, be received from either two (2) or more Hernando County Bidders or from non-local Bidders when no Hernando County Bidder has submitted a tie bid, then the Board of County Commissioners shall award the contract to one (1) Vendor/Contractor by drawing lots in a public meeting.

#### 8.16. LOCAL PREFERENCE:

- A. Purpose and Findings: These provisions apply to purchases using Formal Bid, Request for Proposals or Quotes. The County annually spends significant dollars on purchasing personal property, materials, and services, and in constructing improvements to real property or existing structures. The dollars used in making those purchases are derived, in large part, from taxes, fees and utility revenues paid by businesses located within Hernando County, and the County Commission has determined that funds generated in the community should, to the extent possible, be placed back into the local economy. Therefore, the County Commission has determined that it is in the best interest of the County to give a preference to local businesses in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value of bids and quotes received in relation to such expenditures.
- B. Application:

1. In bidding for, or letting contracts for procurement of supplies, materials, equipment, and services, as described in the purchasing policies of the County, the Board of County Commissioners may give a preference to local businesses in making purchases or awarding contracts in an amount not to exceed:
  - a. Five percent (5%) of the local business' total bid price if the cost differential does not exceed \$10,000.00 for procurement activities in amounts over \$35,000.00, or
  - b. Three percent (3%) if the cost differential does not exceed \$1,000.00 for procurement activities in amounts more than \$10,000.00, but less than \$35,000.00.
- C. Definitions:
  1. Local vendor means a person or business entity which has maintained a permanent place of business with full-time employees within Hernando County for a minimum of twelve (12) months prior to the date bids or quotes were received for the purchase or contract at issue, and which generally provides from such permanent place of business the kinds of goods or services solicited, and which at the time of the Solicitation fully complies with the local vendor eligibility identified in Paragraph 2 below.
  2. Local Vendor Affidavit of Eligibility shall accompany the quotation or bid submittal in order to be considered valid and shall include, but not be limited to, the following current information:
    - a. A physical business and location address;
    - b. Proof of payment of real property tax due to Hernando County
    - c. A copy of the firm's most recent annual corporation report to the Florida Division of Corporations;
    - d. Any additional information necessary to verify local status.
- D. Competitive Bids/Quotes: The County reserves the exclusive right to compare, contrast and otherwise evaluate the qualifications, character, responsibility and financial qualifications of all persons, firms, partnerships, companies or corporations submitting formal bids or formal quotes in any procurement for goods and services when making an award in the best interests of the County.
- E. Exemptions:
  1. Purchases resulting from exigent emergency conditions where any delay in completion or performance would jeopardize public health, safety, or welfare of the citizens of the County, or where in the judgment of the County the operational effectiveness or a significant County function would be seriously threatened if a purchase was not made expeditiously.
  2. Purchases with any sole source supplier for supplies, materials, or other equipment.

3. Purchases made through cooperative purchasing arrangements utilized by the Purchasing and Contracts Department as identified in the Purchasing Policy.
  4. Purchases that are funded in whole or in part by assistance from any Federal, State, or local agency where the program guidelines do not permit local preference.
  5. Purchases with an estimated cost of less than \$10,000.00.
- F. Appeal: If an application for a “Local Vendor/Contractor” designation is denied, the applicant may appeal such decision to the County Administrator for review and further consideration.

### 8.17. QUALIFICATIONS OF SURETY COMPANIES

In order to be acceptable to the Owner, a surety company issuing bid guaranty bonds, or 100% Performance/Payment Bonds, called for in these Contract Documents, shall meet and comply with the following minimum standards:

- A. Surety must be admitted to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05 (current version).
- B. Surety companies executing bonds must appear on the United States Treasury Departments most current list (CIRCULAR 570 AS AMENDED).
- C. Attorneys-in-fact who sign Bid Bonds or Performance/Payment Bonds must file with such bond a certified copy of their power of attorney to sign such bond.
- D. Agents of surety companies must list their name, address and telephone number on all bonds.
- E. If the surety on any bond furnished by the successful Bidder is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the project is located or it ceases to meet the requirements provided in this paragraph, Bidder (Vendor/Contractor) shall within five (5) days thereafter, substitute another bond and surety, both of which must be acceptable to the County.

### 8.18. LITIGATION/WAIVER OF JURY TRIAL

This Agreement shall be governed by and construed according to Florida law. Venue for any dispute or formal litigation concerning this Agreement shall be in the appropriate court with territorial jurisdiction over Hernando County, Florida. In the event of a dispute or litigation, each party to such dispute or litigation shall be solely responsible for its own attorneys’ fees and costs. This Agreement shall not be construed for or against any party hereto, without regard to which party is wholly or partly responsible for its drafting. Each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with



regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.

### **8.19. MAINTENANCE OF RECORDS**

The Vendor/Contractor will keep adequate records and supporting documents applicable to this Contract. Said records and documentation will be retained by the Vendor/Contractor for a minimum of five (5) years from the date of final payment on this Contract. The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary during the period of this Contract and a period of five (5) years after completion of contract performance; provided however, such activity shall be conducted only during normal business hours. The County during the period of time defined by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Vendor/Contractor as concerns the aforesaid records and documentation. Pursuant to Section 119.0701, Florida Statutes (current version), Vendor/Contractor shall comply with the Florida Public Records' laws and shall:

- A. Keep and maintain records that ordinarily and necessarily would be required by the public agency in order to perform the service;
- B. Provide the public with access to public records on the same terms and conditions that the public agency 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. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirement are not disclosed except as authorized by law; and,
- D. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Vendor/Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.
- E. Failure to comply with this section shall be deemed a breach of the Contract and enforceable as set forth in Section 119.0701, Florida Statutes (current version).

**IF THE CONTRACTOR HAS ANY QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (CURRENT VERSION) AS TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 352-754-4020, PURCHASING@HERNANDOCOUNTY.US, OR THE OFFICE LOCATED AT 15470 FLIGHT PATH DR., BROOKSVILLE, FL 34604.**

Per Florida Statute 20.055(5) (Current Edition), it is the duty of every State officer, employee, agency, special district, board, commission, Contractor, and subcontractor to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing pursuant to this section.

## 8.20. FISCAL NON-FUNDING:

In the event sufficient budgeted funds are not available for a new fiscal period, the County must notify the Vendor/Contractor of such occurrence and Contract shall terminate on the last day of current fiscal period without penalty or expense to the County.

## 8.21. CONFLICT OF INTEREST

- A. Conflict of Interest of Officers or Employees of the Contracting Entity/Local Jurisdiction, Members of the Local Governing Body, or Other Elected Officials: No member or employee of the contracting entity/local jurisdiction or its designees or agents; no member of the governing body; and no other public official of Hernando County who exercises any function or responsibility with respect to this Contract, during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Vendor/Contractor shall cause to be incorporated in all Sub-contracts, the language set forth in this paragraph prohibiting conflict of interest.
- B. Employee Conflict of Interest: It shall be unethical for any Hernando County employee to participate directly or indirectly in a procurement contract when Hernando County employee knows that:
1. Hernando County employee or any member of Hernando County employee's immediate family has a financial interest in the procurement contract; or
  2. Any other person, business, or organization with whom Hernando County employee or any member of a Hernando County employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract; or
  3. A Hernando County employee or any member of a Hernando County employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.
- C. Former Employee Conflict of Interest: It shall be a violation for any person, business or organization contracting with County to employ in any capacity, any former County employee or member of County employee's immediate family within one (1) year of that employee's separation from employment with the County, unless the employer or the former County employee files with the County Clerk, the County's Employment Disclosure Statement. The penalty for this violation may include disqualification of the bid submission .

## 8.22. GRATUITIES AND KICKBACKS:

- A. Gratuities: It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity to the County.
- B. Kickbacks: It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a Sub-Contractor under a contract to the prime Vendor/Contractor or higher tier Sub-Contractor or any person associated therewith, as an inducement for the award of a Sub-Contract or order.

## 8.23. E-VERIFY

- A. Vendor/Contractor is advised that the County has entered into an agreement with U.S. Immigration and Customs Enforcement (ICE) wherein the County will, in part, seek to promote the principles of ethical business conduct, prevent the known hiring of unauthorized workers through self-governance, and encourage voluntary reporting of the discovery of unauthorized workers to ICE (the IMAGE Agreement). Accordingly, by submitting your bid/proposal, Vendor/Contractor represents and warrants (a) that the Vendor/Contractor is in compliance with all applicable Federal, State and local laws, including, but not limited to, the laws related to the requirement of an employer to verify an employee's eligibility to work in the United States, (b) that all of the Vendor/Contractor employees are legally eligible to work in the United States, and (c) that the Vendor/Contractor has actively and affirmatively verified such eligibility utilizing the Federal Government's Employment Verification Eligibility Form (I-9 Form).
- B. A mere allegation of Vendor/Contractor's intent to use and/or current use of unauthorized workers may not be a basis to delay the County's award of a contract to the Vendor/Contractor unless such an allegation has been determined to be factual by ICE pursuant to an investigation conducted by ICE prior to the date the contract is scheduled to be awarded by the County.
- C. Legitimate claims of the Vendor/Contractor's use of unauthorized workers must be reported to both of the following agencies:
  - 1. The County's Procurement Department at (352) 754-4020: and
  - 2. ICE (Immigration and Customs Enforcement) at 1-866-DHS-2-ICE.
- D. In the event it is discovered that the Vendor/Contractor's employees are not legally eligible to work in the United States, then the County may, in its sole discretion, demand that the Vendor/Contractor cure this deficiency within a specified time frame, and/or immediately terminate the Contract without any cost or penalty to the County, and/or debar the

Vendor/Contractor from bidding on all County contracts for a period up to twenty-four (24) months, and/or take any and all legal action deemed necessary and appropriate.

E. Vendor/Contractor is required to incorporate the following IMAGE Best Practices into its business and, when practicable, incorporate verification requirements into its agreements with subcontractors:

1. Use the Department of Homeland Security employment eligibility verification program (E-Verify) to verify the employment eligibility of all new hires.
2. Use the Social Security Number Verification Service and make good faith effort to correct and verify the names and Social Security Numbers of the current workforce.
3. Establish a written hiring and employment eligibility verification policy.
4. Establish an internal compliance and training program related to the hiring and employment verification process, to include, but not be limited to, completion of Form I-9, how to detect fraudulent use of documents in the verification process, and how to use E-Verify and the Social Security Number Verification Service.
5. Require the Form I-9 and E-Verify process to be conducted only by individuals who received appropriate training and include secondary review as of each employee's verification to minimize the potential for a single individual to subvert the process.
6. Arrange for annual Form I-9 audits by an external auditing firm or a trained employee not otherwise involved in the Form I-9 process.
7. Establish a procedure to report to ICE credible information of suspected criminal misconduct in the employment eligibility verification process.
8. Establish a program to assess subcontractors' compliance with employment eligibility verification requirements. Encourage Vendor/Contractors to incorporate the IMAGE Best Practices contained in this paragraph and, when practicable, incorporate the verification requirements in subcontractor agreements.
9. Establish a protocol for responding to letters received from Federal and State government agencies indicating that there is a discrepancy between the agency's information and the information provided by the employer or employee; for example, "no match" letters received from the Social Security Administration.
10. Establish a tip line mechanism (inbox, e-mail, etc.) for employees to report activity relating to the employment of unauthorized workers, and a protocol for responding to employee tips.
11. Establish and maintain appropriate policies, practices, and safeguards against use of the verification process for unlawful discrimination, and to ensure that U.S. citizens and

authorized workers do not face discrimination with respect to hiring, firing, recruitment or referral for a fee because of citizenship status or national origin.

12. Maintain copies of any documents accepted as proof of identify and/or employment authorization for all new hires.

## 8.24. INSURANCE REQUIREMENTS

### A. INDEMNITY, SAFETY AND INSURANCE PROVISIONS:

1. Indemnity: To the fullest extent permitted by Florida law, the Vendor/Contractor covenants, and agrees that it will indemnify and hold harmless the County and all of the County's officers, agents, and employees from any claim, loss, damage, cost, charge, attorney's fees and costs, or any other expense arising out of any act, action, neglect, or omission by Vendor/Contractor during the performance of the contract, whether direct or indirect, and whether to any person or property to which the County or said parties may be subject, except that neither the Vendor/Contractor nor any of its subcontractors, or assignees, will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the County or any of its officers, agents, or employees.

2. Protection of Person and Property:

- a. The Vendor/Contractor will take all reasonable precautions for, and will be responsible for initiating, maintaining and supervising all programs relating to the safety of all persons and property affected by, or involved in, the performance of his operations under this Contract.
- b. The Vendor/Contractor will take all reasonable precautions to prevent damage, injury or loss to: (a) all persons who may be affected by the performance of his operations, including employees; (b) all materials and equipment; and (c) all property at or surrounding the work site. In an emergency affecting the safety of persons or property, the Vendor/Contractor will act, with reasonable care and discretion, to prevent any threatened damage, injury or loss.

- B. MINIMUM INSURANCE REQUIREMENTS: Vendor/Contractor shall procure, pay for and maintain at least the following insurance coverage and limits. Said insurance shall be evidenced by delivery to the County of a certificate(s) of insurance executed by the insurers listing coverage and limits, expiration dates and terms of policies and all endorsements whether or not required by the County, and listing all carriers issuing said policies. The insurance requirements shall remain in effect throughout the term of this Contract.

1. Workers' Compensation: As required by law:

- a. State.....Statutory

- b. APPLICABLE FEDERAL.....Statutory
  - c. EMPLOYER'S LIABILITY.....Minimum:
    - i. \$100,000.00 each accident
    - ii. \$100,000.00 by employee
    - iii. \$500,000.00 policy limit
  - d. Exemption per Florida Statute 440: If a Vendor/Contractor has less than three (3) employees and states that they are exempt per Florida Statute 440, they must provide an exemption certificate from the State of Florida. Otherwise, they will be required to purchase Workers' Compensation Insurance and provide a copy of Workers Compensation Insurance.  
<https://www.myfloridacfo.com/Division/WC/Employer/Exemptions/>
2. General Liability: Comprehensive General Liability including, but not limited to, Independent Contractor, Contractual Premises/Operations, and Personal Injury covering the liability assumed under indemnification provisions of this Contract, with limits of liability for personal injury and/or bodily injury, including death.
- a. Coverage as follows:
    - i. EACH OCCURRENCE.....\$1,000,000.00
    - ii. GENERAL AGGREGATE .....\$2,000,000.00
    - iii. PERSONAL/ADVERTISING INJURY.....\$1,000,000.00
    - iv. PRODUCTS-COMPLETED OPERATIONS AGGREGATE.....\$2,000,000.00 Per Project Aggregate (if applicable)
  - b. ALSO, include in General Liability coverage for the following areas based on limits of policy, with:
    - i. FIRE DAMAGE (Any one (1) fire.....\$50,000.00
    - ii. MEDICAL EXPENSE (Any one (1) person)..... \$5,000.00
3. Additional Insured: Vendor/Contractor agrees to endorse Hernando County as an additional insured on the Comprehensive General Liability. The Additional Insured shall read "Hernando County Board of County Commissioners." Proof of Endorsement is required.
4. Waiver of Subrogation: Vendor/Contractor agrees by entering into this Contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Vendor/Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Vendor/Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against

Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Vendor/Contractor enter into such an agreement on a pre-loss basis.

5. AUTOMOBILE LIABILITY: Comprehensive automobile and truck liability covering any auto, all owned autos, scheduled autos, hired autos, and non-owned autos. Coverage shall be on an "occurrence" basis. Such insurance to include coverage for loading and unloading hazards. Coverage as follows:

- a. COMBINED SINGLE LIMIT (CSL)..... \$1,000,000.00 or:
  - i. BODILY INJURY (Per Person)..... \$1,000,000.00
  - ii. BODILY INJURY (Per Accident)..... \$1,000,000.00
  - iii. PROPERTY DAMAGE.....\$1,000,000.00

6. PROFESSIONAL LIABILITY (if applicable it will be noted below separately):

7. BUILDERS RISK INSURANCE (if applicable it will be noted below separately):

8. CRIME PREVENTION – BOND (if applicable it will be noted below separately):

9. EXCESS/UMBRELLA LIABILITY (if applicable it will be noted below separately):

10. POLLUTION LIABILITY (if applicable it will be noted below separately):

11. SUBCONTRACTORS (if applicable): All subcontractors hired by said Contractor are required to provide Hernando County Board of County Commissioners a Certificate of Insurance with the same limits required by the County as required by the Contract. All subcontractors are required to name Hernando County Board of County Commissioners as additional insured and provide a Waiver of Subrogation in regards to General Liability.

12. RIGHT TO REVISE OR REJECT: County reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, County reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

C. EACH INSURANCE POLICY SHALL INCLUDE THE FOLLOWING CONDITIONS BY ENDORSEMENT TO THE POLICY:

1. Vendor/Contractor agrees to provide County with a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and the Certificate of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available by Vendor/Contractor’s insurer. If the Vendor/Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements

herein, Vendor/Contractor agrees to notify the County by email within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder shall read: **Hernando County Board of County Commissioners Attention: Human Resources/Risk Department, 15470 Flight Path Drive, Brooksville, Florida 34604**

2. Companies issuing the insurance policy, or policies, shall have no recourse against the County for payment of premiums or assessments for any deductibles which all are the sole responsibility and risk of Vendor/Contractor.
  3. The term "County" or "Hernando County" shall include all authorities, boards, bureaus, commissions, divisions, departments, and offices of the County and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of Hernando County.
  4. The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County, to any such future coverage, or to County's Self-Insured Retentions of whatever nature.
- D. The Vendor/Contractor shall be required to provide a current Certificate of Insurance to the County prior to commencement of services.
- E. Bidders may, at the County's request, be required to provide proof that their firm meets the preceding insurance requirements, by submission of a Certificate Of Insurance coverage(s), prior to award of the Contract.
- F. Failure of the Owner to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Vendor/Contractor's obligation to maintain such insurance.

#### 8.25. INSURANCE REQUIREMENTS (continued)

**BUILDERS RISK INSURANCE:** Combined single limit must equal value of the construction, per project aggregate. The policy shall cover portions of the work in transit, property scaffolding, false work and temporary buildings located at the site. The policy must cover the cost of removing debris, including demolition as may be made legally necessary by the operation of any law, ordinance or regulation. The insurance required herein must be on an All Risk Form and must be written to cover all risks of physical loss or damage to the insured party and must insure at least against the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, lightning, earthquake, flood, water damage and windstorm. If there are any deductibles applicable to the insurance required herein, Vendor/Contractor must pay any part of any loss not covered because of the operation of such deductibles. The insurance as required herein must be maintained in effect until the earliest of the following date:



- A. Date which all persons and organization that are insured under the policy agree in writing that it must be terminated;
- B. Date on which final payment of this Contract has been made by County to Vendor/Contractor; or
- C. Date on which the insurable interests in the property of all insured other the County have ceased.
- D. Wind coverage to be included with a minimum deductible to be determined based on the project. Deductible will be a percentage based upon the total insured value.

#### 8.26. INSURANCE REQUIREMENTS (continued)

**EXCESS/UMBRELLA LIABILITY:** Vendor/Contractor shall provide proof of Excess/Umbrella Liability coverage with minimum limits of \$1,000,000.00. Limits can be increased, based on Contract.

#### 8.27. EXECUTION OF WRITTEN CONTRACT

The successful Bidder will be required to sign a written contract, in two (2) copies, which has been made a part of this bid package and identified as the Sample Construction Agreement in Questionnaire. Said written Contract will evidence in written form the agreement between the parties pursuant to the award having been therefore made by the County to this Bidder; said signing to be accomplished within ten (10) days after Notice of Award.

#### 8.28. CONE OF SILENCE

- A. This Solicitation falls under the Hernando County Procurement Ordinance 93-16. After a bid is opened or a short list is established for an Invitation to Bid, Request for Qualification, or Request for Proposal, a Vendor/Contractor or representative as defined in the Ordinance, may not seek information or clarification or in any way contact any official or employee of the County concerning this Solicitation with the exception of the Chief Procurement Officer, County Attorney, or an individual specifically designated in this document for dissemination of information. A copy of any written communication concerning this Solicitation shall be filed with the Purchasing and Contracts Department and shall be made available to the public upon request. A violation of the cone of silence renders any award voidable at the discretion of the Chief Procurement Officer with approval from the Board of County Commissioners and may subject the potential Vendor/Contractor or representative to debarment. Nothing in the Ordinance prevents a Vendor/Contractor or representative from taking part in a public meeting concerning the Solicitation.
- B. All Vendors/Contractors or representatives are hereby placed on formal notice. A lobbying cone of silence period shall commence upon issuance of the Solicitation until the Board selects the successful Bidder. For procurements that do not require Board approval, the cone of silence period commences upon Solicitation issuance and concludes upon Contract award.

- C. Neither the members of the Board of County Commissioners nor candidates for County Commission, nor any employees from the Hernando County Government, Hernando County staff members, nor any members of the evaluation team are to be lobbied, either individually or collectively, concerning this project. Vendors/Contractors or representatives who intend to submit bids, or have submitted bids, for this project are hereby placed on formal notice that they are not to contact County personnel for such purposes as holding meetings of introduction, meals, or meetings relating to the selection process outside of those specifically scheduled by the County. Any such lobbying activities may cause immediate disqualification of this project.

### 8.29. OWNER DIRECT PURCHASE:

The County reserves the right to directly purchase certain materials, supplies, and goods, or to require Vendor/Contractor to assign some or all of its Sub-contractors or other Agreements with material suppliers, including equipment, directly to the County. Any materials purchased by the County pursuant to such Agreements or assignments will be referred to as "Owner Direct Purchases" (ODP) and is a method that may be utilized to create saving for the County. The responsibilities of both the County and the Vendor/Contractor relating to such ODP will be governed by the terms and conditions of these Owner Direct Purchase Conditions, which will take precedence over other conditions and terms of the Contract Documents where inconsistencies or conflicts exist. Owner Direct Purchases shall be made in accordance with Florida Administrative Code Rule 12A-1.094.

- A. Material suppliers shall be selected by Vendor/Contractor using competitive bidding/proposals. Supply Contracts shall be awarded by the Vendor/Contractor to the supplier whose Bid/Proposal is most advantageous to the County, price and other factors considered.
- B. The Vendor/Contractor shall include the price for all construction materials in lump sum price in bid. Bidder shall also include all Florida State sales and other taxes normally applicable to such material and equipment. The County may consider purchasing any item but does not expect to issue purchase orders for less than \$5,000. County-Purchasing of selected construction materials will be administered on a deductive Change Order basis.
- C. Vendor/Contractor shall provide County a list of all intended suppliers, vendors, and material men for consideration as ODP. This list shall be submitted at the same time as the preliminary schedule of values and the project CPM schedule. The Vendor/Contractor shall submit price quotes from the vendors, as well as a description of the materials to be supplied, estimated quantities and prices.
- D. Upon request from County, and in a timely manner, Vendor/Contractor shall prepare a Purchasing Requisition Request Form which shall, in form and detail acceptable to County, specifically identify the materials which County may, in its discretion, elect to purchase directly. The Purchasing Requisition Request Form shall include:
  - 1. the name, address, telephone number and contact person for the material supplier

2. manufacturer or brand, model or specification number of the item
  3. quantity needed as estimated by Vendor/Contractor
  4. the price quoted by the supplier for the materials identified therein
  5. any sales tax associated with such quote
  6. delivery dates as established by Vendor/Contractor
  7. any reduction in Vendor/Contractor's cost for both the Payment Bond and the Performance Bond
  8. shipping, handling and insurance costs
  9. detail concerning bonds or letters of credit provided by the supplier if included in his/her proposal
  10. Special terms and conditions which have been negotiated with the supplier relative to payment terms, discounts, rebates, warranty, credits or other terms and conditions which will revert to the Owner.
  11. Vendor/Contractor shall include copies of Vendor/Contractor's quotations and specifically reference any terms and conditions, which have been negotiated with the Vendor/Contractor concerning letters of credit, terms, discounts, or special payments.
- E. After receipt of the Purchasing Requisition Request Form, County shall prepare a Purchase Order for all items of material, which County chooses to purchase directly. The purchase order shall be sent to the Vendor/Contractor with a copy sent to the Vendor/Contractor. Pursuant to the Purchase Order, the Vendor/Contractor will provide the required quantities of material at the price established in the Vendor/Contractor's quote to the Vendor/Contractor, excluding any sales tax associated with such price. The Project Manager shall be the approving authority for the County on Purchase Orders in conjunction with ODP. The Purchase Order shall also require the delivery of the ODP on the delivery dates provided by the Vendor/Contractor in the Purchasing Requisition Request Form.
- F. In conjunction with the execution of the Purchase Orders by the suppliers, Vendor/Contractor shall execute and deliver to County one or more deductive Change Orders, referencing the full value of all ODP to be provided by each supplier from whom the County elected to purchase material directly, plus all sales taxes associated with such materials in Vendor/Contractor's bid to County, plus any savings to Vendor/Contractor in the cost of Payment and Performance Bonds associated with such ODP. To compensate the Vendor/Contractor for the warranty enforcement obligation the Vendor/Contractor's overhead and profit associated with ODP shall not be deducted from the Contract. The Project Manager shall be the approving authority for the County on deductive Change Orders in conjunction with ODP.

- G. Vendor/Contractor shall be fully responsible for all matters relating to the procurement of materials furnished by and incorporated into the Project in accordance with these Supplementary Conditions including, but not limited to, assuring the correct quantities, placing the order in a timely manner, and assuring coordination of purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery. The Vendor/Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Vendor/Contractor for the particular materials furnished. The Vendor/Contractor shall provide all services required for the unloading, handling and storage of materials through installation. The County assumes the risk of loss of building material through their incorporation into the installation.
- H. As ODP are delivered to the jobsite, the Vendor/Contractor shall visually inspect all shipments from the suppliers, and sign off on the receiving reports for material delivered. The Vendor/Contractor shall assure that each delivery of ODP is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order together with such additional information as the County may require. The Vendor/Contractor will then forward the receiving report to the County Project Manager to match up with the invoice for payment.
- I. The Vendor/Contractor shall insure that ODP conform to the Specifications, and determine prior to incorporation into the Work if such materials are patently defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Vendor/Contractor discovers defective or non-conformities in ODP upon such visual inspection, the Vendor/Contractor shall not utilize such nonconforming or defective materials in the Work and instead shall promptly notify the County of the defective or nonconforming condition so that repair or replacement of those materials can occur without any undue delay or interruption to the Project. If the Vendor/Contractor fails to perform such inspection and otherwise incorporates into the work such defective or nonconforming ODP, the condition of which it either knew or should have known by performance of an inspection, Vendor/Contractor shall be responsible for all damages to County resulting from Vendor/Contractor's incorporation of such materials into the Project, including liquidated or delay damages.
- J. The Vendor/Contractor shall maintain records of all ODP it incorporates into the Work from the stock of ODP in its possession. The Vendor/Contractor shall account monthly to the County for any ODP delivered into the Vendor/Contractor's possession, indicating portions of all such materials which have been incorporated into the work.
- K. The Vendor/Contractor shall be responsible for obtaining and managing all warranties and guarantees for all materials and products as required by the Contract Documents. All repair, maintenance or damage-repair calls shall be forwarded to the Vendor/Contractor for resolution

with the appropriate supplier, vendor, or Sub-contractor. Additionally, ODP items shall be warranted by the Vendor/Contractor as part of the Vendor/Contractor's warranty. The Vendor/Contractor agrees and understands that it shall undertake all warranty enforcement and other related duties of the County for its Owner Direct Purchase equipment and materials. These duties shall be governed by and carried out pursuant to, Bid Specifications. To that end, the Vendor/Contractor expressly agrees it shall make no distinction in discharging such warranty duties between Owner Direct Purchase equipment and materials and equipment and materials otherwise supplied by the Vendor/Contractor.

- L. Notwithstanding the transfer of ODP by the County to the Vendor/Contractor's possession, the County shall retain legal and equitable title to any and all ODP.
- M. The transfer of possession of ODP from the County to the Vendor/Contractor shall constitute a bailment for the mutual benefit of the County and the Vendor/Contractor. The County shall be considered the bailor and the Vendor/Contractor the bailee of the ODP. ODP shall be considered returned to the County for purposes of their bailment at such time as they are incorporated into the Project.
- N. The County shall purchase and maintain builders risk insurance sufficient to protect against any loss of or damage to ODP. Such insurance shall cover the full value of any ODP not yet incorporated into the Project during the period between the time the County first takes title to any of such ODP and the time when the last of such is incorporated into the Project. The Vendor/Contractor shall purchase and maintain builders' risk, all risk, insurance based on the completed value of project, less the County's ODP values. The Vendor/Contractor must name Hernando County as additional insured on its policy.
- O. The County shall in no way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs resulting from any delay in the delivery of, or defects in, ODP. Vendor/Contractor's sole or exclusive remedy shall be an extension of the Contract Time for such reasonable time as determined by Project Manager.
- P. Vendor/Contractor shall be required to review invoices submitted by all suppliers of ODP delivered to the project sites and either concur or object to the County's issuance of payment to the suppliers, based upon Vendor/Contractor's records of materials delivered to the site and any defects detected in such materials.
- Q. In order to arrange for the prompt payment to the supplier, prompt submittal of a copy of the applicable Purchase Order as receiving report, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the County. Upon receipt of the appropriate documentation, the County shall prepare a check drawn to the supplier based upon the data provided. This check will be released and remitted directly to the supplier. The Vendor/Contractor agrees to assist the County to immediately obtain partial or final release of waivers as appropriate.

- R. At the end of the project Vendor/Contractor will be provided with a deductive Change Order for the costs incurred by County to provide all ODP, not covered by previous change orders. Salvage materials shall be stored or removed from the site at the County's direction, or may be turned over to the Vendor/Contractor by the County for salvage or disposal at the Vendor/Contractor's option.

## 9. SPECIAL CONDITIONS

### 9.1. TIME OF COMPLETION

Bidder agrees that the work will be substantially complete within three hundred sixty-five (365) calendar days after the commencement date indicated in the Notice to Proceed and ready for final payment within three hundred ninety-five (395) calendar days after the date indicated on the Notice to Proceed. The timeframe between substantial and final is thirty (30) calendar days. Completion time includes material ordering lead times. Materials shall not be ordered by the Vendor/Contractor until the Notice to Proceed has been issued.

### 9.2. STARTING THE WORK

- A. Before undertaking each part of the work, the Vendor/Contractor shall:
1. Carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. Vendor/Contractor shall promptly report in writing to the Project Manager any conflict, error or discrepancy which the Vendor/Contractor may discover and shall obtain a written interpretation or clarification from the Project Manager before proceeding with any work affected thereby; however, Vendor/Contractor shall not be liable to County for failure to report any conflict, error or discrepancy in the Contract Documents, unless Vendor/Contractor had actual knowledge, or should reasonably have known thereof.
  2. Within ten (10) calendar days after the effective date of the Agreement (unless otherwise specified), Vendor/Contractor shall submit to the Engineer for review:
    - a. A preliminary Progress Schedule indicating the times (number of days or dates) for starting and completing the various stages of the work, including milestones specified in the Contract Documents;
    - b. A preliminary schedule of shop drawings and sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
    - c. A preliminary Schedule of Values for all the work which will include quantities and prices of items aggregating the contract price and will subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of work.
- B. The Vendor/Contractor will start the work within ten (10) calendar days of the official Notice to Proceed date. The Contract Time shall commence to run from the date of the Notice to Proceed.

### 9.3. LIQUIDATED DAMAGES

Bidders hereby agree that time is of the essence and that a precise determination of actual damages which could be incurred by the County for delay in the completion of the work provided herein would be difficult to ascertain. Accordingly the parties agree that the liquidated damages for those items of damage not otherwise provided for by the bid documents, for each and every day that the time consumed in completing the work provided for herein exceeds the time allowed in achieving substantial completion and/or final completion therefore shall be in accordance with the amount(s) set forth in Construction Agreement, Article 3, Paragraph 3.03, of the contract documents. The parties specifically agree that the liquidated damages provided herein do not constitute a penalty. The amount of liquidated damages occasioned by the Vendor/Contractor's delay will be deducted and retained out of the monies payable to the Vendor/Contractor. If not so deducted the Vendor/Contractor and sureties for the Vendor/Contractor shall be liable thereof.

### 9.4. INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS

- A. It is the intent of the specifications and drawings to describe a complete project to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.
- B. The Contract Documents are complementary; what is called for by one (1) is as binding as if called for by all.
- C. Reference Standards:
  1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to laws or regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or laws or regulations in effect at the time of opening of bids (or on the effective date of the Agreement if there were no bids), except as may be otherwise specifically stated in the Contract Documents.
  2. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Owner, Vendor/Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of their related entities, any duty or authority to supervise or direct the performance of the work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.
- D. If, during the performance of the work, the Vendor/Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any law or regulation applicable to the performance of the work or of any standard, specification, manual or code, or of any instruction of any supplier, Vendor/Contractor



shall promptly report it to Engineer in writing. Vendor/Contractor shall not proceed with the work affected thereby until an amendment or supplement to the Contract Documents has been issued. The more stringent requirements shall apply unless otherwise approved.

- E. The Vendor/Contractor shall take no advantage of any error or omission in the plans or of any discrepancy between the plans and specifications, and the professional shall make such interpretation as may be deemed necessary for the fulfillment of the intent of the plans and specifications as construed by him and his decision shall be final.
- F. Vendor/Contractor shall make reasonable efforts to identify potential changes which may enhance efficiency, reliability, serviceability or economy of operation, accelerate the construction schedule, reduce cost of construction, or otherwise enhance any benefits to Hernando County. The Vendor/Contractor, in its reasonable judgment, may propose in writing to Hernando County any such potential change, along with its proposed effect on the cost of the work or the installation schedule. Hernando County shall consider any such proposed change in good faith and may, in its sole discretion, approve in writing any such change.
- G. Reuse of Documents:
  - 1. Vendor/Contractor and any subcontractor or supplier shall not:
    - a. Have or acquire any title to or ownership rights in any of the drawings, specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or
    - b. Reuse any of such drawings, specifications, other documents, or copies thereof on extensions of the project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
  - 2. The prohibition of this paragraph will survive final payment, or termination of the Contract. Nothing herein shall preclude Vendor/Contractor from retaining copies of the Contract Documents for record purposes.
- H. Electronic Data:
  - 1. Copies of data furnished by Owner or Engineer to Vendor/Contractor that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
  - 2. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60)

days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the sixty (60) day acceptance period will be corrected by the transferring party.

3. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

#### 9.5. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

All construction practices, material, equipment, etc., as proposed and offered by Bidders must meet and conform to all OSHA. requirements; the Bidder's signature upon the Bid Form in these bid documents, being by this reference considered a certification of such fact.

#### 9.6. OWNER'S RESPONSIBILITIES AFTER AWARD

- A. Communications to Vendor/Contractor: Except as otherwise provided in these Contract Documents, Owner shall issue all communications to Vendor/Contractor through designated Authorized Owner Representative.
- B. Furnish Data: Owner shall promptly furnish the data required of Owner under the Contract Documents.
- C. Pay When Due: Owner shall make payments to Vendor/Contractor when they are due as provided in the Contract Documents.
- D. Lands and Easements; Reports and Tests: Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in the Contract Documents. Owner shall identify and make available to Vendor/Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site that have been utilized by the Engineer in preparing the Contract Documents.
- E. Change Orders: Owner is obligated to execute change orders as indicated in the Contract Documents.
- F. Inspections, Tests, and Approvals: Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in the Contract Documents.
- G. Limitations on Owner's Responsibilities: The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Vendor/Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Vendor/Contractor to comply with laws and regulations applicable to the performance of the work. Owner will not be responsible for Vendor/Contractor's failure to perform the work in accordance with the Contract Documents.

- H. Undisclosed Hazardous Environmental Condition: Owner's responsibility in respect to an undisclosed hazardous environmental condition is set forth in the Contract Documents.
- I. Evidence of Financial Arrangements: If and to the extent Owner has agreed to furnish Vendor/Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Contract Documents.

#### 9.7. OWNER DESIGNATED REPRESENTATIVE'S STATUS DURING CONSTRUCTION

- A. Owner's Representative: The duties and responsibilities and the limitations of authority of the Owner's Representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner.
- B. Visits to Site:
  - 1. Owner's Designated Representative will make visits to the site at intervals appropriate to the various stages of construction as the Owner Designated Representative deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Vendor/Contractor's executed work. Based on information obtained during such visits and observations, the Owner Designated Representative will determine, in general, if the work is proceeding in accordance with the Contract Documents. The Owner Designated Representative will not be required to make exhaustive or continuous inspections on the site to check the quality or quantity of the work. Owner Designated Representative's efforts will be directed toward providing for Owner a greater degree of confidence that the completed work will conform generally to the Contract Documents. On the basis of such visits and observations, Owner Designated Representative will keep Owner informed of the progress of the work and will endeavor to guard Owner against defective work.
  - 2. Owner Designated Representative's visits and observations are subject to all the limitations on Owner Designated Representative's authority and responsibility set forth in paragraph titled "LIMITATIONS ON OWNER DESIGNATED REPRESENTATIVE'S AUTHORITY AND RESPONSIBILITIES". Particularly, but without limitation, during or as a result of Owner Designated Representative's visits or observations of Vendor/Contractor's work Owner Designated Representative will not supervise, direct, control, or have authority over or be responsible for Vendor/Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Vendor/Contractor to comply with laws and regulations applicable to the performance of the work.
- C. Project Representative: If Owner and Owner Designated Representative agree, Owner Designated Representative will furnish a Resident Project Representative to assist Owner Designated Representative in providing more extensive observation of the work. The authority

and responsibilities of any such Resident Project Representative and assistants is provided in paragraph titled "LIMITATIONS ON OWNER DESIGNATED REPRESENTATIVE'S AUTHORITY AND RESPONSIBILITIES", and limitations on the responsibilities thereof are provided below. If Owner designates another representative or agent to represent Owner at the site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Contract Documents.

- D. Authorized Variations in Work: Owner Designated Representative may authorize minor variations in the work from the requirements of the Contract Documents which do not involve an adjustment in the contract price or the contract times and are compatible with the design concept of the completed project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a field order and will be binding on Owner and also on Vendor/Contractor, who shall perform the work involved promptly. If Owner or Vendor/Contractor believes that a field order justifies an adjustment in the contract price or contract times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a claim may be made therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS" paragraph entitled "CLAIMS".
- E. Rejecting Defective Work: Owner Designated Representative will have authority to reject work which Owner Designated Representative believes to be defective, or that Owner Designated Representative believes will not produce a completed project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated by the Contract Documents. Owner Designated Representative will also have authority to require special inspection or testing of the work as provided in Section titled "TESTS AND INSPECTIONS; CORRECTIONS, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK: paragraph titled "TESTS AND INSPECTIONS", whether or not the work is fabricated, installed, or completed.
- F. Determinations for Unit Price Work: Owner Designated Representative will determine the actual quantities and classifications of unit price work performed by Vendor/Contractor. Owner Designated Representative will review with Vendor/Contractor the Owner Designated Representative's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an application for payment or otherwise). Owner Designated Representative's written decision thereon will be final and binding (except as modified by Owner Designated Representative to reflect changed factual conditions or more accurate data) upon Owner and Vendor/Contractor, subject to the provisions Section titled "COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK" paragraph titled "VENDOR/CONTRACTOR'S FEE".
- G. Decisions on Requirements of Contract Documents and Acceptability of Work:
1. Owner Designated Representative will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder. All matters in

question and other matters between Owner and Vendor/Contractor arising prior to the date final payment is due relating to the acceptability of the work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the work, will be referred initially to Owner Designated Representative in writing within thirty (30) days of the event giving rise to the question.

2. Owner Designated Representative will, with reasonable promptness, render a written decision on the issue referred and obtain Owner's approval to issue decision. If Owner or Vendor/Contractor believes that any such decision entitles them to an adjustment in the contract price or contract times or both, a claim may be made under the provision stated in Section titled "CHANGES IN THE WORK; CLAIMS" paragraph entitled "CLAIMS".
3. Owner Designated Representative's written decision on the issue referred will be final and binding on Owner and Vendor/Contractor, subject to the provisions in paragraph titled "LIMITATIONS ON OWNER DESIGNATED REPRESENTATIVE'S AUTHORITY AND RESPONSIBILITIES".
4. When functioning as interpreter and judge under paragraph titled "DECISIONS ON REQUIREMENTS OF CONTRACT DOCUMENTS AND ACCEPTABILITY OF WORK", Owner Designated Representative will not show partiality to Owner or Vendor/Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

H. Limitations on Owner Designated Representative's Authority and Responsibilities:

1. Neither Owner Designated Representative's authority or responsibility under this paragraph or under any other provision of the Contract Documents nor any decision made by Owner Designated Representative in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Owner Designated Representative shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Owner Designated Representative to Vendor/Contractor, any subcontractor, any supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
2. Owner Designated Representative will not supervise, direct, control, or have authority over or be responsible for Vendor/Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Vendor/Contractor to comply with laws and regulations applicable to the performance of the work. Owner Designated Representative will not be responsible for Vendor/Contractor's failure to perform the work in accordance with the Contract Documents.

3. Owner Designated Representative will not be responsible for the acts or omissions of Vendor/Contractor or of any subcontractor, any supplier, or of any other individual or entity performing any of the work.
4. Owner Designated Representative's review of the application for payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Section titled "PAYMENTS TO CONTRACTOR AND COMPLETION" paragraph titled "REVIEW OF APPLICATIONS" will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.
5. The limitations upon authority and responsibility set forth in this paragraph shall also apply to the Resident Project Representative, if any, and assistants, if any.

## 9.8. CONTRACTOR'S RESPONSIBILITIES

### A. Supervision and Superintendence:

1. The Vendor/Contractor will supervise and direct the work efficiently and with his best skill and attention. He will be solely responsible for the means, methods, techniques, sequences and procedure of construction, unless otherwise specified. The Vendor/Contractor will be responsible to see that the finished work complies accurately with the Contract Documents.
2. The Vendor/Contractor will keep on the site at all times during its progress a competent, Resident Superintendent who shall not be replaced without written notice to the Project Manager. The superintendent will be the Vendor/Contractor's representative at the site and shall have authority to act on behalf of the Vendor/Contractor. All communications given to the superintendent shall be as binding as if given to the Vendor/Contractor.

### B. Labor, Materials and Equipment:

1. The Vendor/Contractor will provide competent, suitable, qualified personnel to lay out the work and perform construction as required by the Contract Documents. It will at all times maintain good discipline and order at the site.
2. Unless otherwise specified in the Contract Documents, Vendor/Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and incidentals necessary for the execution, testing, initial operation and completion of the work.
3. All materials and equipment will be new except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the specifications shall

expressly run to the benefit of Owner. If required by the Owner, the Vendor/Contractor will furnish satisfactory evidence (including reports of required tests and/or purchase receipts) as to the source, kind and quality of materials and equipment furnished.

4. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, supplier, fabricator or processors except as otherwise provided in the Contract Documents.

C. Progress Schedule:

1. Vendor/Contractor shall adhere to the Progress Schedule requirements established in the Contract Documents as it may be adjusted from time to time as provided below.
  - a. Vendor/Contractor shall submit to Owner Designated Representative for acceptance proposed adjustments in the Progress Schedule that will not result in changing the contract times. Such adjustments will comply with any provisions of the Contract Documents applicable thereto.
  - b. Proposed adjustments in the Progress Schedule that will change the contract times shall be submitted in accordance with the requirements stated in the Contract Documents. Adjustments in contract times may only be made by a change order.
  - c. All work of this Contract shall be scheduled and monitored by the Vendor/Contractor using the Critical Path Method (CPM). The Vendor/Contractor shall prepare the schedule for the project a minimum of two (2) weeks before starting any work and shall submit an updated schedule with each monthly pay request. The Vendor/Contractor will prepare revisions of the schedule to reflect changes in the Vendor/Contractor's plan of performance or changes in the work and submit these revisions to the Owner Designated Representative for acceptance.
  - d. The Vendor/Contractor shall prepare schedules as a time scale logic diagram and bar chart unless otherwise approved by the Owner Designated Representative. Each major and minor portion of work or operation shall be clearly identified and tied by logical sequence to the shop drawing schedule and schedule of values. All schedules shall be prepared and submitted on 11 inch by 17 inch (11" X 17") paper.

D. Concerning Subcontractors, Suppliers and Others:

1. The Vendor/Contractor will not employ any subcontractor, supplier, other person or entity, whether initially or as a replacement, against whom the Owner may have reasonable objections, nor will the Vendor/Contractor be required to employ any subcontractor, supplier, or other individual or entity, against whom the Vendor/Contractor has reasonable objection.

2. The Vendor/Contractor will not make any substitution for any subcontractor who has been accepted by the Owner, unless the Owner determines that there is good cause for doing so.
3. The Vendor/Contractor will be fully responsible for all acts and omissions of his subcontractors, suppliers, and other individuals or entities performing or furnishing any of the work just as Vendor/Contractor is responsible for Vendor/Contractor's own acts and omissions. Nothing contained in the Contract Documents:
  - a. Shall create for the benefit of any such subcontractor, supplier, or other individual or entity any contractual relationship between Owner or Owner Designated Representative and any such Subcontractor, supplier or other individual or entity, nor
  - b. Shall anything in the Contract Documents create any obligation on the part of Owner or Owner Designated Representative to pay or to see to the payment of any moneys due any such subcontractor, supplier, or other individual or entity except as may otherwise be required by laws and regulations.
4. Vendor/Contractor shall be solely responsible for scheduling and coordinating the work of subcontractors, suppliers, and other individuals or entities performing or furnishing any of the work under a direct or indirect contract with Vendor/Contractor.
5. Vendor/Contractor shall require all subcontractors, suppliers, and such other individuals or entities performing or furnishing any of the work to communicate with Owner Designated Representative through Vendor/Contractor.
6. The divisions and sections of the specifications and the identifications of any drawings shall not control Vendor/Contractor in dividing the work among subcontractors or suppliers or delineating the work to be performed by any specific trade.
7. All work performed for Vendor/Contractor by a subcontractor or supplier will be pursuant to an appropriate agreement between Vendor/Contractor and the subcontractor or supplier which specifically binds the subcontractor or supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Owner Designated Representative. Whenever any such agreement is with a subcontractor or supplier who is listed as an additional insured on the property insurance as provided in the Contract Documents, the agreement between the Vendor/Contractor and the subcontractor or supplier will contain provisions whereby the subcontractor or supplier waives all rights against Owner, Vendor/Contractor, and Owner Designated Representative, and all other individuals or entities identified in the Contract Documents to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the work. If the insurers on any such policies require



separate waiver forms to be signed by any subcontractor or supplier, Vendor/Contractor will obtain the same.

8. The Vendor/Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the Owner.
9. The Vendor/Contractor shall not award work valued at more than fifty percent (50%) of the contract price to subcontractor(s), without prior written approval of the Owner.

## 9.9. CONTRACTOR'S RESPONSIBILITIES (continued)

### A. Patent Fees And Royalties:

1. Vendor/Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the work or the incorporation in the work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the work and if to the actual knowledge of Owner or Owner Designated Representative its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
2. To the fullest extent permitted by laws and regulations, Vendor/Contractor shall indemnify and hold harmless Owner and Owner Designated Representative, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, product, or device not specified in the Contract Documents.

### B. Use Of Premises:

1. The Vendor/Contractor will confine his equipment, the storage of materials and equipment, and the operations of his workers to the areas permitted by law, ordinances, permits or the requirements of the Contract Documents and shall not unreasonably encumber the premises with materials or equipment.
2. The Vendor/Contractor shall confine the operation of workmen and equipment, and the storage of materials and equipment to the County's property or to other non-County property or in public right-of-way areas indicated on the contract drawings as including work to be done pursuant to the Contract Documents. In the event the Vendor/Contractor desires to have access to the project site, or perform work or operations pertaining to the

Contract on, over or from non-County property adjacent to the project site, the Vendor/Contractor shall obtain written authorization to do so from the respective adjacent property owner(s) prior to using such property. Such written authorization shall include a provision whereby the property owner agrees to hold the County harmless, and to defend the County, in the event of any liability, loss, injury, or claim incurred as a result of the Vendor/Contractors work or operations involving the use of the adjacent non-County property. The County shall be provided with a notarized, certified copy of such written authorization(s) before the Vendor/Contractor commences work or operations or use of such property in connection with work or operations pursuant to this Contract.

C. Record Documents:

1. Vendor/Contractor shall maintain in a safe place at the site one (1) record copy of all drawings, specifications, addenda, change orders, field orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved samples and a counterpart of all approved shop drawings will be available to Engineer for reference. Upon completion of the work, these record documents, samples, and shop drawings will be delivered to Engineer for Owner.
2. Record Drawings: The Engineer will prepare a set of record drawings for the project which will include the changes made in materials, equipment, locations, and dimensions of the work. Each month or as otherwise agreed, the Vendor/Contractor shall submit to the Engineer a current listing and description (written and graphic) of each change incorporated into the work since the preceding submittal.

D. Safety And Protection:

1. Vendor/Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Vendor/Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
  - a. All employees on the site and other persons who may be affected by the work:
  - b. All the work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
  - c. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.
2. Vendor/Contractor shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and

- protection. Vendor/Contractor shall notify owners of adjacent property and of underground facilities and other utility owners when prosecution of the work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
3. All damage, injury, or loss to any property referred to above; caused directly or indirectly, in whole or in part, by Vendor/Contractor, any subcontractor, supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the work, or anyone for whose acts any of them may be liable, shall be remedied by Vendor/Contractor (except damage or loss attributable to the fault of drawings or specifications or to the acts or omissions of Owner or Engineer, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Vendor/Contractor or any subcontractor, supplier, or other individual or entity directly or indirectly employed by any of them).
  4. Vendor/Contractor's duties and responsibilities for safety and for protection of the work shall continue until such time as all the work is completed and Engineer has issued final acceptance.
  5. Vendor/Contractor shall designate a qualified and experienced safety representative at the site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- E. Emergencies: In emergencies affecting the safety or protection of persons or the work or property at the site or adjacent thereto, Vendor/Contractor is obligated to act to prevent threatened damage, injury, or loss. Vendor/Contractor shall give Owner Designated Representative prompt written notice if Vendor/Contractor believes that any significant changes in the work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Owner Designated Representative determines that a change in the Contract Documents is required because of the action taken by Vendor/Contractor in response to such an emergency, a change order will be issued.

#### 9.10. CONTRACTOR'S RESPONSIBILITIES (continued)

- A. Shop Drawings, Samples and Test Specimens, Additional and Special Submittals:
1. Vendor/Contractor shall submit all shop drawings, samples and test specimens, additional and special submittals to Owner Designated Representative for review and approval in accordance with the acceptable Schedule of Submittals. The Vendor/Contractor's attention is directed to the individual specification sections in these Contract Documents which may contain additional and special submittal requirements.
    - a. Shop Drawings:

- i. Submit number of copies specified in the specifications.
  - ii. Data shown on the shop drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Owner Designated Representative the services, materials, and equipment Vendor/Contractor proposes to provide and to enable Owner Designated Representative to review the information for the limited purposes of establishing a reporting procedure and is intended for the Vendor/Contractor's convenience in organizing his work and to permit the Owner Designated Representative to monitor the Vendor/Contractor's progress and understanding of the design.
  - iii. Should the Vendor/Contractor propose any item on his field drawings, or incorporate an item into the work, and that item should subsequently prove to be defective or otherwise unsatisfactory, (regardless of the Owner Designated Representative 's preliminary review), the Vendor/Contractor shall, at his own expense, replace the item with another item that will perform satisfactorily.
  - iv. The Vendor/Contractor agrees that shop drawing submittals processed by the Owner Designated Representative do not become Contract Documents and are not change orders.
- b. Samples and Test Specimens:
- i. Submit number of samples and/or test specimens as required in the specifications. Where required in the specifications, and as determined necessary by the Owner Designated Representative, test specimens or samples of materials, appliances, and fittings to be used or offered for use in connection with the work shall be submitted to the Owner Designated Representative at the Vendor/Contractor's expense, with all cartage charges prepaid, and in such quantities and sizes as may be required for proper examination and tests to establish the quality or equality thereof, as applicable.
  - ii. Clearly identify each as to material, supplier, pertinent data such as catalog numbers, the use for which intended and other data as Owner Designated Representative may require enabling Owner Designated Representative to review the submittal for the limited purposes of establishing a reporting procedure and is intended for the Vendor/Contractor's convenience in organizing his work and to permit the Owner Designated Representative to monitor the Vendor/Contractor's progress and understanding of the design.
  - iii. All samples and test specimens shall be submitted in ample time to enable the Owner Designated Representative to make any examinations necessary, without delay to the work. The Vendor/Contractor will be held responsible for any loss of

time due to his neglect or failure to deliver the required samples to the Owner Designated Representative, as specified.

- iv. The Vendor/Contractor shall submit additional samples as required by the Owner Designated Representative to ensure equality with the original approved sample and/or for determination of specification compliance.
- v. Laboratory tests and examinations that the Owner elects to have made by an independent testing laboratory will be made at no cost to the Vendor/Contractor, except that, if a sample of any material or equipment proposed for use by the Vendor/Contractor fails to meet the specifications, the cost of testing subsequent samples shall be borne by the Vendor/Contractor.
- vi. All tests required by the specifications to be performed by an independent laboratory shall be made by an Owner approved laboratory. Certified test results of all specified tests shall be submitted in duplicate to the Owner Designated Representative. The samples furnished and the cost for the laboratory services shall be at the expense of the Vendor/Contractor and included in the prices bid for the associated work.
- vii. Sample items (fixtures, hardware, etc.) may be incorporated into the work upon approval, and when no longer needed by the Owner Designated Representative for reference.

c. Submittals:

- i. All technical submittals shall be fully sufficient in detail for determination of compliance with the Contract Documents.
  - ii. Review or acceptance of substitutions, schedules, shop drawings, lists of materials, and procedures submitted or requested by the Vendor/Contractor shall not add to the Contract amount, and all additional costs which may result therefrom shall be solely the obligation of the Vendor/Contractor.
  - iii. The Owner is not precluded, by virtue of review, acceptance, or approval, from obtaining a credit for construction savings resulting from allowed concessions in the work or materials therefore.
  - iv. No equipment or material for which listings, drawings, or descriptive material is required shall be fabricated, purchased, or installed until the Owner Designated Representative has reviewed same and returned copies with stamp and signature indicating action taken.
2. Where shop drawings, samples, additional technical or special submittals are required by the Contract Documents or the Schedule of Submittals, any related work performed prior to

Owner Designated Representative's review and approval of the pertinent submittal will be at the sole expense and responsibility of Vendor/Contractor.

3. Submittal Procedures:

- a. Submittals shall be addressed to the Owner Designated Representative as defined in these construction documents. Before submitting each shop drawing, sample, test specimens or other technical submittal, Vendor/Contractor shall have determined and verified:
  - i. All field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - ii. The suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the work;
  - iii. All information relative to Vendor/Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and
  - iv. Shall also have reviewed and coordinated each shop drawing or sample with other shop drawings and samples and with the requirements of the work and the Contract Documents.
- b. Each submittal shall bear a stamp or specific written certification that Vendor/Contractor has satisfied Vendor/Contractor's obligations under the Contract Documents with respect to Vendor/Contractor's review and approval of that submittal. The practice of submitting incomplete or unchecked shop drawings for the Owner Designated Representative to correct or finish will not be acceptable. Shop drawings which, in the opinion of the Owner Designated Representative, clearly indicate that they have not been checked by the Vendor/Contractor will be considered as not complying with the intent of the Contract Documents and will be returned to the Vendor/Contractor for resubmission in the proper form.
- c. With each submittal, Vendor/Contractor shall give Owner Designated Representative specific written notice of any variations, that the shop drawing or sample may have from the requirements of the Contract Documents. This notice shall be: 1) a written communication separate from the shop drawings or sample submittal; AND 2) by a specific notation made on each shop drawing or sample submitted to Owner Designated Representative for review and approval of each such variation.
- d. The Vendor/Contractor shall submit to the Owner Designated Representative for his review five (5) copies of shop drawings, electrical diagrams, performance data and

pump curves, wiring and control diagrams, special features, interface schematic diagrams, catalog information and cuts for fabricated items and manufactured items including structural, mechanical, electrical, plumbing, process, instrumentation and control systems and equipment furnished under this Contract. Shop drawings shall be submitted in sufficient time to allow the Owner Designated Representative not less than twenty (20) regular working days for examining the drawings.

a. Owner Designated Representative's Review:

a. Owner Designated Representative will provide timely review of shop drawings and samples in accordance with the Schedule of Submittals acceptable to Owner Designated Representative. Owner Designated Representative's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed project as a functioning whole as indicated by the Contract Documents.

b. Owner Designated Representative's review and approval shall not relieve Vendor/Contractor from responsibility for any variation from the requirements of the Contract Documents unless Vendor/Contractor has complied with the requirements and Owner Designated Representative has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the shop drawing or sample. Owner Designated Representative's review and approval shall not relieve Vendor/Contractor from responsibility for complying with the requirements stated above.

i. Vendor/Contractor shall make corrections required by Owner Designated Representative and shall return the required number of corrected copies of shop drawings and submit, as required, new samples for review and approval. Vendor/Contractor shall direct specific attention in writing to revisions other than the corrections called for by Owner Designated Representative on previous submittals. Costs incurred by Owner Designated Representative, and/or Owner, related to review and approval of additional submittals beyond that associated with the original submittal and one (1) re-submittal will be the responsibility of the Vendor/Contractor.

4. Certificates of Compliance:

a. A Certificate of Compliance shall be furnished for materials specified to a recognized standard or code prior to the use of any such materials in the work. The Owner Designated Representative may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The certificate shall be signed by the manufacturer of the material or the manufacturer of assembled

materials and shall state that the materials involved comply in all respects with the requirement of the specifications. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the certificate.

- b. All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Vendor/Contractor of responsibility for incorporating material in the work which conforms to the requirements of the Contract Documents and any such material not conforming to such requirements will be subject to rejection whether in place or not.
- c. The Owner Designated Representative reserves the right to refuse permission for use of material on the basis of a Certificate of Compliance.
- d. The form of the Certificate of Compliance and its disposition shall be as directed by the Owner Designated Representative.

#### 9.11. CONTRACTOR'S RESPONSIBILITIES (continued)

- A. Continuing the Work: Vendor/Contractor shall carry on the work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted in Section titled "CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES" paragraph entitled "DELAYS" or as Owner and Vendor/Contractor may otherwise agree in writing.
- B. Use of Site and Other Areas:
  - 1. Limitation on Use of Site and Other Areas:
    - a. Vendor/Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the site and other areas permitted by laws and regulations, and shall not unreasonably encumber the site and other areas with construction equipment or other materials or equipment. Vendor/Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the work.
    - b. Should any claim be made by any such owner or occupant because of the performance of the work, Vendor/Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
    - c. To the fullest extent permitted by laws and regulations, Vendor/Contractor shall indemnify and hold harmless Owner and Owner Designated Representative, and the



officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Owner Designated Representative, or any other party indemnified hereunder to the extent caused by or based upon Vendor/Contractor's performance of the work.

2. Removal of Debris During Performance of the Work: During the progress of the work Vendor/Contractor shall keep the site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable laws and regulations.
3. Clean Up: The Vendor/Contractor will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work; at the completion of the work he will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the County. The Vendor/Contractor will restore to their original condition those portions of the site not designated for alteration by the Contract Documents. If at any time during construction of this project, the Vendor/Contractor fails to clean up on a daily basis, the County may do so. All costs associated with the County's cleanup activities on behalf of the Vendor/Contractor shall be deducted from amounts due to the Vendor/Contractor. Prior to Substantial Completion of the work, Vendor/Contractor shall clean the site and the work and make it ready for utilization by Owner. At the completion of the work Vendor/Contractor shall remove from the site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
4. Loading Structures: Vendor/Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Vendor/Contractor subject any part of the work or adjacent property to stresses or pressures that will endanger it.

C. Vendor/Contractor's General Warranty and Guarantee:

1. Vendor/Contractor warrants and guarantees to Owner that all work will be in accordance with the Contract Documents and will not be defective. Owner Designated Representative and its related entities shall be entitled to rely on representation of Vendor/Contractor's warranty and guarantee. All unsatisfactory work, all faulty work, and all work not conforming to the requirements of the Contract Documents or any inspections, test or

approvals shall be considered defective. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in the Bid Specification.

2. Vendor/Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  - a. Abuse, modification, or improper maintenance or operation by persons other than Vendor/Contractor, subcontractors, suppliers, or any other individual or entity for whom Vendor/Contractor is responsible; or
  - b. Normal wear and tear under normal usage.
3. Vendor/Contractor's obligation to perform and complete the work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of work that is not in accordance with the Contract Documents or a release of Vendor/Contractor's obligation to perform the work in accordance with the Contract Documents:
  - a. Observations by Owner Designated Representative;
  - b. Recommendation by Owner Designated Representative or payment by Owner of any progress or final payment;
  - c. The issuance of a certificate of Substantial Completion by Owner Designated Representative or any payment related thereto by Owner;
  - d. Use or occupancy of the work or any part thereof by Owner;
  - e. Any review and approval of a shop drawing or sample submittal or the issuance of a notice of acceptability by Owner Designated Representative;
  - f. Any inspection, test, or approval by others; or
  - g. Any correction of defective work by Owner.
4. The Vendor/Contractor shall provide and maintain in a neat and sanitary condition, such accommodations for the use of his employees as may be necessary to comply with the requirements of the state board of health or of the Owner Designated Representative.
5. The Vendor/Contractor shall be responsible for installing, operating and maintaining all traffic control associated with the project, including detours, advance warnings, channelization or other features, both at the immediate work site and at any outlying points determined by the Owner to be necessary to satisfy project requirements and to maintain safe operations at the landfill. If traffic control is necessary, the Vendor/Contractor shall prepare a detailed traffic control plan. This plan shall be approved in writing by the Owner prior to implementation by the Vendor/Contractor.

D. Delegation of Professional Design Services:

1. Vendor/Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the work or unless such services are required to carry out Vendor/Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Vendor/Contractor shall not be required to provide professional services in violation of applicable law.
2. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Vendor/Contractor by the Contract Documents, Owner and Owner Designated Representative will specify all performance and design criteria that such services must satisfy. Vendor/Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, shop drawings and other submittals prepared by such professional. Shop drawings and other submittals related to the work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Owner Designated Representative.
3. Owner and Owner Designated Representative shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Owner Designated Representative have specified to Vendor/Contractor all performance and design criteria that such services must satisfy.
4. Owner Designated Representative's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Owner Designated Representative's review and approval of shop drawings and other submittals (except design calculations and design drawings) will be only for the purpose of determining if the items covered by the submittals will, after installation or incorporation in the work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed project as a functioning whole as indicated by the Contract Documents.
5. Vendor/Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

**9.12. AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS:**

**A. Availability of Lands:**

1. Owner shall furnish the site. Owner shall notify Vendor/Contractor of any encumbrances or restrictions not of general application but specifically related to use of the site with which Vendor/Contractor must comply in performing the work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing

facilities. If Vendor/Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the contract price or contract times, or both, as a result of any delay in Owner's furnishing the site or a part thereof, Vendor/Contractor may make a claim therefore as provided in the Contract Documents.

2. Upon reasonable written request, Owner shall furnish Vendor/Contractor with a current statement of record legal title and legal description of the lands upon which the work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable laws and regulations.
3. Vendor/Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

B. Subsurface and Physical Conditions:

1. Reports and Drawings:

- a. Those reports of explorations and tests of subsurface conditions at or contiguous to the site that Owner Designated Representative has used in preparing the Contract Documents will be included in the Contract Documents as Attachments; and
- b. Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities) that Engineer has used in preparing the Contract Documents will be included in the Contract Documents as Attachments.

2. Limited reliance by Vendor/Contractor on technical data authorized: Vendor/Contractor may rely upon the general accuracy of the technical data contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such technical data is identified in the Contract Documents. Except for such reliance on such technical data, Vendor/Contractor may not rely upon or make any claim against Owner or Engineer, or any of their related entities with respect to:

- a. The completeness of such reports and drawings for Vendor/Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Vendor/Contractor,
- b. Other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
- c. Any Vendor/Contractor interpretation of or conclusion drawn from any technical data or any such other data, interpretations, opinions, or information.

3. Differing Subsurface or Physical Conditions:

- a. Notice: If Vendor/Contractor believes that any of the following subsurface or physical conditions exist at or contiguous to the site that is uncovered or revealed, then Vendor/Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any work in connection therewith, notify Owner and Owner Designated Representative in writing about such condition, and Vendor/Contractor shall not further disturb such condition or perform any work in connection therewith until receipt of written order to do so:
  - i. Is of such a nature as to establish that any technical data on which Vendor/Contractor is entitled to rely as provided in Titled "UNDERGROUND FACILITIES" is materially inaccurate; or
  - ii. Is of such a nature as to require a change in the Contract Documents; or
  - iii. Differs materially from that shown or indicated in the Contract Documents; or
  - iv. Is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
- b. Owner Designated Representative's Review: After receipt of written notice, Owner Designated Representative will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Vendor/Contractor) of Owner Designated Representative's findings and conclusions.
- c. Possible Price and Times Adjustments:
  - i. The contract price or the contract times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Vendor/Contractor's cost of, or time required for, performance of the work; subject, however, to the following:
    - I. Such condition must meet any one (1) or more of the categories described in Section Titled "CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES" paragraph titled "DELAYS" and
    - II. With respect to work that is paid for on a unit price basis, any adjustment in contract price will be subject to the provisions stated in the Contract Documents.
  - ii. Vendor/Contractor shall not be entitled to any adjustment in the contract price or contract times if:
    - I. Vendor/Contractor knew of the existence of such conditions at the time Vendor/Contractor made a final commitment to Owner with respect to contract

price and contract times by the submission of a bid or becoming bound under a negotiated Contract; or

II. The existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the site and contiguous areas required by the bidding requirements or Contract Documents to be conducted by or for Vendor/Contractor prior to Vendor/Contractor's making such final commitment; or

III. Vendor/Contractor failed to give the written notice as required by provisions above.

iii. If Owner and Vendor/Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the contract price or contract times, or both, a claim may be made therefore as provided in the Contract Documents. However, Owner and Owner Designated Representative, and any of their related entities shall not be liable to Vendor/Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Vendor/Contractor on or in connection with any other project or anticipated project.

4. Underground Facilities:

a. Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site is based on information and data furnished to Owner or Engineer by the owners of such underground facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Bid documents:

i. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

ii. The cost of all of the following will be included in the contract price, and Vendor/Contractor shall have full responsibility for:

I. Reviewing and checking all such information and data,

II. Locating all underground facilities shown or indicated in the Contract Documents,

III. Coordination of the work with the owners of such underground facilities, including Owner, during construction, and

IV. The safety and protection of all such underground facilities and repairing any damage thereto resulting from the work.

- iii. The Vendor/Contractor shall locate all existing utilities, vertical and horizontal, prior to commencement of construction and any excavation.
- b. Not Shown or Indicated:
  - i. If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Vendor/Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any work in connection therewith, identify the owner of such underground facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the underground facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the underground facility. During such time, Vendor/Contractor shall be responsible for the safety and protection of such underground facility.
  - ii. If Engineer concludes that a change in the Contract Documents is required, a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the contract price or contract times, or both, to the extent that they are attributable to the existence or location of any underground facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Vendor/Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Vendor/Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in contract price or contract times, Owner or Vendor/Contractor may make a claim therefore as provided in the Contract Documents.
- c. Obstructions:
  - i. Any pipes, conduits, wires, mains, footings, driveways, or other structures encountered shall be carefully protected from injury or displacement. Any damage thereto shall be fully, promptly, and properly repaired by the Vendor/Contractor to the satisfaction of the Owner Designated Representative and the Owner thereof. Should it become necessary to change the position of water or gas or other pipes, sewer drains, or poles, the Engineer shall be at once notified of the locality and circumstances, and no claims for damages arising from the delay in adjusting the pipe, sewer drains or poles shall be made. Failure of the plans to show the locations, nature or extent of any existing structures or obstructions shall not be the basis of a claim for extra work. Any survey monument or bench mark which must be disturbed shall be carefully referenced before removal, and unless otherwise provided for, shall be replaced upon completion of the work by a registered land surveyor. Any

survey monuments or bench markers which are disturbed shall be replaced by a Florida registered land surveyor.

**9.13. AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS: (continued)**

**A. Reference Points:**

1. Owner shall provide engineering surveys to establish reference points for construction which in Owner Designated Representative's judgment are necessary to enable Vendor/Contractor to proceed with the work. Vendor/Contractor shall be responsible for laying out the work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Vendor/Contractor shall report to Owner Designated Representative whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.
2. Vendor/Contractor will furnish all surveys and construction stakeouts unless otherwise specified. The Vendor/Contractor will provide horizontal control and bench marks or elevations for vertical control. The number and extent of such control will be designated to the Vendor/Contractor by the Owner Designated Representative prior to bid opening, upon request. It shall be the responsibility of the Vendor/Contractor to check all stakes as set by the Engineer for possible error. The Vendor/Contractor shall furnish, free of charge, all additional stakes, all templates, and other materials necessary for marking and maintaining points and lines given. The Vendor/Contractor shall be held responsible for the preservation of all stakes and marks, and if any of the stakes or marks are destroyed or disturbed, the cost of replacing them shall be charged against, and shall be deducted from the payment for the work. The Vendor/Contractor shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.
3. The Vendor/Contractor shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. Vendor/Contractor shall not proceed until it has made timely demand upon the Owner Designated Representative for, and received from him, such points as may be necessary as the work progresses. The work shall be done in strict conformity with such points.
  - a. Alignment Markers. The markers for alignment and location information which are shown on the plans have been previously established by a Florida registered land surveyor. Monuments and other field markers consist of railroad spikes, iron pins, concrete monuments, and other markers in customary use in the area. The



Vendor/Contractor shall lay out its work from these markers, and shall be responsible for all measurements in connection therewith. The Vendor/Contractor shall preserve all alignment and right-of-way markers, and shall reset or replace at its own expense, any and all which are removed, destroyed or covered up by his work. In the event that additional markers, stakes or monuments are required, or in the event that previously established markers must be replaced, the Vendor/Contractor shall employ a Florida registered land surveyor to reset or replace them.

- b. Bench Marks. The Vendor/Contractor shall lay out its work from bench marks and elevations set by the Engineer. Bench marks and elevations set by the Engineer will be shown and explained to the Vendor/Contractor. Thereafter, these bench marks and elevations become the sole responsibility of the Vendor/Contractor, and if replacement is required, either at the request of the Vendor/Contractor or in the judgment of the Owner Designated Representative, the Vendor/Contractor shall pay for the cost of replacement. The Vendor/Contractor shall furnish, at its own expense, all templates, stakes, equipment, labor and materials as may be required in laying out any part of the work.

B. Hazardous Environmental Condition at Site:

1. Reports and Drawings: Any reports and drawings relating to a hazardous environmental condition identified at the site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents will be included in the Contract Documents as Attachments under Reference Documents.
2. Limited Reliance by Vendor/Contractor on Technical Data Authorized: Vendor/Contractor may rely upon the general accuracy of the technical data contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such technical data is identified in the Technical Specifications. Except for such reliance on such technical data, Vendor/Contractor may not rely upon or make any claim against Owner or Engineer, or any of their related entities with respect to:
  - a. The completeness of such reports and drawings for Vendor/Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Vendor/Contractor and safety precautions and programs incident thereto; or
  - b. Other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings;
3. Vendor/Contractor shall not be responsible for any hazardous environmental condition uncovered or revealed at the site which was not shown or indicated in drawings or specifications or identified in the Contract Documents to be within the scope of the work. Vendor/Contractor shall be responsible for a hazardous environmental condition created

- with any materials brought to the site by Vendor/Contractor, subcontractors, suppliers, or anyone else for whom Vendor/Contractor is responsible.
4. If Vendor/Contractor encounters a hazardous environmental condition or if Vendor/Contractor or anyone for whom Vendor/Contractor is responsible creates a hazardous environmental condition, Vendor/Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all work in connection with such condition and in any area affected thereby; and (iii) notify Owner and Owner Designated Representative (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Owner Designated Representative concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.
  5. Vendor/Contractor shall not be required to resume work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Vendor/Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of work; or (ii) specifying any special conditions under which such work may be resumed safely. If Owner and Vendor/Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in contract price or contract times, or both, as a result of such work stoppage or such special conditions under which work is agreed to be resumed by Vendor/Contractor, either party may make a claim therefore as provided in the Contract Documents.
  6. If after receipt of such written notice Vendor/Contractor does not agree to resume such work based on a reasonable belief it is unsafe, or does not agree to resume such work under such special conditions, then Owner may order the portion of the work that is in the area affected by such condition to be deleted from the work. If Owner and Vendor/Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in contract price or contract times as a result of deleting such portion of the work, then either party may make a claim therefore as provided in the Contract Documents. Owner may have such deleted portion of the work performed by Owner's own forces or others in accordance with Section "Other Work at the Site".
  7. The provisions in this paragraph do not apply to a hazardous environmental condition uncovered or revealed at the site.

#### **9.14. PRE-CONSTRUCTION CONFERENCE**

Within fourteen (14) calendar days after the effective date of the contract, but before Vendor/Contractor starts the work at the site, a conference attended by Vendor/Contractor, Owner Designated Representative, and other County staff personnel as appropriate will be held to discuss such topics as may include, but are not limited to; schedules, procedures for handling shop drawings and

other submittals and for processing Applications for Payment, MOT, initiation of coordination with affected utilities, agreement upon the Notice to Proceed date, and to establish a working understanding among the parties as to the work.

#### 9.15. INITIAL ACCEPTANCE OF SCHEDULES:

At least ten (10) days before submission of the first application for payment, a conference attended by Vendor/Contractor, Owner Designated Representative, and others as appropriate will be held to review for acceptability to Owner Designated Representative. Vendor/Contractor shall have an additional ten (10) days to make corrections and adjustments and to complete and re-submit the schedules. No progress payment shall be made to Vendor/Contractor until acceptable schedules are submitted to Owner Designated Representative.

- A. The Progress Schedule will be acceptable to Owner Designated Representative if it provides an orderly progression of the work to completion within the contract times. Such acceptance will not impose on Owner Designated Representative responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Vendor/Contractor from Vendor/Contractor's full responsibility therefore.
- B. Vendor/Contractor's Schedule of Submittals will be acceptable to Owner Designated Representative if it provides a workable arrangement for reviewing and processing the required submittals.
- C. Vendor/Contractor's Schedule of Values will be acceptable to Owner Designated Representative as to form and substance if it provides a reasonable allocation of the contract price to component parts of the work.

#### 9.16. CHANGES IN THE WORK; CLAIMS:

- A. Authorized Changes in the Work:
  - 1. Without invalidating the Contract and without notice to any surety, Owner may, subject to written approval by Agency at any time or from time to time, order additions, deletions, or revisions in the work by a Change Order. Upon receipt of any such document, Vendor/Contractor shall promptly proceed with the work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
  - 2. If Owner and Vendor/Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the contract price or contract times, or both, that should be allowed as a result of a change order, a claim may be made therefor as provided in the Paragraph titled: "CLAIMS" below.
- B. Unauthorized Changes in the Work: Vendor/Contractor shall not be entitled to an increase in the contract price or an extension of the contract times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented, except

in the case of an emergency as stated in Paragraph titled "EMERGENCIES" above, or in the case of uncovering work as stated in Paragraph titled "UNCOVERING WORK", below.

C. Execution of Change Orders:

1. Owner and Vendor/Contractor shall execute appropriate change orders recommended by Owner Designated Representative covering:
  - a. Changes in the work which are: (i) ordered by Owner pursuant to Paragraph titled "AUTHORIZED CHANGED IN THE WORK" above, (ii) required because of acceptance of defective work pursuant to Paragraph titled "ACCEPTANCE OF DEFECTIVE WORK", below or Owner's correction of defective work pursuant to Paragraph titled "OWNER MAY CORRECT DEFECTIVE WORK" , below or (iii) agreed to by the parties;
  - b. Changes in the contract price or contract times which are agreed to by the parties, including any undisputed sum or amount of time for work actually performed in accordance with a change order; and
  - c. Changes in the contract price or contract times which embody the substance of any written decision rendered by Owner Designated Representative pursuant to Section titled "TESTS AND INSPECTIONS: CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK", below ; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable laws and regulations, but during any such appeal, Vendor/Contractor shall carry on the work and adhere to the Progress Schedule as provided in Section titled "STARTING THE WORK", above.
2. The contract price constitutes the total compensation payable to the Vendor/Contractor for performing the work. All duties, responsibilities and obligations assigned to or undertaken by the Vendor/Contractor shall be at his expense without change in the contract price. The Contract Price may only be changed by a change order. Any claim for an increase in the Contract Price shall be in writing and delivered to the Owner Designated Representative within fifteen (15) days of the occurrence of the event giving rise to the claim. All claims for adjustment in the contract price shall be determined by the Owner Designated Representative. Any change in the contract price shall be incorporated in a change order.

- D. Notification to Surety: If notice of any change affecting the general scope of the work or the provisions of the Contract Documents (including, but not limited to, contract price or contract times) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Vendor/Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

E. Claims:

1. Chief Procurement Officer's Decision Required: All claims, except those waived pursuant to Paragraph titled "WAIVER OF CLAIMS", below, shall be referred to the Chief Procurement Officer for decision. A decision by the Chief Procurement Officer shall be required as a condition precedent to any exercise by Owner or Vendor/Contractor of any rights or remedies either may otherwise have under Paragraph titled "OWNER MAY CORRECT DEFECTIVE WORK", below or by laws and regulations in respect of such claims.
2. Notice: Written notice stating the general nature of each claim shall be delivered by the claimant to the Chief Procurement Officer and the other party to the Contract promptly (but in no event later than thirty (30) days) after the start of the event giving rise thereto. The responsibility to substantiate a claim shall rest with the party making the claim. Notice of the amount or extent of the claim, with supporting data shall be delivered to the Chief Procurement Officer and the other party to the Contract within sixty (60) days after the start of such event (unless the Chief Procurement Officer allows additional time for claimant to submit additional or more accurate data in support of such claim). A claim for an adjustment in contract price shall be prepared in accordance with the provisions of Paragraph titled "CHANGE OF CONTRACT PRICE", above. A claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph titled "CHANGE OF CONTRACT TIMES". Each claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to the Chief Procurement Officer and the claimant within thirty (30) days after receipt of the claimant's last submittal (unless the Chief Procurement Officer allows additional time).
3. Chief Procurement Officer's Action: Chief Procurement Officer will review each claim and, within thirty (30) days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one (1) of the following actions in writing:
  - a. Deny the claim in whole or in part,
  - b. Approve the claim, or
  - c. Notify the parties that the Chief Procurement Officer is unable to resolve the claim if, in the Chief Procurement Officer's sole discretion, it would be inappropriate for the Chief Procurement Officer to do so. For purposes of further resolution of the claim, such notice shall be deemed a denial.
4. In the event that Chief Procurement Officer does not take action on a claim within said thirty (30) days, the claim shall be deemed denied.
5. Chief Procurement Officer's written action or denial pursuant to Paragraphs 3. and 4., above will be final and binding upon Owner and Vendor/Contractor, unless Owner or Vendor/Contractor invoke the dispute resolution procedure set forth in Section titled "DISPUTE RESOLUTION" within thirty (30) days of such action or denial.

6. No claim for an adjustment in contract price or contract times will be valid if not submitted in accordance with the provisions stated in Section titled "CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES" .

#### 9.17. COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

##### A. Cost of the Work:

1. Costs Included: The term "cost of the work" means the sum of all costs, except those excluded according to Section titled "COSTS EXCLUDED" below, necessarily incurred and paid by Vendor/Contractor in the proper performance of the work. When the value of any work covered by a change order or when a claim for an adjustment in contract price is determined on the basis of cost of the work, the costs to be reimbursed to Vendor/Contractor will be only those additional or incremental costs required because of the change in the work or because of the event giving rise to the claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the project, shall include only the following items, and shall not include any of the costs itemized in Section titled "COSTS EXCLUDED".
  - a. Payroll costs for employees in the direct employ of Vendor/Contractor in the performance of the work under schedules of job classifications agreed upon by Owner and Vendor/Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the site. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include Social Security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
  - b. Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and suppliers' field services required in connection therewith. All cash discounts shall accrue to Vendor/Contractor unless Owner deposits funds with Vendor/Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Vendor/Contractor shall make provisions so that they may be obtained.
  - c. Payments made by Vendor/Contractor to subcontractors for work performed by subcontractors. If required by Owner, Vendor/Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Vendor/Contractor and shall deliver such

bids to Owner, who will then determine, with the advice of Owner Designated Representative, which bids, if any, will be acceptable. If any subcontract provides that the subcontractor is to be paid on the basis of cost of the work plus a fee, the subcontractor's cost of the work and fee shall be determined in the same manner as Vendor/Contractor's cost of the work and fee as provided in this Section titled "COST OF THE WORK".

- d. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the work.
- e. Supplemental costs including the following:
  - i. The proportion of necessary transportation, travel, and subsistence expenses of Vendor/Contractor's employees incurred in discharge of duties connected with the work.
  - ii. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the site, and hand tools not owned by the workers, which are consumed in the performance of the work, and cost, less market value, of such items used but not consumed which remain the property of Vendor/Contractor.
  - iii. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Vendor/Contractor or others in accordance with rental agreements approved by Owner with the advice of the Owner Designated Representative, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the work.
  - iv. Sales, consumer, use, and other similar taxes related to the work, and for which Vendor/Contractor is liable, imposed by laws and regulations.
  - v. Deposits lost for causes other than negligence of Vendor/Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - vi. Losses and damages (and related expenses) caused by damage to the work, not compensated by insurance or otherwise, sustained by Vendor/Contractor in connection with the performance of the work (except losses and damages within the deductible amounts of property insurance established in accordance with the Contract Documents), provided such losses and damages have resulted from causes

other than the negligence of Vendor/Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the cost of the work for the purpose of determining Vendor/Contractor's fee.

vii. The cost of utilities, fuel, and sanitary facilities at the site.

viii. Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressages, and similar petty cash items in connection with the work.

ix. Vendor/Contractor is required by the Contract Documents to purchase and maintain all bonds and insurance.

2. Costs Excluded: The term cost of the work shall not include any of the following items:

a. Payroll costs and other compensation of Vendor/Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, procurement and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Vendor/Contractor, whether at the site or in Vendor/Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 1. (in this section) or specifically covered by Paragraph 1. d. (in this section), all of which are to be considered administrative costs covered by the Vendor/Contractor's fee.

i. Expenses of Vendor/Contractor's principal and branch offices other than Vendor/Contractor's office at the site.

ii. Any part of Vendor/Contractor's capital expenses, including interest on Vendor/Contractor's capital employed for the work and charges against Vendor/Contractor for delinquent payments.

iii. Costs due to the negligence of Vendor/Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

iv. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 1. and 2. (in this section).

3. Vendor/Contractor's Fee: When all the work is performed on the basis of cost-plus, Vendor/Contractor's fee shall be determined as set forth in the Agreement. When the value



of any work covered by a change order or when a claim for an adjustment in contract price is determined on the basis of cost of the work, Vendor/Contractor's fee shall be determined as set forth in Section titled: "CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES" Paragraph titled: "VENDOR/CONTRACTOR'S FEE".

4. Documentation: Whenever the cost of the work for any purpose is to be determined pursuant to Paragraph 1.(in this section), Vendor/Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Owner Designated Representative an itemized cost breakdown together with supporting data.

B. Allowances:

1. It is understood that Vendor/Contractor has included in the contract price all allowances so named in the Contract Documents and shall cause the work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
2. Cash Allowances:
  - a. Vendor/Contractor agrees that:
    - i. The cash allowances include the cost to Vendor/Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and
    - ii. Vendor/Contractor's costs for unloading and handling on the site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
3. Contingency Allowance: Vendor/Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
4. Prior to final payment, an appropriate change order will be issued as recommended by Engineer to reflect actual amounts due Vendor/Contractor on account of work covered by allowances, and the contract price shall be correspondingly adjusted.

C. Unit Price Work:

1. Where the Contract Documents provide that all or part of the work is to be unit price work, initially the contract price will be deemed to include for all unit price work an amount equal to the sum of the unit price for each separately identified item of unit price work times the estimated quantity of each item as indicated in the Agreement.
2. The estimated quantities of items of unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial contract price. Determinations of the actual quantities and classifications of unit price work performed by

Vendor/Contractor will be made by Owner Designated Representative subject to the provisions stated in the Contract Documents.

3. Each unit price will be deemed to include an amount considered by Vendor/Contractor to be adequate to cover Vendor/Contractor's overhead and profit for each separately identified item.

## 9.18. CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

### Change of Contract Price:

- A. The Contract Price may only be changed by a change order. Any claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the claim to the Owner Designated Representative and the Chief Procurement Officer to the Contract in accordance with Section titled "CHANGES IN THE WORK; CLAIMS" Paragraph titled "Claims" above .
- B. The value of any work covered by a change order or of any claim for an adjustment in the Contract Price will be determined as follows:
  1. Where the work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions stated in Section titled: "COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK" Paragraph titled: "UNIT PRICE WORK"; or
  2. Where the work involved is not covered by unit prices contained in the Contract Documents, but by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with above Section titled: COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK" Paragraph titled "CASH ALLOWANCES"); or
  3. Where the work involved is not covered by unit prices contained in the Contract Documents and Agreement to a lump sum is not reached under above Section titled: "COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK" Paragraph titled: "COST OF THE WORK" , on the basis of the cost of the work, plus a Vendor/Contractor's fee for overhead and profit as described in this Section, Paragraph titled "VENDOR/CONTRACTOR'S FEE", immediately below.
- C. Vendor/Contractor's Fee: The Vendor/Contractor's fee for overhead and profit shall be determined as follows:
  1. A mutually acceptable fixed fee; or
  2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the cost of the work:
    - a. For costs incurred under Paragraphs B.1. and B.2. (in this section), the Vendor/Contractor's fee shall be fifteen percent (15%);

- b. For costs incurred under Paragraph B.3. (in this section) , the Vendor/Contractor's fee shall be five percent (5%);
  - c. Where one (1) or more tiers of Sub-Contracts are on the basis of cost of the work plus a fee and no fixed fee is agreed upon, the intent of Paragraph C.2.a. above (in this section) is that the subcontractor who actually performs the work, at whatever tier, will be paid a fee of fifteen percent (15%) of the costs incurred by such subcontractor under Paragraphs B.1 and B.2. (in this section) and that any higher tier subcontractor and Vendor/Contractor will each be paid a fee of five percent (5%) of the amount paid to the next lower tier subcontractor;
  - d. No fee shall be payable on the basis of costs itemized under Section titled "COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK" Paragraph titled "COST OF THE WORK", "COSTS INCLUDED" paragraph 1.A.4, 1.A.5 and 1.B.;
  - e. The amount of credit to be allowed by Vendor/Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Vendor/Contractor's fee by an amount equal to five percent (5%) of such net decrease; and
  - f. When both additions and credits are involved in any one (1) change, the adjustment in Vendor/Contractor's fee shall be computed on the basis of the net change in accordance with above Paragraphs (in this section) C.2.a. through C.2.f., inclusive.
- D. In such case, the Vendor/Contractor will submit in the form prescribed by the Owner, an itemized cost breakdown together with supporting data. The amount of credit to be allowed by the Vendor/Contractor to the Owner for any such change which results in a net decrease in cost, will be the amount of the actual net decrease as determined by the Owner. When both additions and credits are involved in any one (1) change, the combined overhead and profit shall be figured on the basis of the net decrease, if any.

#### 9.19. CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES (continued)

- A. Change of Contract Times:
  - 1. The Contract Times may only be changed by a change order. Any claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the claim to the Engineer and the other party to the Contract in accordance with the provisions of Section titled " CHANGES INT HE WORK; CLAIMS" paragraph titled "CLAIMS".
  - 2. Any adjustment of the contract times covered by a change order or any claim for an adjustment in the contract times will be determined in accordance with the provisions of this paragraph.
- B. Delays:

1. Where Vendor/Contractor is prevented from completing any part of the work within the contract times due to delay beyond the control of Vendor/Contractor, the contract times will be extended in an amount equal to the time lost due to such delay if a claim is made therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS, paragraph titled "CLAIMS". Delays beyond the control of Vendor/Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other Vendor/Contractors performing other work, fires, floods, epidemics, abnormal weather conditions, or acts of God.
2. If Owner, Engineer, or other Vendor/Contractors or utility owners performing other work for Owner, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the work, then Vendor/Contractor shall be entitled to an equitable adjustment in the contract price or the contract times, or both.  
Vendor/Contractor's entitlement to an adjustment of the contract times is conditioned on such adjustment being essential to Vendor/Contractor's ability to complete the work within the contract times.
3. If Vendor/Contractor is delayed in the performance or progress of the work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Vendor/Contractor, then Vendor/Contractor shall be entitled to an equitable adjustment in contract times, if such adjustment is essential to Vendor/Contractor's ability to complete the work within the Contract Times. Such an adjustment shall be Vendor/Contractor's sole and exclusive remedy for the delays described in this paragraph.
  - a. Time Extensions for Delays Caused by Weather - Extensions of Contract Time for delays caused by the effects of inclement weather are justified only when inclement weather conditions or related adverse soil conditions prevent the Contractor from productively performing controlling items of work resulting in:
    - i. The Vendor/Contractor being unable to work at least fifty percent (50%) of the normal work day on the predetermined controlling work items; or
    - ii. The Vendor/Contractor must make major repairs to work damaged by weather, providing the damage was not attributable to a failure to perform or neglect by the Contractor.
    - iii. Vendor/Contractor must submit a written notice along with their updated Progress Schedule with their monthly progress payment request. If no monthly progress payment is being submitted for the month, then a written notice within thirty (30) days after occurrence of the event(s) giving rise to the weather delays must be submitted to the Owner, Engineer or designated person.

- b. Project Manager/Inspector - Daily reports shall be maintained for all projects by the Project Manager/Inspector. This shall include weather conditions, working conditions, erosion control, and effects of weather on major work items identified on the progress schedule and general comments as a minimum.
- c. Project Manager/Inspector - Daily reports shall be maintained for all projects by the Project Manager/Inspector. This shall include weather conditions, working conditions, erosion control, and effects of weather on major work items identified on the progress schedule and general comments as a minimum.
- d. Weather Delays for Projects - Time extensions will be granted on a contract day per delayed day.
  - i. The Contractor provides a schedule which identifies the intended work week, thus determining the scheduled work days and the controlling items of work. The initial progress schedule must be approved and agreed to by Owner, Engineer, or designated person and Contractor's Representative prior to the notice to proceed being issued and before any work has been performed and monthly when submitted with the pay request if any changes have occurred during the reporting period. No weather delays will be recognized before the Vendor/Contractor actually begins work or attempts to begin work in accordance with the approved project work schedule. Weather delays will be granted only during the authorized contract time period.
  - ii. The Owner, Engineer or designated person shall review the request and the daily reports and determine if these delays are authorized. A written response will be given to the Contractor/Vendor within five (5) business days after receipt of the request. The Chief Procurement Officer will be provided a copy of this letter and any related correspondence.
- 4. Owner, Engineer and the related entities of each of them shall not be liable to Vendor/Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Vendor/Contractor on or in connection with any other project or anticipated project.
- 5. Vendor/Contractor shall not be entitled to an adjustment in contract price or contract times for delays within the control of Vendor/Contractor. Delays attributable to and within the control of a subcontractor or supplier shall be deemed to be delays within the control of Vendor/Contractor.

## 9.20. TESTS AND INSPECTIONS; CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK:

- A. Notice of Defects: Prompt notice of all defective work of which Owner or Engineer has actual knowledge will be given to Vendor/Contractor. All defective work may be rejected, corrected, or accepted as provided in this Paragraph.
- B. Access to Work: Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the site and the work at reasonable times for their observation, inspecting, and testing. Vendor/Contractor shall provide them proper and safe conditions for such access and advise them of Vendor/Contractor's site safety procedures and programs so that they may comply therewith as applicable.
- C. Tests and Inspections:
  - 1. Vendor/Contractor shall give Engineer timely notice of readiness of the work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
  - 2. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
    - a. For inspections, tests, or approvals covered by Paragraphs D. and E. below;
    - b. That costs incurred in connection with tests or inspections conducted pursuant to Paragraph C.2. shall be paid according to Paragraph E.; and
    - c. As otherwise specifically provided in the Contract Documents.
  - 3. If laws or regulations of any public body having jurisdiction require any work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Vendor/Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Owner Designated Representative the required certificates of inspection or approval.
  - 4. Vendor/Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Owner Designated Representative's acceptance of materials or equipment to be incorporated in the work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Vendor/Contractor's purchase thereof for incorporation in the work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Owner Designated Representative.

5. If any work (or the work of others) that is to be inspected, tested, or approved is covered by Vendor/Contractor without written concurrence of Owner Designated Representative, it must, if requested by Owner Designated Representative, be uncovered for observation.
6. Uncovering work as provided in Paragraph D. shall be at Vendor/Contractor's expense unless Vendor/Contractor has given Engineer timely notice of Vendor/Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.
7. Periodic inspections will be held throughout the work at the discretion of the Owner and Engineer to verify progress and compliance to Contract Documents, pay requests and general quality control.
8. Pre-final inspections are held for the purpose of substantiating completion of the work and preparing a punch-list of any deficiencies or corrections to be made. Pre-finals should be made with a representative of the Vendor/Contractor, Owner Designated Representative and Owner.
9. Final inspections will be held prior to acceptance in order to verify that all corrections and/or deficiencies have been performed or resolved and such inspection shall be mandatory prior to approval of final pay request. Finals shall be made with a representative of the Vendor/Contractor, Engineer and Owner.

D. Uncovering Work:

1. If any work is covered contrary to the written request of Owner Designated Representative, it must, if requested by Owner Designated Representative, be uncovered for Owner Designated Representative's observation and replaced at Vendor/Contractor's expense.
2. If Owner Designated Representative considers it necessary or advisable that covered work be observed by Owner Designated Representative or inspected or tested by others, Vendor/Contractor, at Owner Designated Representative's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Owner Designated Representative may require, that portion of the work in question, furnishing all necessary labor, material, and equipment.
3. If it is found that the uncovered work is defective, Vendor/Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the contract price. if the parties are unable to agree as to the

amount thereof, Owner may make a claim therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS" paragraph titled "CLAIMS".

4. If, the uncovered work is not found to be defective, and there are no related inspection requirements in the contract documents, Vendor/Contractor shall be allowed an increase in the contract price or an extension of the contract times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Vendor/Contractor may make a claim therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS" paragraph titled "CLAIMS".
- E. Owner Designated Representative May Stop the Work: If the work is defective, or Vendor/Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the work in such a way that the completed work will conform to the contract documents, Owner may order Vendor/Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Vendor/Contractor, any subcontractor, any supplier, any other individual or entity, or any surety for, or employee or agent of any of them.
- F. Correction or Removal of Defective Work:
1. Promptly after receipt of notice, Vendor/Contractor shall correct all defective work, whether or not fabricated, installed, or completed, or, if the work has been rejected by Owner Designated Representative, remove it from the project and replace it with work that is not defective. Vendor/Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
  2. When correcting defective work under the terms of this paragraph or the paragraph below, Vendor/Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said work.
- G. Correction Period:
1. If within one (1) year after the date of substantial completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the contract documents, any work is found to be defective, or if the repair of any damages to the land or areas made available for Vendor/Contractor's use by Owner or permitted by laws and regulations as contemplated in the Contract Documents is found to be defective, Vendor/Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:



- a. Repair such defective land or areas; or
  - b. Correct such defective work; or
  - c. If the defective work has been rejected by Owner, remove it from the project and replace it with work that is not defective, and
  - d. Satisfactorily correct or repair or remove and replace any damage to other work, to the work of others or other land or areas resulting therefrom.
2. If Vendor/Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective work corrected or repaired or may have the rejected work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Vendor/Contractor.
  3. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the work, the correction period for that item may start to run from an earlier date if so provided in the specifications.
  4. Where defective work (and damage to other work resulting therefrom) has been corrected or removed and replaced under above paragraph F, the correction period hereunder with respect to such work will be extended for an additional period of one (1) year after such correction or removal and replacement has been satisfactorily completed.
  5. Vendor/Contractor's obligations under above paragraph F. are in addition to any other obligation or warranty. The provisions of Paragraph F. shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.
- H. Acceptance of Defective Work: If, instead of requiring correction or removal and replacement of defective work, Owner (and, prior to Owner Designated Representative's recommendation of final payment, Owner Designated Representative) prefers to accept it, Owner may do so. Vendor/Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective work (such costs to be approved by Owner Designated Representative as to reasonableness) and the diminished value of the work to the extent not otherwise paid by Vendor/Contractor pursuant to this sentence. If any such acceptance occurs prior to Owner Designated Representative's recommendation of final payment, a change order will be issued incorporating the necessary revisions in the contract documents with respect to the work, and Owner shall be entitled to an appropriate decrease in the contract price,

reflecting the diminished value of work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a claim therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS", paragraph titled "CLAIMS". If the acceptance occurs after such recommendation, an appropriate amount will be paid by Vendor/Contractor to Owner.

I. Owner May Correct Defective Work:

1. If Vendor/Contractor fails within a reasonable time after written notice from Owner Designated Representative to correct defective work or to remove and replace rejected work as required by Owner Designated Representative in accordance with Paragraph F., or if Vendor/Contractor fails to perform the work in accordance with the contract documents, or if Vendor/Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven (7) days written notice to Vendor/Contractor, correct or remedy any such deficiency.
2. In exercising the rights and remedies under this paragraph, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Vendor/Contractor from all or part of the site, take possession of all or part of the work and suspend Vendor/Contractor's services related thereto, take possession of Vendor/Contractor's tools, appliances, construction equipment and machinery at the site, and incorporate in the work all materials and equipment stored at the site or for which Owner has paid Vendor/Contractor but which are stored elsewhere. Vendor/Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other Vendor/Contractors, and Engineer and Engineer's consultants access to the site to enable Owner to exercise the rights and remedies under this paragraph.
3. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under Paragraph I. will be charged against Vendor/Contractor, and a change order will be issued incorporating the necessary revisions in the Contract Documents with respect to the work; and Owner shall be entitled to an appropriate decrease in the contract price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a claim therefore as provided in Section titled "CHANGES IN THE WORK; CLAIMS", paragraph titled "CLAIMS". Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Vendor/Contractor's defective work.
4. Vendor/Contractor shall not be allowed an extension of the contract times because of any delay in the performance of the work attributable to the exercise by Owner of Owner's rights and remedies under Paragraph I.

## 9.21. PAYMENTS TO CONTRACTOR AND COMPLETION

- A. Schedule of Values: The Schedule of Values established as provided in Section titled "STARTING THE WORK", paragraph A. 2. c. will serve as the basis for progress payments and will be incorporated into a form of application for payment acceptable to Owner Designated Representative. Progress payments on account of unit price work will be based on the number of units completed.
- B. Progress Payments:
  1. Application for Payments:
    - a. At least twenty (20) business days before the date established in the Agreement for each progress payment (but not more often than once a month), Vendor/Contractor shall submit to Owner Designated Representative for review an application for payment filled out and signed by vendor/contractor covering the work completed as of the date of the application and accompanied by such supporting documentation as is required by the contract documents. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment all of which must be satisfactory to Owner.
    - b. Beginning with the second application for payment, each application shall include an affidavit of Vendor/Contractor stating that all previous progress payments received on account of the work have been applied on account to discharge Vendor/Contractor's legitimate obligations associated with prior applications for payment.
    - c. The amount of retainage with respect to progress payments will be as stipulated in Article 5.02 of the construction agreement.
    - d. All progress payments will be subject to withholding and payment of retainage as specified under the provisions of Ch. 218.735, F.S. (current version) and as stipulated in the Contract Agreement attached herein. Payment requests will be processed within the time periods established by applicable provisions of the Florida Prompt Payment Act, Part VII, Ch. 218.735, F.S (current version).
  2. Review of Applications:
    - a. Owner Designated Representative will, within five (5) business days after receipt of each application for payment, either indicate in writing a recommendation of payment and present the application to Owner or return the application to Vendor/Contractor indicating in writing Owner Designated Representative's reasons for refusing to recommend payment. In the latter case, Vendor/Contractor may make the necessary corrections and resubmit the application.

- b. Owner Designated Representative's recommendation of any payment requested in an application for payment will constitute a representation by Owner Designated Representative to Owner, based on Owner Designated Representative's observations on the site of the executed work as an experienced and qualified design professional and on Owner Designated Representative's review of the application for payment and the accompanying data and schedules, that to the best of Owner Designated Representative's knowledge, information and belief:
  - i. The work has progressed to the point indicated;
  - ii. The quality of the work is generally in accordance with the Contract Documents (subject to an evaluation of the work as a functioning whole prior to or upon substantial completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for unit price work under above Section titled: "COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK", and to any other qualifications stated in the recommendation); and
  - iii. The conditions precedent to Vendor/Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Owner Designated Representative's responsibility to observe the work.
- c. By recommending any such payment Owner Designated Representative will not thereby be deemed to have represented that:
  - i. Inspections made to check the quality or the quantity of the work as it has been performed have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to Owner Designated Representative in the Contract Documents; or
  - ii. That there may not be other matters or issues between the parties that might entitle Vendor/Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Vendor/Contractor.
- d. Neither Owner Designated Representative's review of Vendor/Contractor's work for the purposes of recommending payments nor Owner Designated Representative's recommendation of any payment, including final payment, will impose responsibility on Owner Designated Representative:
  - i. To supervise, direct, or control the work, or
  - ii. For the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

- iii. For Vendor/Contractor's failure to comply with laws and regulations applicable to Vendor/Contractor's performance of the work, or
  - iv. To make any examination to ascertain how or for what purposes Vendor/Contractor has used the moneys paid on account of the contract price, or
  - v. To determine that title to any of the work, materials, or equipment has passed to Owner free and clear of any liens.
- e. Owner Designated Representative may refuse to recommend the whole or any part of any payment if, in Owner Designated Representative's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 2.b., above. Owner Designated Representative may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Owner Designated Representative's opinion to protect Owner from loss because:
- i. The work is defective, or completed work has been damaged, requiring correction or replacement;
  - ii. The contract price has been reduced by change orders;
  - iii. Owner has been required to correct defective work or complete work in accordance with above Paragraph titled "Owner May Correct Defective Work" in Section titled: "TESTS AND INSPECTIONS; CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK"; or
  - iv. Owner Designated Representative has actual knowledge of the occurrence of any of the events enumerated in below Paragraph titled "Owner May Terminate for Cause: " in Section titled: "TERMINATION AND SUSPENSION OF WORK".
3. Payment Becomes Due: The application for payment, and all of the required Federal and State submittals, with the Owner Designated Representative's recommendations will be presented to the Owner for consideration. If the Owner finds the application for payment acceptable, the recommended amount, less any reduction under the provisions of Paragraph B. 2. (in this section), will become due twenty-five (25) business days after the application for payment is presented to the Owner, and the Owner will make payment to the Vendor/Contractor.
4. Payment to Vendor/Contractor by Electronic Payment Solution: ACH (Direct Deposit): If the Vendor/Contractor is enrolled in the County's ACH electronic payment solution, all payments will be made using the direct deposit which may or may not include a pre-note transaction. The Vendor/Contractor's bank account information will remain confidential to the extent provided by law and necessary to make direct deposit payments. Once the

County has approved payment, an electronic remittance advice will be sent to the Vendor/Contractor via e-mail.

5. Reduction in Payment:

- a. Owner may refuse to make payment of the full amount recommended by Owner Designated Representative because:
  - i. Claims have been made against Owner on account of Vendor/Contractor's performance or furnishing of the work;
  - ii. Liens have been filed in connection with the work, except where Vendor/Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such liens;
  - iii. The Vendor/Contractor's performance or furnishing of the work is inconsistent with funding agency requirements;
  - iv. There are other items entitling Owner to a set off against the amount recommended; or
  - v. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs B. 2. e. i. through B. 2. e. iii. (in this section) or below Paragraph titled "Owner May Terminate for Cause" in Section titled: "TERMINATION AND SUSPENSION OF WORK".
- b. If Owner refuses to make payment of the full amount recommended by Owner Designated Representative, Owner will (in no case more than twenty (20) business days after receipt and twenty-five (25) business days for payment) give Vendor/Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Vendor/Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Vendor/Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Vendor/Contractor, when Vendor/Contractor corrects to Owner's satisfaction the reasons for such action.
- c. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph B. 3. (in this section).
- d. No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Vendor/Contractor.

C. Vendor/Contractor's Warranty of Title:

1. Vendor/Contractor warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the project or not, will

pass to Owner prior to the making of the application for payment, free and clear of all liens, claims, security interests and encumbrances; and that no work, materials or equipment covered by an application for payment will have been acquired by the Vendor/Contractor or by any other person performing the work at the site or furnishing materials and equipment for the project subject to an Agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Vendor/Contractor or such other person.

2. In compliance with the above and as verification of the Vendor/Contractor's compliance with applicable provisions of the Florida Prompt Payment Act, Part VII, Ch. 218.735, F.S. (current version), concerning payment to subcontractors and suppliers, the Vendor/Contractor, in addition to any other payment provisions set in this contract, shall prior to submission of the second application for payment, produce for the Owner evidence, in the form of releases of lien or subcontractor(s)/suppliers affidavits of payment received, that all subcontractors and suppliers have been paid any sum or sums then due within the time periods so specified. This reporting process shall be repeated following each succeeding payment to the Vendor/Contractor throughout the life of the Contract. A failure on the part of the Vendor/Contractor to provide the releases as required herein shall result in further progress or partial payments being withheld until the releases or payment affidavits are provided.

D. Partial Utilization:

1. Prior to Substantial Completion of all the work, Owner may use or occupy any substantially completed part of the work which has specifically been identified in the Contract Documents, or which Owner, Owner Designated Representative, and Vendor/Contractor agree constitutes a separately functioning and usable part of the work that can be used by Owner for its intended purpose without significant interference with Vendor/Contractor's performance of the remainder of the work, subject to the following conditions.
  - a. Owner at any time may request Vendor/Contractor in writing to permit Owner to use or occupy any such part of the work which Owner believes to be ready for its intended use and substantially complete. If and when Vendor/Contractor agrees that such part of the work is substantially complete, Vendor/Contractor will certify to Owner and Owner Designated Representative that such part of the work is substantially complete and request Owner Designated Representative to issue a certificate of substantial completion for that part of the work.
  - b. Vendor/Contractor at any time may notify Owner and Owner Designated Representative in writing that Vendor/Contractor considers any such part of the work ready for its intended use and is thus substantially complete and may request Owner Designated Representative to issue a certificate of substantial completion for that part of the work.

- c. Within a reasonable time after either such request, Owner, Vendor/Contractor, and Owner Designated Representative shall make an inspection of that part of the work to determine its status of completion. If Owner Designated Representative does not consider that part of the work to be substantially complete, Owner Designated Representative will notify Owner and Vendor/Contractor in writing giving the reasons therefore. If Owner Designated Representative considers that part of the work to be substantially complete, the provisions stated herein will apply with respect to certification of Substantial Completion of that part of the work and the division of responsibility in respect thereof and access thereto.
  - d. No use or occupancy or separate operation of part of the work may occur prior to compliance with the requirements of the contract documents regarding property insurance.
- E. Substantial Completion:
- 1. When Vendor/Contractor considers the entire work ready for its intended use Vendor/Contractor shall notify Owner and Owner Designated Representative in writing that the entire work is substantially complete (except for items specifically listed by Vendor/Contractor as incomplete) and request that the Owner issue a certificate of substantial completion.
  - 2. Promptly after Vendor/Contractor's notification, Owner, Agency, Vendor/Contractor, and Owner Designated Representative shall make a pre-final inspection of the work to determine the status of completion. If Owner Designated Representative does not consider the work substantially complete, Owner Designated Representative will notify Vendor/Contractor in writing giving the reasons therefore.
  - 3. If the Owner Designated Representative considers the work substantially complete, Owner Designated Representative will deliver to Owner a tentative certificate of substantial completion which shall fix the date of substantial completion. there shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven (7) days after receipt of the tentative certificate during which to make written objection to Owner Designated Representative as to any provisions of the certificate or attached list. If, after considering such objections, Owner Designated Representative concludes that the work is not substantially complete, Owner Designated Representative will within fourteen (14) days after submission of the tentative certificate to Owner notify Vendor/Contractor in writing, stating the reasons therefore. If, after consideration of Owner's objections, Owner Designated Representative considers the work substantially complete, Owner Designated Representative will within said fourteen (14) days execute and deliver to Owner and Vendor/Contractor a definitive certificate of substantial completion (with a revised tentative list of items to be completed or corrected) reflecting



- such changes from the tentative certificate as Owner Designated Representative believes justified after consideration of any objections from Owner.
4. At the time of delivery of the tentative certificate of Substantial Completion, Owner Designated Representative will deliver to Owner and Vendor/Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Vendor/Contractor with respect to security, operation, safety, and protection of the work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Vendor/Contractor agree otherwise in writing and so inform Owner Designated Representative in writing prior to Owner Designated Representative's issuing the definitive certificate of substantial completion, Owner Designated Representative's aforesaid recommendation will be binding on Owner and Vendor/Contractor until final payment.
  5. Owner shall have the right to exclude Vendor/Contractor from the site after the date of Substantial Completion subject to allowing Vendor/Contractor reasonable access to complete or correct items on the tentative list.
- F. Final Inspection: Upon written notice from Vendor/Contractor that the entire work or an agreed portion thereof is complete, Owner Designated Representative will promptly make a final inspection with Owner, Agency, and Vendor/Contractor and will notify Vendor/Contractor in writing of all particulars in which this inspection reveals that the work is incomplete or defective. Vendor/Contractor shall immediately take such measures as are necessary to complete such work or remedy such deficiencies.

## 9.22. PAYMENTS TO CONTRACTOR AND COMPLETION (continued)

- A. Final Payment:
1. Application for Payment:
    - a. After Vendor/Contractor has, in the opinion of Owner Designated Representative, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the contract documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked up record documents, and other documents, Vendor/Contractor may make application for final payment following the procedure for progress payments.
    - b. The final application for payment shall be accompanied (except as previously delivered) by:
      - i. All documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by above Section titled: "INSURANCE REQUIREMENTS" ;

- ii. Consent of the surety, if any, to final payment;
    - iii. A list of all claims against Owner that Vendor/Contractor believes are unsettled; and
    - iv. Complete and legally effective releases or waivers (satisfactory to Owner) of all lien rights arising out of or liens filed in connection with the work.
  - c. In lieu of the releases or waivers of liens specified in above Paragraph A. 1. b. iv. and as approved by Owner, Vendor/Contractor may furnish receipts or releases in full and an affidavit of Vendor/Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any subcontractor or supplier fails to furnish such a release or receipt in full, Vendor/Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any lien.
- 2. Owner Designated Representative's Review of Application and Acceptance:
  - a. If, on the basis of Owner Designated Representative's observation of the work during construction and final inspection, and Owner Designated Representative's review of the final application for payment and accompanying documentation as required by the Contract Documents, Owner Designated Representative is satisfied that the work has been completed and Vendor/Contractor's other obligations under the Contract Documents have been fulfilled, Owner Designated Representative will, within ten (10) days after receipt of the final application for payment, indicate in writing Owner Designated Representative's recommendation of payment and present the application for payment to Owner for payment. At the same time Owner Designated Representative will also give written notice to Owner and Vendor/Contractor that the work is acceptable to the provisions as described in above Paragraph A titled "Final Payment" (in this section) . Otherwise, Owner Designated Representative will return the application for payment to Vendor/Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Vendor/Contractor shall make the necessary corrections and resubmit the application for payment.
- 3. Payment Becomes Due: After the presentation to Owner of the application for payment and accompanying documentation to include all of the required Federal and State submittals, the Owner will, within the time periods established by applicable provisions of the Florida Prompt Payment Act, Part VII, Ch. 218.735, F.S. (current version), pay the Vendor/Contractor the amount recommended by Owner Designated Representative, less any sum Owner is entitled to set off against Owner Designated Representative's recommendation, including but not limited to liquidated damages.

- B. Final Completion Delayed: If, through no fault of Vendor/Contractor, final completion of the work is significantly delayed, and if owner designated representative so confirms, owner shall, upon receipt of vendor/contractor's final application for payment (for work fully completed and accepted) and recommendation of Owner Designated Representative, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance to be held by Owner for work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in above Section titled "PERFORMANCE AND PAYMENT BOND", the written consent of the surety to the payment of the balance due for that portion of the work fully completed and accepted shall be submitted by Vendor/Contractor to Owner Designated Representative with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The remaining balance of any sum included in the final application for payment but held by Owner for work not fully completed and accepted will become due when the work is fully completed and accepted.
- C. Waiver of Claims: The making and acceptance of final payment will constitute:
1. A waiver of all claims by Owner against Vendor/Contractor, except claims arising from unsettled liens, from defective work appearing after final inspection pursuant to above Section titled "TESTS AND INSPECTIONS; CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK", paragraph titled "CORRECTION OR REMOVAL OF DEFECTIVE WORK", from failure to comply with the contract documents or the terms of any special guarantees specified therein, or from Vendor/Contractor's continuing obligations under the contract documents; and
  2. A waiver of all claims by Vendor/Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.
- D. Vendor/Contractor's Continuing Obligation: The Vendor/Contractor's obligation to perform the work and complete the work in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the County, the issuance of Certificate of Completion, any payment by the County to the Vendor/Contractor under the contract documents, any use or occupancy of the work or any part thereof by the County, any act of acceptance by the County, any failure to do so, nor any correction of defective work by the County shall constitute an acceptance of work not in accordance with the contract documents.
1. Contract Closeout:
    - a. Pre-final and Final Inspections:
      - i. Upon completion of work, Vendor/Contractor shall submit written certification that the Contract Documents have been reviewed, the work has been inspected by the

- Vendor/Contractor, and that the work is substantially complete in accordance with the contract document and ready for Engineer/Owner Designated Representative's inspection.
- ii. At this time the representatives of the Vendor/Contractor, Engineer/Owner Designated Representative's and Owner shall make a pre-final/substantial completion inspection with reasonable promptness. If the work is complete or defective, Engineer/Owner Designated Representative will notify the Contractor to remedy these deficiencies by insurance of a pre-final punch-list.
  - iii. Upon written notification from the Vendor/Contractor of substantial completion of the pre-final punch list items, the Engineer/Owner Designated Representative will coordinate the re-inspection of the work by conducting a final inspection. Representatives of the Contract, Engineer, and Owner Designated Representative shall be present for the final inspection.
  - iv. Vendor/Contractor shall submit the final signed and sealed As-Built drawings ten (10) days prior to the final inspection and provide all other submittals to the Engineer/Owner Designated Representative's that are required.
- b. Project Record Documents: The Vendor/Contractor shall maintain on site, one (1) set of the following record documents; recording actual revisions of the work commensurate with the construction progress:
- i. Contract Drawings
  - ii. Specifications
  - iii. Addenda
  - iv. Change Orders and other modification to the Contract
  - v. Reviewed (and approved) Shop Drawings and Product Data
  - vi. Permits
- c. Closeout Submittals: When the Engineer/Owner Designated Representative's has determined that the work is acceptable under the Contract Documents, and the contract is fully performed, the Vendor/Contractor shall prepare and submit its final application for payment to the Engineer/Owner Designated Representative's with the following:
- i. Contractor's Lien Waiver in the full amount of the contract sum.
  - ii. Lien waivers from all subcontractors and material suppliers who have furnished for the work under contract with the Contactor or subcontractor. The lien waivers shall be in the full amount of the Contract involved.

- iii. Consent of Surety to final payment.
- iv. Evidence of compliance with governing authorities.
- v. Certifications of inspections from all required agencies and departments, as needed.
- vi. Warranties and Maintenance Bond.
- vii. Confirmation from Florida Department of Environmental Protection the National Pollution Discharge Elimination System Notice of Termination (NOT) has been filed.
- viii. Any outstanding documentation and/or reports necessary to insure compliance with FDOT requirements.
- ix. As-Built documents prepared in accordance with the contract documents and signed and sealed by a professional surveyor and mapper, registered in the State of Florida and all other requirements as set forth in the contract documents.

### 9.23. TERMINATION AND SUSPENSION OF WORK

#### A. Termination for Default:

1. The County may, by written notice to the Vendor/Contractor, terminate this Contract for default in whole or in part (delivery orders, if applicable) if the Vendor/Contractor fails to:
  - a. Provide products or services that comply with the specifications herein or fails to meet the County's performance standards.
  - b. Deliver the supplies or to perform the services within the time specified in this Contract or any extension.
  - c. Make progress so as to endanger performance of this Contract.
  - d. Perform any of the other provisions of this Contract.
2. Prior to termination for default, the County will provide adequate written notice to the (Vendor/Contractor/Consultant) through the Chief Procurement Officer, Procurement Department, affording Vendor/Contractor the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the Vendor/Contractor in accordance with the County's Procurement Ordinance. The Vendor/Contractor and its sureties (if any) shall be liable for any damage to the County resulting from the Vendor/Contractor's default of the contract. This liability includes any increased costs incurred by the County in completing contract performance.
3. In the event of termination by the County for any cause, the Vendor/Contractor will have, in no event, any claim against the County for lost profits or compensation for lost

- opportunities. After a receipt of a termination notice and except as otherwise directed by the County the Vendor/Contractor shall:
- a. Stop work on the date and to the extent specified.
  - b. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
  - c. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the County.
  - d. Continue and complete all parts of that work that have not been terminated.
4. If the Vendor/Contractor's failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Vendor/Contractor, the Contract shall not be terminated for default. Examples of such causes include (1) acts of God or the public enemy, (2) acts of a government in its sovereign capacity, (3) fires, (4) floods, (5) epidemics, (6) strikes and (7) unusually severe weather.
- B. Termination for Convenience: The County, by written notice, may terminate this Contract, in whole or in part, when it is in the County's interest. If this Contract is terminated, the County shall be liable only for goods or services delivered and accepted. The county notice of termination may provide the Vendor/Contractor thirty (30) days prior notice before it becomes effective. A termination for convenience may apply to individual delivery orders, purchase orders or to the Contract in its entirety.
- C. Vendor/Contractor May Stop Work or Terminate:
1. If, through no act or fault of Vendor/Contractor, (i) the work is suspended for more than ninety (90) consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any application for payment within thirty (30) days after it is submitted, or (iii) Owner fails for thirty (30) days to pay Vendor/Contractor any sum finally determined to be due, then Vendor/Contractor may, upon seven (7) days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner.
  2. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an application for payment within thirty (30) days after it is submitted, or Owner has failed for thirty (30) days to pay Vendor/Contractor any sum finally determined to be due, Vendor/Contractor may, seven (7) days after written notice to Owner and Engineer, stop the work until payment is made of all such amounts due Vendor/Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Vendor/Contractor from making a claim as described in above Section titled "CHANGES IN THE WORK; CLAIMS", paragraph titled "Claims", for an adjustment in

contract price or contract times or otherwise for expenses or damage directly attributable to Vendor/Contractor's stopping the work as permitted by this paragraph.

- D. Owner May Suspend Work: Owner may suspend work at any time and without cause, for a period of not more than ninety (90) consecutive days by notice in writing to Vendor/Contractor and Engineer which will fix the date on which work will be resumed. Vendor/Contractor shall resume the work on the date so fixed. Vendor/Contractor shall be granted an adjustment in the contract price or an extension of the contract times, or both, directly attributable to any such suspension if Vendor/Contractor makes a claim therefore as provided in above Section titled: "CHANGES IN THE WORK; CLAIMS".
- E. Owner May Terminate for Cause:
1. The occurrence of any one (1) or more of the following events will justify termination for cause:
    - a. Vendor/Contractor's persistent failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under above Section titled "STARTING THE WORK" Paragraph A. 2. a. as adjusted from time to time pursuant to above Section titled "CONTRACTOR'S RESPONSIBILITY" Paragraph titled "Progress Schedule";
    - b. Vendor/Contractor's disregard of laws or regulations of any public body having jurisdiction;
    - c. Vendor/Contractor's disregard of the authority of Engineer; or
    - d. Vendor/Contractor's violation in any substantial way of any provisions of the Contract Documents.
  2. If one (1) or more of the events identified in above Paragraph E. 1. occur, Owner may, after giving Vendor/Contractor (and surety) seven (7) days written notice of its intent to terminate the services of Vendor/Contractor:
    - a. In exercising the rights and remedies under above Section titled "TESTS AND INSPECTIONS; CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK" Paragraph titled "Owner May Correct Defective Work", Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Vendor/Contractor from all or part of the site (without liability to Vendor/Contractor for trespass or conversion), take possession of all or part of the work and suspend Vendor/Contractor's services related thereto, take possession of Vendor/Contractor's tools, appliances, construction equipment and machinery at the site, and incorporate in the work all materials and equipment stored at the site or for which Owner has paid Vendor/Contractor but which are stored elsewhere. Vendor/Contractor shall allow

Owner, Owner's representatives, agents and employees, Owner's other Vendor/Contractors, and Engineer and Engineer's consultants access to the site to enable Owner to exercise the rights and remedies under above Section titled "TESTS AND INSPECTIONS; CORRECTION, REMOVAL/ACCEPTANCE OF DEFECTIVE WORK" Paragraph titled "Owner May Correct Defective Work".

- b. Complete the work as Owner may deem expedient.
3. If Owner proceeds as provided in Paragraph E. 2 above, Vendor/Contractor shall not be entitled to receive any further payment until the work is completed. If the unpaid balance of the contract price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the work, such excess will be paid to Vendor/Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Vendor/Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a change order. When exercising any rights or remedies under this paragraph Owner shall not be required to obtain the lowest price for the work performed.
  4. Notwithstanding above Paragraphs E. 2. and E. 3., Vendor/Contractor's services will not be terminated if Vendor/Contractor begins within seven (7) days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of said notice.
  5. Where Vendor/Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Vendor/Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Vendor/Contractor by Owner will not release Vendor/Contractor from liability.
  6. If and to the extent that Vendor/Contractor has provided a Performance Bond under the provisions of above section, titled: "PERFORMANCE AND PAYMENT BOND", the termination procedures of that bond shall supersede the provisions of above Paragraphs E. 2. and E. 3.
- F. Litigation:
1. Should the Owner be temporarily prohibited or enjoined from proceeding with the work herein contemplated, the Vendor/Contractor shall not be entitled to any claim or damages, or otherwise, nor may the Vendor/Contractor withdraw from the Contract except by and with the consent of the Owner. The Vendor/Contractor shall, however, be entitled to an extension of time for completion of the work equal to the time of such interruption or delay as determined and certified by the Owner Designated Representative.



2. If the Owner is permanently prohibited or enjoined from proceeding with the work herein contemplated, the Owner may terminate this Contract and pay the Vendor/Contractor a sum equal to all expenses legitimately incurred by him in connection with this work, plus ten percent (10%) of such expenses, less an amount equal to the sum of all partial payments previously made to the Vendor/Contractor. The sum thus computed shall be paid to the Vendor/Contractor within thirty (30) days after the Owner shall have terminated this Contract and the payment of said sum shall be payment in full for any and all liquidated damages for the termination of this Contract and shall constitute full settlement of all claims in connection with this Contract.

#### 9.24. DISPUTE RESOLUTION

- A. Owner and Vendor/Contractor may mutually request mediation of any claim submitted to the Owner for a decision as provided in above Section titled "CHANGES IN THE WORK; CLAIMS:" Paragraph entitled "Claims", before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the effective date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association. Timely submission of the request shall stay the effect as described in said "Claims" Paragraph .
- B. Owner and Vendor/Contractor shall participate in the mediation process in good faith. The process shall be concluded within sixty (60) days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the claim is not resolved by mediation, Chief Procurement Officer's action or denial pursuant to above Section entitled "CHANGES IN THE WORK; CLAIMS" Paragraph titled "Execution of Change Orders" paragraph C. or Paragraph Titled "Notification of Surety" Paragraph D, shall become final and binding thirty (30) days after termination of the mediation unless, within that time period, Owner or Vendor/Contractor:
  1. Agrees with the other party to submit the claim to another dispute resolution process, or
  2. Gives written notice to the other party of their intent to submit the claim to a court of competent jurisdiction.

#### 9.25. MISCELLANEOUS

- A. Giving Notice:
  1. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
    - a. Delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

- b. Delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.
- B. Computation of Times: When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.
- C. Cumulative Remedies: The duties and obligations imposed by these Contract Documents and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.
- D. Survival of Obligations: All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the work or termination or completion of the Contract or termination of the services of Vendor/Contractor.
- E. Headings: Article and paragraph headings are inserted for convenience only and do not constitute parts of these Contract Documents.
- F. Specification and Drawings Furnished by the Owner: All specifications, drawings and copies thereof furnished by the Owner shall remain its property. They shall not be used on another project and, with the exception of those sets which have been signed in connection with the execution of the Agreement, shall be returned to the Owner upon completion of the project.
- G. Laws and Ordinances: The Contract Documents shall be governed by the laws of the State of Florida and the ordinances of Hernando County.
- H. Vehicle Licensing: All prime Vendor/Contractors, including their subs, must obtain a temporary vehicle license for each and every out-of-state vehicle, personal or business (including trailers) that will be operating on-site. The cost shall be borne by the Vendor/Contractor. You must present evidence of title to the Tax Collector's Office to obtain the required temporary licenses.
- I. Handicapped Non-discrimination: The Vendor/Contractor will not discriminate against any employee or applicant for employment because he or she is handicapped in regards to any position for which the employee or applicant for employment is qualified.

## 9.26. OTHER WORK AT THE SITE

OTHER WORK AT THE SITE:

A. Related Work at Site:

1. Owner may perform other work related to the project at the site with Owner's employees, or via other direct contracts therefore, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
  - a. Written notice thereof will be given to Vendor/Contractor prior to starting any such other work; and
  - b. If Owner and Vendor/Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the contract price or contract times that should be allowed as a result of such other work, a claim may be made therefore as provided in above Section titled: "CHANGES IN THE WORK; CLAIMS" Paragraph titled: "Claims".
2. Vendor/Contractor shall afford other Vendor/Contractors who are a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the work with theirs. Vendor/Contractor shall do all cutting, fitting, and patching of the work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Vendor/Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Owner Designated Representative and the others whose work will be affected. The duties and responsibilities of Vendor/Contractor under this paragraph are for the benefit of such utility owners and other Vendor/Contractors to the extent that there are comparable provisions for the benefit of Vendor/Contractor in said direct contracts between Owner and such utility owners and other Vendor/Contractors.
3. If the proper execution or results of any part of Vendor/Contractor's work depends upon work performed by others under this section titled "OTHER WORK AT THE SITE", Vendor/Contractor shall inspect such other work and promptly report to Owner Designated Representative in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Vendor/Contractor's work. Vendor/Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Vendor/Contractor's work except for latent defects and deficiencies in such other work.

B. Coordination:

1. If Owner intends to contract with others for the performance of other work on the project at the site, the following will be set forth in the Contract Documents:

- a. The individual or entity who will have authority and responsibility for coordination of the activities among the various Vendor/Contractors will be identified;
  - b. The specific matters to be covered by such authority and responsibility will be itemized; and
2. Unless otherwise provided in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.

### 9.27. MATERIAL SAFETY DATA SHEETS

#### MATERIAL SAFETY DATA SHEETS:

- A. In accordance with Florida Emergency Planning and Community Right-to-Know Act, Chapter 252, Part II, Florida Statutes (Current Edition), it is the seller's duty to advise Hernando County if a product is a listed toxic substance and to provide a material safety data sheet (MSDS) at the time of delivery. Vendor/Contractors must comply with this procedure along with the Federal Emergency Planning and Community Right-to-Know Act (42 U.S.C. Ch 116 (Current Edition)) and the Federal Hazard Communications Standards (29CFR sec.1910.1200) all other applicable laws.

### 9.28. TRENCH SAFETY ACT

Bidder shall be solely responsible for complying with the Florida Trench Safety Act as established under 553.60 through 553.64, Florida Statutes (current version), and under the OSHA excavation safety standards as established under 29 CFR 1926.650 (Sub-Part P) as amended. All costs associated with complying with these requirements shall be included in the bid. The Trench Safety Act Compliance Form attached in Questionnaire, must be submitted with the bid.

### 9.29. SCRUTINIZED COMPANIES Pursuant to Florida Statute 287.135 And 215.473 (Current Edition)

Vendor/Contractor must certify that the company is not participating in a boycott of Israel. Vendor/Contractor must also certify that Vendor/Contractor is not on the Scrutinized Companies that Boycott Israel List, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in State law, the County will not contract for the provision of goods or services with any scrutinized company referred to above. Vendor/Contractor must submit the certification form included as an attachment to this Solicitation. Submitting a false certification shall be deemed a material breach of contract. The County shall provide notice, in writing, to the Vendor/Contractor of the County's determination concerning the false certification. The Vendor/Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Vendor/Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Vendor/Contractor does not demonstrate that the County's determination of false certification was made in error, then the County shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes (Current Edition), as amended from time to time.

## 10. SCOPE AND SPECIFICATIONS

### 10.1. SCOPE OF WORK

The Vendor/Contractor will supply all materials, labor, and equipment in order to accomplish the Hernando County Solid Waste Administration Facility, as described in the specifications and construction plans for one of the following options:

- Option A, is a Concrete Masonry (CMU) Unit structure; and/or
- Option B is a Pre-engineered metal building (PEMB).

### 10.2. PROJECT DESCRIPTION:

- A. This project consists of construction of a 5,264 GSF administration building at the main landfill site located at 14450 Landfill Road, Brooksville, FL 34614.
- B. It will be the Vendor/Contractor's responsibility to provide an acceptable MOT plan at the Pre-Construction meeting along with a chart showing the project schedule.
- C. The Vendor/Contractor shall comply with all applicable OSHA workplace safety requirements and shall accomplish the work in a manner providing for the safety of their equipment and workers and for the safety of the general public.

### 10.3. LOCATION OF THE WORK:

The work to be performed in this contract will be performed on 14450 Landfill Road, Brooksville, FL 34614, in Hernando County, Florida.

### 10.4. SURVEY CONTROL

Vendor/Contractor will furnish all surveys and construction stakeouts unless otherwise specified. The Vendor/Contractor will provide horizontal control and bench marks or elevations for vertical control. The Vendor/Contractor shall furnish, free of charge, all stakes, all templates, and other materials necessary for marking and maintaining points and lines given. The Vendor/Contractor shall be held responsible for the preservation of all stakes and markers, and if the stakes or markers are destroyed or disturbed, the cost of replacing them shall be charged against the Vendor/Contractor, and shall be deducted from the payment for the work. The Vendor/Contractor shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

### 10.5. TRAFFIC CONTROL

- A. The Vendor/Contractor shall be responsible for installing, operating, and maintaining all traffic control associated with the project, including detours, advance warnings, channelization, or other features, both at the immediate work site and at outlying points as detailed on the construction plans or as referenced by the FDOT indexes.

- B. Vendor/Contractor shall prepare a detailed traffic control plan designed to accomplish the level of performance outlined in the scope of work, and incorporating the methods and criteria contained in the Manual on Uniform Traffic Control Devices published by the U.S. Department of Transportation and adopted as amended by the FDOT. This plan must be approved in writing by the Engineer.
  
- C. The Engineer may inspect and monitor the traffic control scheme and devices of the Vendor/Contractor and shall, through the Project Manager or County's Designated Inspector assigned to the project, make known its requirements for any alterations and adjustments to the control plan or devices. The Vendor/Contractor shall take direction only as appropriately expressed by the Inspector or Engineer.

## **11. GENERAL REQUIREMENTS AND TECHNICAL SPECIFICATIONS**

### **11.1. Requirement and Technical Specifications**

Please refer to Attachment A, Drawings, and Attachment B, Specifications for requirements and technical specifications.

## 12. PRICING PROPOSAL

Bidder's may bid one Option 1: Concrete Masonry (CMU) Unit structure and/or Option 2: Pre-Engineered Metal Building (PEMB).

The County will award to the lowest responsive, responsible Bidder best on best value to the County.

The cost for Permitting is set at \$40,000. Final costs of Permitting will be adjusted by change order. The cost of Permitting will be added to each Bid Option to determine final cost.

### BID OPTION 1: CONCRETE MASONRY (CMU) UNIT STRUCTURE;

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Concrete Masonry (CMU) Unit structure;, including but not limited to all performance bonds, insurance, materials, and labor.	1	Lump Sum		
<b>TOTAL</b>					

### BID OPTION 2: PRE-ENGINEERED METAL BUILDING (PEMB)

Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Pre-engineered metal building (PEMB), including but not limited to all performance bonds, insurance, materials, and labor.	1	Lump Sum		
<b>TOTAL</b>					

### PERMITTING



Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
1	Permitting - Amount set by County. Final costs will be adjusted by an additive or deductive change order.	1	Lump Sum	\$40,000.00	
<b>TOTAL</b>					

### 13. VENDOR QUESTIONNAIRE

13.1. THE UNDERSIGNED, BEING DULY AUTHORIZED TO SUBMIT THIS BID ON BEHALF OF THE BIDDER, AGREES THAT THIS OFFER IF ACCEPTED WITHIN ONE HUNDRED TWENTY (120) DAYS FROM THE BID OPENING DATE, TO FURNISH TO HERNANDO COUNTY ANY AND ALL ITEMS FOR WHICH PRICES ARE OFFERED IN THIS BID SOLICITATION AT THE PRICE(S) SO OFFERED, DELIVERED AT DESIGNATED POINT(S), WITHIN THE TIME PERIOD SPECIFIED, AND AT THE TERMS AND CONDITIONS SO STIPULATED IN THE SOLICITATION FOR BIDS.\*

Please confirm

\*Response required

#### 13.2. Authorized person \*

Are you fully authorized to bind this company, or corporation.

Yes

No

\*Response required

#### 13.3. Authorized Person's information \*

Please provide your

Name

Title

Business Address

\*Response required

13.4. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of bid security. \*

Please confirm

\*Response required

### 13.5. Upload Florida Permit

**Bidders who are non-resident corporations** shall furnish to the Owner a duly certified copy of their permit to transact business in the State of Florida along with the bid. Failure to submit this evidence or qualification to do business in the State of Florida may be basis for rejection of the bid.

### 13.6. Bidder Acknowledgement\*

Agree at the time of submitting its bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its bid for performance of the work at the price(s) bid and within the times and in accordance with the other terms and conditions of the bid documents.

Please confirm

\*Response required

### 13.7. BID FORM CONFIRMATION \*

The Board of County Commissioners

Hernando County, Florida

The undersigned, hereinafter called "Bidder", having visited the site of the proposed project and familiarized himself with the local conditions, nature and extent of the work, and having examined carefully the agreement form, General Conditions, Special Conditions, Supplementary Conditions for Federal/State Requirements, plans and specifications and other contract documents, with the bond requirements herein, proposed to furnish all labor, materials, equipment and other necessary items, facilities and services for the proper execution and completion of the subject project in full accordance with the drawings and specifications prepared in accordance with your Advertisement of Bids, instruction to bidders, agreement and all other documents related thereto on file in the office of the Hernando County Procurement Department and if awarded the Contract, to complete said work within the time limits specified for their bid price.

Please confirm

\*Response required

### 13.8. Company Information \*

Please Provide the following:

Company Name

Contact Person, and Title

Mailing Address

Telephone number

Email Address

Fax number

\*Response required

### 13.9. Bid Bond Confirmation \*

If the foregoing proposal shall be accepted by Hernando County, Florida, and the undersigned shall fail to execute a satisfactory contract as stated in the advertisement herein attached, then the County may, at its option, determine that the undersigned has abandoned the Contract, and thereupon this proposal shall be null and void, and the certified check or bond accompanying this proposal, shall be forfeited to and become the property of Hernando County, Florida, and the full amount of said check shall be retained by the County, or if the proposal bond be given, the full amount of such bond shall be paid to the County as stipulated for liquidated damages; otherwise, the bond or certified check accompanying this proposal, or the amount of said check, shall be returned to the undersigned as specified herein.

If corporation, give the names and addresses of the president and secretary. If firm or partnership, the names and addresses of the members or partners. The Bidder shall list not only his name, but also the name of any person with whom Bidder has any type of agreement whereby such person's improvements, enrichment, employment of possible benefit, whether subcontractor, materialman, agent, supplier, or employer, is contingent upon the award of the Contract to the Bidder).

Please confirm

\*Response required

### 13.10. Bidder confirmation (proposal one) \*

Every Bidder must take notice of the fact that even though his proposal be accepted and the documents signed by the Bidder to whom an award is made and by those officials authorized to do so on behalf of Hernando County, Florida, that no such award or signing shall be considered a binding contract without a certificate from the Finance Director that funds are available to cover the cost of the work to be done, or without the approval of the County Attorney as to the form and legality of the Contract and all the pertinent documents relating thereto having been approved by said County Attorney; and such Bidder is hereby charged with this notice.

The signer of the proposal, as Bidder, also declares that the only person, persons, company or parties interested in this proposal, are named in the proposal, that he has carefully examined the Advertisement of Bid, Solicitation Instructions, Contract Specifications, Plans, Supplementary Conditions for Federal/State Requirements, General Conditions, Special Conditions, Special Provisions and contract bond, that he or his representative has made such investigation as is necessary to determine the character and extent of the work and he proposes and agrees that if the proposal be accepted, he will contract with Hernando County, Florida in the form of contract hereto annexed, to provide the necessary labor, materials, machinery, equipment, tools or apparatus, do all the work required to complete the Contract within the time mentioned in the Contract Documents according to the

requirements of Hernando County, Florida, as herein and hereinafter set forth, and furnish the required surety bonds for the following prices to wit:

Please confirm

\*Response required

### 13.11. Full names and addresses (proposal two) \*

Please provide the full names and residences of all persons and parties interested in the foregoing bid are as follows:

If corporation, give the names and addresses of the president and secretary. If firm or partnership, the names and addresses of the members or partners. The Bidder shall list not only his name, but also the name of any person with whom Bidder has any type of agreement whereby such person's improvements, enrichment, employment of possible benefit, whether subcontractor, materialman, agent, supplier, or employer, is contingent upon the award of the Contract to the Bidder).

**PLEASE TYPE NAMES AND ADDRESSES AS REQUESTED.**

\*Response required

### 13.12. BID GUARANTEE

Bidder has enclosed a Certified check, Cashier's Check or Bid Bond in the amount of not less than the five percent (5%) of the Total Base Bid Amount payable to the Hernando County Board of County Commissioners as a guarantee for the purpose set out in the Instructions to Bidders.

Please confirm

### 13.13. Please provide construction experience\*

Overview of construction experience, including a list of projects successfully completed and indicating Owner, location, Contract value and completion date.

\*Response required

### 13.14. Experience detail\*

Documentation of two (2) projects, similar in scope and complexity to this project, which have been successfully completed by the Bidder within the past seven (7) years.

\*Response required

### 13.15. Drug Free Workplace Certification \*

I have read and attest to, in accordance with Florida Statute 287.087 (current version), hereby certify that,

Publishes a written statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace named above, and specifying actions that will be taken against violations of such prohibition.

Informs employees about the dangers of drug abuse in the workplace, the firm's policy of maintaining a drug free working environment, and available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug use violations.

Gives each employee engaged in providing commodities or contractual services that are under proposal a copy of the statement specified above.

Notifies the employees that as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, pleas of guilty or nolo contendere to, any violation of Chapter 893, or of any controlled substance law of the State of Florida or the United States, for a violation occurring in the workplace, no later than five (5) days after such conviction, and requires employees to sign copies of such written statement to acknowledge their receipt.

Imposes a sanction on, or requires 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.

Makes a good faith effort to continue to maintain a drug free workplace through the implementation of the Drug Free Workplace Program.

"As a person authorized to sign this statement, I certify that the above named business, firm or corporation complies fully with the requirements set forth herein".

Please Confirm that you have read and attest to Download Drug Free Workplace Certificate

Please confirm

\*Response required

### 13.16. Affidavit of Non Collusion and of Non-Interest of Hernando County Employees\*

Affidavit of Non Collusion and of Non-Interest of Hernando County Employees

Certification that Vendor/Contractor affirms that the bid/proposal presented to the Owner is made freely, and without any secret agreement to commit a fraudulent, deceitful, unlawful or wrongful act of collusion.

I have read and attest that I am the Vendor/Contractor in the above bid/proposal, that the only person or persons interested in said proposal are named therein; that no officer, employee or agent of the Hernando County Board of County Commissioners (BOCC) or of any other Vendor/Contractor is interested in said bid/proposal; and that affiant makes the above bid/proposal with no past or present collusion with any other person, firm or corporation.

Please confirm that you have read and attest to Affidavit of Non Collusion and of Non-Interest of Hernando County Employees

Please confirm

\*Response required

### 13.17.Sworn Statement

#### *13.17.1. Sworn Statement 287.133 (3) (a)\**

I have read and attest that I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes (current version), means a violation of any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

I have read and attest that I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1)(b), Florida Statutes (current version), means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any Federal or State trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

I have read and attest that I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes (current version), means:

- A. A predecessor or successor of a person convicted of a public entity crime; or
- B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one (1) person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one (1) person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding thirty-six (36) months shall be considered an affiliate.

I have read and attest that I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes (current version), means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which proposals or applies to proposal on contracts for the provisions of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

I have read and attest that based on information and belief, the statement which I have confirmed below is true in relation to the entity submitting this sworn statement:

\_\_\_\_\_ [attach a copy of the final order].

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH ONE (1) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31, OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO

UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT.

Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one (1) or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one (1) or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted Vendor/Contractor list

\*Response required

### *13.17.2. If you choose option 3, please attach a copy of the final order*

If you choose option 3, please attach a copy of the final order

The entity submitting this sworn statement, or one (1) or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted Vendor/Contractor list

**Please attach a copy of the final order**

## 13.18. Authorized Signatures/Negotiators

### *13.18.1. Authorized Signatures/Negotiators \**

Please provide the information to support the statement below:

The Vendor/Contractor represents that the following persons are authorized to sign and/or negotiate contracts and related documents to which the Vendor/Contractor will be duly bound:

**Name(s)**

**Title(s)**

**Phone no (s)**



\*Response required

**13.18.2. Type of Organization \***

Please select your organization type:

- Sole Proprietorship
- Partnership
- Joint Venture
- Corporation

\*Response required

**13.18.3. Company ID\***

Please Provide Your: State of Incorporation and Federal I.D. NO.

\*Response required

**13.18.4. W9 Form \***

Please upload your company's W9 information

\*Response required

**13.18.5. ACH electronic payment\***

An ACH electronic payment method is offered as an alternative to a payment by physical check. Please select one of the options.

- Yes, ACH electronic payment method is acceptable.
- No, ACH electronic payment method is not acceptable.

\*Response required

**13.19. LOCAL VENDOR AFFIDAVIT OF ELIGIBILITY**

**13.19.1. Local Vendor Affidavit - 12 Month Minimum\***

Vendor/Individual has been in business in Hernando County for a minimum of twelve (12) months prior to date of bid or quote?

- Yes
- No

\*Response required

**13.19.2. Proof of Real Property Tax\***

Please upload your proof of Real Property Tax

\*Response required

**13.19.3. Copy of Florida Division of Corporations Annual Report\***

Please upload a copy of your Florida Division of Corporations Annual Report

\*Response required

**13.20. E-VERIFY CERTIFICATION**

**13.20.1. E-Verify Certification \***

**Vendor/Contractor acknowledges and agrees to the following:**

Vendor/Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of:

All persons employed by the Vendor/Contractor during the term of the Contract to perform employment duties within Florida; and

All persons, including subcontractors, assigned by the Vendor/Contractor to perform work pursuant to the Contract with the department.

Please confirm

\*Response required

**13.21. CONSTRUCTION CONTRACTOR QUALIFICATION SUBMITTAL REQUIREMENTS**

**13.21.1. References \***

Bidder must provide a minimum of **three (3)** references in format shown below. References must be individuals that can be readily contacted and have first-hand knowledge of the Bidder's performance on the specific project performed by the Bidder. Each reference project must meet the following criteria:

Project at Substantial Completion or completed within the last seven (7) years.

Similar in size, dollar value and scope as this project.

**Please provide information for 3 required References:**

Business/Owner Name

Reference Contact Person

Reference Address

Reference Phone No.

Reference Email Address

Project Name

Project Location

Contract Project Manager

Site Superintendent

Contract Amount

Date Project Commenced

Date of Substantial Completion

Date of Final Completion

Description of Work Performed

Note: Experience shall be related to successfully completed projects within the last seven (7) years (i.e. the project must have been Substantially Complete within seven (7) years of the due date of this ITB. Only projects that are complete or substantially complete as of the bid due date will be considered).

By submitting this information, I certify that the qualifications questionnaire information is true and correct to the best of my knowledge.

\*Response required

### *13.21.2. Key Subcontractors\**

Each Bidder must submit with its response a list of subcontractors who will perform the work in each of the following categories (key subcontractors). List the name of the proposed subcontractor, or "Bidder" if the Bidder will perform the work, after each work category:

Example:

- (1) Earthwork construction
- (2) Earthen dike construction
- (3) Soil bentonite backfill cut-off wall installation
- (4) Wet excavation/dredging work
- (5) Concrete form work
- (6) Equipment installation
- (7) Electrical and instrumentation installation
- (8) Control system integration
- (9) Wetland planting and establishment

**If no subcontractors will be employed please state "NONE"**

\*Response required

**13.21.3. Vendor/Contractor's License\***

The Bidder must be a registered to do business in the State of Florida. **All Bidder's and/or subcontractors performing work requiring a specialty license must be licensed in the State of Florida.** This includes but is not limited to electrical and mechanical trades, as well as any other earthwork Contractor on the Bidder's team. Provide license information (as required in Paragraph 27) below for Bidder and all subcontractors identified herein.

Classification

Issuing Government License

Issue Date:

License Number:

\*Response required

**13.21.4. ORGANIZATION CHART:\***

Bidder must provide an organization chart showing Bidder's team identifying specific responsibilities of Bidder and subcontractors.

\*Response required

**13.21.5. PROJECT MANAGER AND SUPERINTENDENT QUALIFICATIONS:\***

Bidder must provide resumes of Project Manager and Superintendent listing qualifications, experience, education and training. The Project Manager and Superintendent must have adequate experience, generally considered as a working Project Manager/Superintendent on a minimum of two (2) projects, similar in size and scope to the Hernando County Solid Waste Administration Facility, within the past seven (7) years.

\*Response required

**13.21.6. BIDDER/KEY SUBCONTRACTOR SPECIFIC QUALIFICATIONS:\***

Bidder must demonstrate Bidder's/Key subcontractor's experience and expertise in the tasks provided below and at the minimum identified criteria. Specific projects, locations and Contractor who performed work must be provided.

- A. Document prior experience in construction of individual earthwork projects involving site clearing, excavating, hauling, placing, grading and compacting for a minimum of 300,000 cubic yards of soil.
- B. Document prior experience in construction of soil bentonite backfill cut-off walls using slurry trench excavation methods for a minimum distance of 1 mile at a minimum depth of 20 feet.

- C. Document prior experience in construction of surface water intake structures and associated pump stations of a minimum design capacity of 30 cubic feet per second (20 million gallons per day).
- D. Document prior experience in planting and establishing wetland plants within a minimum constructed area of 100 acres.

\*Response required

## 13.22. VENDOR/CONTRACTOR'S LICENSE

### *13.22.1. VENDOR/CONTRACTOR'S LICENSE\**

Please upload all contractors and subcontractors license(s) required for this project.

\*Response required

## 13.23. Additional Required Forms

### *13.23.1. Trench Safety Act Compliance \**

Please download the below documents, complete, and upload.

- [Trench Safety Act Complian...](#)

\*Response required

### *13.23.2. Corporate Affidavit \**

Please download the below documents, complete, and upload.

- [Corporate Affidavit.pdf](#)

\*Response required

### *13.23.3. Bid Bond Form \**

Please download the below documents, complete, and upload.

- [Bid Bond Form.pdf](#)

\*Response required

### *13.23.4. VENDOR CERTIFICATION REGARDING SCRUTINIZED COMPANIES\**

Section 287.135 (Current Edition), Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000.00 or more, that are on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector Lists which are created pursuant to s. 215.473 F.S. (Current Edition), or the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 F.S. (Current Edition), or companies that are engaged in a boycott of Israel or companies engaged in business operations in Cuba or Syria.

As the person authorized to bind on behalf of respondent, I hereby certify that the company identified above in the section entitled "Respondent Vendor Name" is not listed on either the Scrutinized

Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List. I further certify that the company is not engaged in a boycott of Israel. I understand that pursuant to section 287.135 (Current Edition), Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs and does not have business operations in Cuba or Syria.

I have read and attest that I confirm the above is acknowledged.

Please confirm

\*Response required

### 13.24. HERNANDO COUNTY EMPLOYMENT DISCLOSURE CERTIFICATION STATEMENT

*13.24.1. Is any officer, partner, director, proprietor, associate or member of the business entity a former employee of Hernando County within the last two (2) years? \**

Yes

No

\*Response required

*13.24.2. Is any officer, partner, director, proprietor, associate or member of the business entity a relative or member of the household of a current Hernando County employee that had or will have any involvement with this procurement or contract authorization?\**

Yes

No

\*Response required

*13.24.3. Relatives and Former Hernando County Employees - Roles and Signatures*

If you answered yes to the either of the two prior questions regarding relatives or Hernando employees, please download the below documents, complete, and upload.

- [HC Employment Disclosure Ce...](#)

### 13.25. Vendor Survey

*13.25.1. Vendor Survey \**

Please provide information on where you received the knowledge of the bid/request for Proposals (mark all that apply):

*Select all that apply*

- County's eProcurement Portal (Open Gov Procurement)
- Newspaper
- Procurement Department Advertisement Board
- Other (Please list in the following question)

\*Response required

### *13.25.2. Vendor Survey - Other*

If you choose Other please list how you received the knowledge of the bid/request for Proposals.

### *13.25.3. Anticipates Services outside the United States or Florida\**

Anticipates Services outside the United States or Florida

If the respondent anticipates services under the contract or any subcontracts will be performed outside the United States or Florida, the respondent shall provide in a written statement which must include, but need not be limited to the type of services that will be performed at a location outside the United States or Florida and the reason why it is necessary or advantageous to go outside the United States or Florida to perform such services. (Does not apply to any project that receives federal moneys)

- Yes
- No

\*Response required

### *13.25.4. Solicitation-Offer-Award*

Please download the below document, complete Offer section, and upload.

- [Solicitation-Offer-Award.pdf](#)