

Invitation for Bid

Intersection Improvements for East County Line Road at Grand Hampton Drive

IFB-26-00398

HCFL.gov/Vendors
(813) 272-5790

Hillsborough County Florida
Procurement Services

IMPORTANT! PLEASE READ CAREFULLY BEFORE SUBMITTING BID

SOLICITATION TYPE:	Competitive Sealed Bids
SOLICITATION NUMBER:	**IFB-26-00398**
SOLICITATION TITLE:	**Intersection Improvements for East County Line Road at Grand Hampton Drive**
BRIEF DESCRIPTION:	The Hillsborough County Board of County Commissioners (County) is seeking competitive sealed bids from qualified bidders who can provide services for the project, East County Line Road at Grand Hampton Drive Intersection Improvements is located in Section 2 Township 27S, and Range 19E in Tampa within Hillsborough County. This project includes replacing the temporary diagonal span wire signal with mast arms; milling and resurfacing; ADA sidewalk and pedestrian curb ramp improvements; and signing and pavement marking.
DUE DATE & TIME:	**November 10, 2026 [2:00 P.M.]** Eastern Time as recorded by the County's Electronic Bidding System)
PRIMARY CONTACT:	**Christy Perales, Senior Buyer**
BID SUBMISSION:	The County will only accept bids submitted through its electronic bidding system (Euna Procurement). Bids that are submitted or delivered by non-electronic means (hard-copy paper), facsimile, electronic mail (e-mail), electronic file, or means other than through the County's electronic bidding system (Euna Procurement) will **not** be accepted or considered. Please visit our vendors webpage (hcfl.gov/vendors) for information regarding vendor registration, electronic bid submission, procurement opportunities, and other important resources.
TIMELINESS:	To preserve the integrity of the competitive sealed bid process, bids submitted after the due date and time listed above, unless otherwise amended, cannot and will not be accepted. Please do not wait until the last minute, hour, or day to submit your bid, as you may encounter technical difficulties or issues that cannot be resolved before the due date and time. When preparing to submit your bid, please read and follow all instructions regarding formatting and other details related to the form(s) to be used. Again, please do not wait until it's too late for assistance. We value and need your participation, so the last thing we want is for you to miss this

opportunity.

QUESTIONS:

- Questions regarding technical difficulties or errors encountered while submitting proposals through Euna Procurement must be directed to Euna Procurement Support at 1-844-226-3862 or support.bonfire@eunasolutions.com.
- Questions regarding the specifications or solicitation document must be directed to the primary contact listed above using the "messages" section in Euna Procurement for this particular procurement.
- To be given consideration, such requests must be received no later than 14 calendar days after the date of Solicitation issuance in Euna Procurement, site visit, or pre-bid conference, whichever is later.
- Questions regarding vendor registration, training, or general questions must be directed to the Supplier Engagement Team at (813) 272-5790 or iSupplier@HCFL.gov.

SBE GOAL: This procurement requires the successful bidder to meet a subcontracting Small Business Enterprise (SBE) Participation Goal of **[5%]** and is subject to the policies and procedures governing the County's Small Business Encouragement Program. Please see **Special Terms and Conditions** for complete details and requirements.

CONE OF SILENCE: A Cone of Silence is in effect for this procurement; therefore, no bidder, interested party and/or their principals, officers, employees, attorneys, or agents shall communicate with County employees, the Hearing Master assigned to hear the applicable protest appeal and/or members of the Board of County Commissioners, including their aides and employees regarding this procurement and/or a related protest, except as otherwise provided in the Hillsborough County Procurement Protest Policy and Procedures Ordinance. The Cone of Silence does not prohibit a bidder from communicating with the Director of Procurement, staff in the Procurement Services Department, or the County's attorney assigned to this procurement. Violating the Cone of Silence may disqualify the bidder from consideration for award. Please refer to the **Instructions** for complete details about the Cone of Silence.

INSURANCE: Insurance coverage **is** required for this procurement. Please see **IFB-26-00398 Attachment G - Insurance Requirements** and **Special Terms and Conditions.** ***Please be aware of the required Additional Insured Endorsement. The contract must include an additional insured endorsement specifying Hillsborough County, its officers, employees, and agents as Additional Insureds. Please see page one of the Insurance requirements document.***

SURETY (BONDS): Bid, performance, and/or payment surety **is** required for this procurement.

[Please see **Special Terms and Conditions** for complete details and requirements.] A corporate resolution shall be submitted with the offer. The corporate resolution will be used to confirm signature authorizations on submitted documentation.

E-VERIFY: The Department of Homeland Security's Image Program and E-Verify apply to this procurement. Please see **General Terms and Conditions** for complete details and requirements.

1. SPECIFICATIONS

1.1. Scope

1.1.1 Hillsborough County is seeking qualified Contractors to provide services for the project, East County Line Road at Grand Hampton Drive Intersection Improvements is located in Section 2 Township 27S, and Range 19E in Tampa within Hillsborough County. This project includes replacing the temporary diagonal span wire signal with mast arms; milling and resurfacing; ADA sidewalk and pedestrian curb ramp improvements; and signing and pavement marking.
1.1.2 Please refer to all the attachments including Attachment F – Supplemental Specifications and all other for further details about the type of services that may be requested.

1.2. Applicable Publications and Terminology

The following publication(s) of the issue in effect on date of this solicitation, forms a part of this specification:

1.2.1 This project is to be constructed utilizing Hillsborough County Public Works Standard Specifications for Construction October 2023, or most current
1.2.2 published, Edition; FDOT Standard Plans for Road and Bridge Construction FY 2025-2026; FDOT Standard Specifications for Road and Bridge Construction FY 2025-2026 (or most current) Edition; with the exception of Division I and Division II Sections 100 through 103 and 105; Hillsborough County Public Utilities Water, Wastewater and Reclaimed Water Technical Specifications October 2023 (or most current) Edition; Hillsborough County Stormwater Technical Manual October 2023 (or most current) Edition; Tampa Electric Company Standard Electric Service Requirements 2019 (or most current) Edition; ANSI-A300 American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Management-Standard Practices (Root Management), and its companion publication Root Management, Best Management Practices by the International Society of Arboriculture, and the Supplemental Specifications herein. Any conflict between the documents shall be resolved in accordance with the requirements of the Hillsborough County General Terms and Conditions.

1.3. Minimum Qualifications

1.3.1 The Bidder/Proposer or principal thereof shall demonstrate recent experience in providing substantially similar services.
1.3.2 At the time of the Close Date, the prospective bidder must have the following qualifications: the Contractor and/or Subcontractor must have active Certificate of

Qualification from the Florida Department of Transportation (FDOT) in the following work classes:

- Traffic Signals;
- Flexible Paving;
- Sidewalk;
- Roadway Signing; and
- Pavement Marking.

1.3.3 Any bid submitted by a Contractor whose FDOT certifications, including those of its Subcontractors, are not pre-qualified by FDOT, shall be deemed non-responsive and will be rejected by the County.

1.3.4 The Contractor shall submit a copy of the required certificate with the Bid Package.

2. SPECIAL TERMS AND CONDITIONS

2.1 Allowance

An Allowance in the amount of $0.00 for permits and $112,720.92 for Allowance Authorization shall be added to the total Bid amount.

2.2 Alteration of Plans or of Character of Work

2.2.1 The Professional reserves the right to make, at any time prior to or during the progress of the Work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction whether a substantial change or not, including but not limited to alterations in the grade or alignment of the road or structure or both, as may be found necessary or desirable by the Professional. Such increases, or decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the Work, as altered, the same as if it had been a part of the original Contract.

2.2.2 The term "significant change" applies only when:

2.2.2.1 The Professional determines that the character of the Work as altered differs materially in kind or nature from that involved or included in the original proposed construction, or

2.2.2.2 A major item of Work, defined as having an original Contract value in excess of five percent (5%) of the original Contract amount or is increased or decreased in excess of twenty-five percent (25%) of the original Contract quantity. The County will apply any price adjustment for an increase in quantity only to that portion in excess of twenty-five (25%) of the original Contract item quantity.

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2.3 Basis for Award (Overall Low)

Award will be made to the lowest, responsive, and responsible Bidder meeting Specifications. Award will be made to a single Bidder for all line items. If a Bidder fails to submit an Offer on all line items, then that Bidder is not eligible for award.

2.4 Bonds

2.4.1 Earnest Money Deposit/Bid Bonds and Other Bid Securities

2.4.1.1 An Earnest Money Deposit/Bid Bond or other security is required with this Bid. Either a certified check, a cashier's check, treasurer's check, or a bank draft drawn on any national or state licensed financial institution or, in the alternative, an Earnest Money Deposit completed and signed by all required parties and submitted in the format detailed in the attachment, shall be required to accompany each Bid Proposal in a stated dollar amount which equals not less than five percent (5%) of the sum of the computed total amount of the Bidder's Bid Proposal.

2.4.1.2 If the Bid will be awarded at a stated dollar amount, the Earnest Money Deposit or other security must be in an amount of five percent (5%) of the stated award amount, regardless of the Bid prices received.

2.4.1.3 Any submitted certified check, cashier's check, treasurer's check, or bank draft shall be drawn on a solvent bank or trust company authorized to do business in Florida, payable to the order of Hillsborough County Board of County Commissioners, and shall have all necessary documentary revenue stamps attached, if required by law.

2.4.1.4 Sureties on Earnest Money Deposits shall be companies authorized to do business in the State of Florida and satisfactory evidence of the authority of the person or persons executing such Bid Bonds shall be submitted with the Bid Bond.

2.4.1.5 Bid Bonds must be submitted on the form provided (see attachment).

2.4.1.6 Personal checks, business checks, and cash deposits are not acceptable to Hillsborough County and will render your Bid nonresponsive.

2.4.2 Performance and Payment Bonds

2.4.2.1 The successful Bidder shall execute a Performance Bond as shown within the attachment, or furnish acceptable alternative forms of security, 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. The Performance Bond shall be required from the successful Bidder to ensure the faithful performance of the obligations imposed by the Contract.

2.4.2.2 The successful Bidder shall execute a Payment Bond as shown within the attachments, or furnish acceptable alternative forms of security, in a sum equal to one hundred percent (100%) of the total awarded Contract by a Surety company considered satisfactory by the County and otherwise authorized to transact business in the State of Florida. The Payment Bond shall be provided by the successful Bidder for purposes of protecting the County from lawsuits for non-payment of debt that might arise in connection with the successful Bidder's performance under the Contract.

2.4.2.3 The Performance Bond and Payment Bond forms will be included in the Contract Documents and must be properly executed by the Surety and the successful Bidder. 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 and hold an active insurance license in the State of Florida. Certified copies of the recorded Bonds shall be submitted to the County within ten (10) Business Days after the County posts the Notice of Intent to Recommend Award in the County Electronic Bidding System.

2.4.2.4 In lieu of the Performance and Payment Bonds required by this section, the successful Bidder may file with the County an alternative form of security which shall be in the form of Cash, money order, certified check, cashier's check, irrevocable letter of credit, or alternative securities of the type listed in Part II of Chapter 625, Florida Statutes. Such alternative forms of security shall be for the same purpose and shall be subject to the same conditions as those applicable to the Performance and Payment Bonds. The determination of the value or acceptability of such alternative forms of security shall be made by the County.

2.4.3 Security Forfeiture

If within ten (10) Business Days after the issuance of the Notice of Intent to Recommend Award is posted in the County Electronic Bidding System, the successful Bidder refuses, or otherwise neglects to execute and deliver the required Agreement, or fails to furnish the required Performance and Payment Bonds, or acceptable alternative forms of security as stipulated herein, or any required Certificates of Insurance, the amount of the Bid security provided by said Bidder, whether cash, check, Bid Bond, or some other form acceptable to the County, or any combination of these, may be forfeited, and the Bidder may be excluded from further consideration for award of the Bid. The Director of Procurement shall have sole discretion to make the determination in the best interest of the County to rescind the Notice of Intent to Recommend Award and to reject the Bidder's Bid. No plea of mistake in the Bid or misunderstanding of the conditions of forfeiture shall be available to the Bidder for the recovery of its Bid security, or as a defense to any action based upon the neglect or refusal to execute the required Agreement, and/or to furnish the required Bonds and/or applicable Certificates of Insurance as required by the Contract Documents.

2.5 Insurance, Contractor

See IFB-26-00398 Attachment G - Insurance Requirements for more specific details regarding the type of coverage and amounts required.

2.5.1 No work for the County shall commence or occupancy of any of its property take place until the required Certificates of Insurance and copies of the policies, if requested, are received by the County and written Notice to Proceed is issued to the Contractor by the County.

2.5.2 The insurance coverages and limits required of the Contractor under the Contract Documents are designed to meet the minimum requirements of the County. They are not designed as a recommended insurance program for the Contractor. Contractor shall be responsible for the sufficiency of its own insurance program. Should the Contractor have any questions concerning its exposure to loss under the Contract Documents or the insurance coverages needed therefore, it should seek professional assistance.

2.5.3 If the insurance coverage initially provided by the Contractor is to expire prior to completion of the Work, renewal Certificates of Insurance shall be furnished to the County the ten (10) Days prior to expiration of current coverages.

2.5.4 Should the Contractor fail to maintain the insurance coverages required by the Contract Documents, the County may, at its option, either terminate this Agreement for default or procure and pay for such coverage, charge the Contractor for and deduct the costs of the same from payments due the Contractor. A decision by the County to procure and pay for such insurance coverage shall not operate as a waiver of any of its rights under the Contract Documents.

2.5.5 Failure of the Contractor to submit the required Certificates of Insurance within the times required by this Section may result in a delay in issuing the Notice to Proceed. The parties specifically agree that such a delay is neither excusable nor compensable and will not entitle the Contractor to a change in the Contract Price or Time.

2.6 Liquidated Damages

2.6.1 When Contractor is in default for nonperformance within the stipulated Contract Time including any intermediate Milestone dates, Project Manager shall notify Contractor in writing within thirty (30) Days after the Contract Completion Date or intermediate Milestone Date, and deduct the liquidated damages in the amount stated in the Contract Documents from any monies due the Contractor. The deduction of liquidated damages shall be in addition to any retainage withheld. Additional liquidated damages may be indicated in the Specifications.

2.6.2 Liquidated damages for each Day that each milestone date is not met are as follows:

2.6.2.1 Milestone: Substantial Completion

2.6.2.1.1 240 Days from Notice to Proceed date.

2.6.2.1.2 Amount of Liquidated Damages: $**2,769.00** per Day

2.6.2.2 Milestone: Final Completion

2.6.2.2.1 270 Days from Notice to Proceed date.

2.6.2.2.2 Amount of Liquidated Damages: $**1,605.00** per Day

2.6.3 Liquidated damages shall be assessed on each milestone separately until that milestone is completed, up to a maximum amount of $**2,769.00** per day.

2.7 Retainage

2.7.1 All progress payments shall be subject to a five percent (5%) retainage throughout the duration of the Contract. The County shall make payment to the Contractor within the time limits set forth in the "Approval of Payments" Clause, unless the County has grounds for withholding the payment of retainage. The County does not have to pay or release any amounts that are the subject of a good faith dispute or the subject of a claim brought pursuant to Section 255.05 Florida Statutes. Retainage may be withheld for deficiencies including, but not limited to, schedule slippage, delinquent submittals, Subcontractor non-payment (regardless of fault) or defective work as provided under the Contract. Remaining retainage shall be released as provided under Florida Statutes Section 218.735 (a) and Section 5.12.6 of this Contract. The Director, at his discretion, has the authority to reduce or release retainage held by the County.

2.7.2 When the County makes any payment of retainage to the Contractor which is attributable to the labor, services or materials supplied by one or more Subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those Subcontractors and suppliers.

2.7.3 If the Contractor elects to withhold retainage from its Subcontractors at a rate higher than five percent (5%), then the Contractor may not request the release of such retainage funds from the County.

2.8 Changes in the Work/Change Orders/Modifications

2.8.1 All additions, deletions, or revisions to the Contract shall be valid and enforceable only when authorized by a written Change Order or Modification Agreement approved and/or executed by the applicable authorized representatives of the County in accordance with County policy. Modification Agreements that are required to be approved by the Board of County Commissioners pursuant to County policy must be executed by the Contractor and the Chair of the Board of County Commissioners. Only upon receipt of a

Change Order or Modification Agreement shall the Contractor be authorized to proceed with the Work involved. All such Work shall be executed under the applicable terms and conditions contained in the Contract Documents.

2.8.2 Additional Work performed by the Contractor without the authorization of a Change Order or Modification Agreement will not entitle the Contractor to an increase in the Contract Price or an extension of the Contract Time except in the case of an emergency as provided for herein. The effect of this paragraph shall remain paramount and shall prevail irrespective of any conflicting provisions contained in these Contract Documents.

2.8.3 It is the Contractor's responsibility to notify its Surety of any changes affecting the general scope of the Work/Services or change of the Contract Price, and the amount of the applicable Bond(s) shall be adjusted accordingly.

2.9 Non-Exclusive Contract

Award of this Contract shall impose no obligation on the County to utilize the Successful Bidder/Proposer for all Services and/or Work of this type, which may develop during the Contract Period. This is not an exclusive Contract. The County specifically reserves the right to concurrently contract with other companies for similar Services and/or Work if it deems such action to be in the County's best interest.

2.10 Utilization of SBEs (Non-Term Contracts)

2.10.1 General Information – This Section outlines the requirements/specifications for small business enterprise participation in any resulting contracts resulting from this solicitation pursuant to the County's Small Business Encouragement Program (Hillsborough County Resolution No. R25-071). Small Business Enterprise (SBE) shall mean a business that is registered as a bona fide small business enterprise with the County or that has been granted reciprocal registration as a small business enterprise by the County.

It is the policy of the County's Board of County Commissioners (BOCC) to encourage the participation of all responsible businesses in County contracting and procurement activities. The objective of the County's Small Business Encouragement Program is to provide opportunities for the participation of SBEs in County procurement and contracting activities and to encourage the participation of all responsible and eligible SBEs in these activities. In this regard, the Successful Bidder to whom any award of this solicitation is made shall take all necessary and reasonable steps to ensure that SBEs have the maximum opportunity to participate in this contract and shall be contractually obligated to meet the SBE participation goal established for this contract/project.

The County has established an overall annual goal of twenty percent (20%) for the participation of SBEs in all construction contracts valued at Two Hundred Thousand Dollars ($200,000) or more.

Failure of a Bidder to comply with the pre-award requirements set forth in this Section may result in the County's rejection of the Bid. Failure of the Successful Bidder/Contractor to perform/comply with the applicable contractual requirements regarding the County's Small Business Encouragement Program may constitute a material breach of the Contract and may result in termination of the Contract by the County.

2.10.2 SBE Participation Goal – The County's Small Business Encouragement Program participation goal is detailed below:

2.10.2.1.1 Project Goal. In connection with this solicitation and its resulting Contract, a goal of **5 %** has been established for participation by SBEs as Subcontractors. The established goal shall be applied to the full monetary value of the Contract (excluding the value of possible alternates) and shall be reflected in the monetary portion spent on subcontracts for consulting and/or construction services to be awarded to those SBEs meeting Contract Specifications.

2.10.2.1.2 Eligible SBE Businesses. All firms identified in Bidder's Bid must either be registered with the County as a SBE or be eligible for provisional reciprocal registration with the County **by** the Close Date of this solicitation in order for such SBE to be counted toward the SBE participation goal. **Businesses that have graduated from Hillsborough County's Small Business Encouragement Program and those that have been denied registration by the County shall not be counted toward goal attainment and/or goal attainment through reciprocal registration or joint venture.** For a current listing of Hillsborough County-Registered Small Business Encouragement Program firms, please visit the Small Business Encouragement Program's online Directory at: https://hcfl.gov/businesses/doing-business-with-hillsborough/small-business-encouragement-program . This website also includes a link to a list of firms that have graduated from or been denied registration in the County's Small Business Encouragement Program.

2.10.2.1.3 SBE Suppliers. With respect to the participation of SBE suppliers, credit toward the goal will be calculated as follows: Fifty percent (50%) of the total value of supplies furnished by a registered SBE will be credited toward the goals established for the project/Contract provided that the supplier is not a manufacturer. If the SBE supplier also manufactures the product, then full credit (100%) will be given.

2.10.2.1.4 2nd and 3rd Tier Participation for Project over $20 Million. Bidders will be allowed to utilize second tier SBE participation (i.e., SBE subcontractor of 1st tier subcontractor) and third (3rd) tier SBE participation (i.e., SBE subcontractor of 2nd tier subcontractor) for goal

attainment in projects/contracts valued at over Twenty Million Dollars ($20,000,000).

2.10.2.1.5 Obligation to Meet SBE Project Goal – The Successful Bidder who is awarded a contract resulting from this solicitation shall be contractually obligated to meet the overall SBE participation goal established for this entire Contract/project.

2.10.2.1.6 Contracts of $200,000 or More with no Goal. For Contracts for which no project goal was established (as evidenced by "N/A" appearing in the first blank in the above clause) because the project/Contract was estimated by the County at a price of less than Two Hundred Thousand Dollars ($200,000) but for which the Bid(s) received equal or exceed $200,000, the County's annual goal of twenty percent (20%) **shall** apply.

2.10.2.1.7 Contracts Less than $200,000 with a Goal. For Contracts for which a project goal is established but for which the Bid(s) received are less than Two Hundred Thousand Dollars ($200,000), the established goal **shall not** apply.

2.10.2.1.8 SBE-1 Form. Bidders **must** use the Subcontractors/Material Suppliers List-Construction Contracts (SBE-1 Form) included in this solicitation, if applicable, to document Bidders' attainment of the SBE participation goal. The identification of all SBE businesses to be utilized on the project **must** be shown on this form. This form is the basis for determining whether the Bidder has met the SBE participation goal for this Contract/project.

2.10.2.1.9 Assistance to SBE Firms. Bidders shall undertake to provide information and assistance to SBEs for the purpose of facilitating proposals by said SBEs to provide Subcontractor services to the Bidders. These efforts shall include Bidders making the necessary and reasonable steps in selecting economically feasible portions of the work to be broken down to facilitate SBE participation. The County's Small Business Enterprises Division may refer the Bidder to the appropriate County agency/department for technical assistance in identifying portions of the work that can be broken down for SBE participation.

2.10.2.1.10 SBE Bidding as a Prime Contractor. Any SBE firm who submits a Bid as a prime Contractor on a construction project shall be subject to the same SBE Subcontractor participation goals as a non-SBE Bidder. This means that the SBE prime Contractor **cannot** use its own resources to meet the Contract/project's SBE Subcontractor participation goal.

2.10.3 Registration/Reciprocity/Joint Venture

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2.10.3.1 Registration – Registration as a SBE must be obtained by a Subcontractor **by**the Close Date of this solicitation in order for such SBE to be counted toward the SBE participation goal. **Businesses that have graduated from Hillsborough County's Small Business Encouragement Program and those that have been denied registration by the County shall not be counted toward goal attainment and/or goal attainment through reciprocal registration or joint venture.** The County's SBE Directory and a list of those firms that have graduated from the County's Small Business Encouragement Program, as well as those firms who have been awarded the one-time reciprocal registration and firms that have been denied registration with the County's Small Business Encouragement Program can be found on the County website at: https://hcfl.gov/businesses/doing-business-with-hillsborough/small-business-encouragement-program

2.10.3.2 Reciprocity - Provisional reciprocity shall be granted to SBE firms that have been principally domiciled (headquartered) within one (1) of the following Florida counties for a period of at least six (6) months: Hillsborough, Pinellas, Pasco or Hernando, **and** registered by a local city, county, or state jurisdiction located within one (1) of these counties. In order to be considered for provisional registration and be counted toward goal attainment, a letter of registration from the registering jurisdiction or copy of documentation evidencing registration by the registering jurisdiction **must** be submitted by the apparent low Bidder within five (5) Business Days of notification by the County of apparent low Bidder status.. **A reciprocal registration shall become effective on the date of Contract award and is only valid for one (1) six (6) month period from that date.** All firms granted reciprocal registration who wish to continue to participate in the County's Small Business Encouragement Program after the expiration of its reciprocal registration will be required to complete an application for registration to the County's Program **prior** to the expiration of the six-month reciprocal registration period. The County's SBE Directory and a list of those firms that have been previously awarded the one-time reciprocal registration and firms that have been denied registration with the County's Small Business Encouragement Program can be found on the County website at: https://hcfl.gov/businesses/doing-business-with-hillsborough/small-business-encouragement-program .

2.10.3.3 Joint Venture – A joint venture consisting of a SBE and a non-SBE functioning as a subcontractor and a second-tier subcontractor will be credited with SBE participation based on the SBE venturer's percentage of participation in the work, risk and profits of the joint venture. Joint ventures shall be qualified in accordance with the rules of the Construction Industry Licensing Board as required by Section 489.119, Florida Statutes. **A joint venture with SBE component(s) must be approved by the County's Small Business Enterprises Division in order for the SBE component's involvement to be credited toward fulfilling the County's SBE participation goal**. The SBE component of the joint venture must be a **County-registered** SBE (i.e., registered as a SBE in the County's Small Business Encouragement Program).

2.10.3.3.1 A Joint Venture Bidder **must** submit the following documents to the County's Small Business Enterprises Division no later than ten (10) Business Days **prior** to the Close Date of this solicitation for the purpose of review and approval of the joint venture by the County's Small Business Enterprises Division:

2.10.3.3.1.1 A fully-executed Joint Venture Disclosure Affidavit which must state that the Joint Venture complies with Chapter 489, Florida Statutes;

2.10.3.3.1.2 Proof of **County** SBE registration for each SBE component of the joint venture;

2.10.3.3.1.3 Business resume for each party/member of the joint venture; and

2.10.3.3.1.4 A copy of the joint venture agreement which must reflect the scope of the SBE venturer's managerial and financial responsibilities.

2.10.3.3.1.5 A joint venture Bidder **must** submit the following documents **with** its Bid in order to have the SBE component of the joint venture counted toward the SBE participation goal:

2.10.3.3.1.5.1 A copy of the **County-approved** Joint Venture Disclosure Affidavit; and

2.10.3.3.1.5.2 The Bid submitted by the joint venture must be signed by all parties to the joint venture.

2.10.4 SBE Documents Due *Prior* to Bid Submission

The following documents must be completed and submitted by the Bidder prior to the Bidder's submission of its Bid to the County:

2.10.4.1 Joint Venture Documents (only applicable if the Bidder/prime Contractor is a joint venture) - the Joint Venture Disclosure Affidavit along with the other documents specifically listed above must be submitted to the County no later than ten (10) Business Days prior to the Close Date of this solicitation for the purpose of review and approval of the joint venture by the County's Small Business Enterprises Division.

2.10.5 SBE Documents Due *at Time* of Bid Submission

The following SBE documents must be completed by the Bidder and submitted with its Bid on or before the Close Date of this solicitation:

2.10.5.1 The Subcontractors/Material Suppliers List – Construction Contracts (SBE-1 Form) ***see SBE-1 Form included with this solicitation.*** The Subcontractors/Material Suppliers List – Construction Contracts (SBE-1 Form) must include the Subcontractor's/material supplier's name, scope or type of work to be performed, dollar amount, and whether the Subcontractor/material supplier is a registered SBE. The identification of all SBEs to be utilized on the project **must** be shown on this form. This form is the basis for determining whether the Bidder has met the SBE participation goal for this Contract/project.

2.10.5.2 County-Approved Joint Venture Disclosure Affidavit (only applicable if the Bidder/prime Contractor is a joint venture). **Please Note:** the Bid submitted by the joint venture must be signed by **all parties** to the joint venture.

2.10.6 SBE Documents Due *Within 5 Business Days* of Notification of Low Bidder Status

The following SBE documents must be completed and submitted by the apparent low Bidder within five (5) Business Days of notification of low Bidder Status by the County:

2.10.6.1 Executed subcontract agreements OR Letters of Intent (signed by both parties) for all SBE Subcontractors listed on the Bidder's Subcontractor/Material Suppliers List (SBE-1 Form) in monetary amounts that **must** meet the SBE participation goal. **Failure to submit executed Subcontractor agreements OR Letters of Intent that are consistent with the Bidder's Subcontractor/Material Suppliers List shall result in the omitted/affected subcontracts not being credited toward goal attainment and may result in a finding of non-responsiveness to the County's Small Business Encouragement Program requirements which may result in the rejection of your Bid/offer.**

Subcontract agreements/Letters of Intent must be submitted to the County's Procurement Services Department.

2.10.6.1.1 Subcontract Agreements. If the Bidder is submitting subcontract agreements, then all subcontract agreements executed between the Bidder and the SBE Subcontractor should include, but is not limited to, the following: identification of the project/Contract by County bid number, contract date, the name of the contracting parties, the price or monetary amount of the contract, the work or materials to be provided, the payment provisions, the responsibilities of the parties, and any applicable conditions precedent or subsequent to the contract. **Please Note:** subcontract prices/monetary amounts are not required in Bids for Work/Term Contracts.

2.10.6.1.2 Letters of Intent – ***see form Letter of Intent included with this solicitation***. If the Bidder is submitting Letters of Intent, then the form Letter of Intent included with this solicitation **must** be used to ensure that

all the required information is provided. **Failure to use the County's form Letter of Intent may result in the rejection of your Bid/offer.** A separate Letter of Intent must be used for each SBE subcontractor and must be completed in its entirety and signed by the legally authorized representatives of the Contractor AND the SBE subcontractor.

2.10.6.1.3 Subcontract Agreements and/or Letters of Intent for Additional SBEs not listed on SBE-1 Form. If the Bidder submits additional SBE subcontract agreements/Letters of Intent that are over and above what is listed on the Bidder's Subcontractor/Material Suppliers List-Construction Contracts (SBE-1 Form), then these additional SBE firms and/or monetary amounts will be credited toward Bidder's SBE participation goal attainment. However, **Please Note:** that the Bidder must first be deemed to be responsive to the goal through the SBE-1 Form in order to receive this additional credit toward SBE participation goal attainment. Registration of submitted SBE firms must be verified in order for this additional credit to be received.

2.10.6.1.4 References to Other Documents. Bidders who submit subcontract agreements/Letters of Intent which attempt to include by reference other document(s) which are not part of the official County bid package **must** attach a copy of all such referenced documents to be included with the subcontract at the time the executed SBE subcontract agreements/Letters of Intent are submitted to the County.

2.10.6.2 Proof of SBE registration from the registering jurisdiction(s) for each named SBE firm that is not a Hillsborough County-registered SBE. If a named SBE firm is seeking reciprocal registration with the County, then a letter from the registering jurisdiction or a copy of the registration document evidencing registration by the registering jurisdiction must be provided.

2.10.6.3 Extension of Time to Provide Required Documents. The County reserves the right to request and allow the apparent low bidder an extension of the five (5) Business Day time period to provide the required documentation but such extension shall be solely at the County's discretion.

2.10.7 Guidance/Assistance by the County

Bidders should contact the County's Small Business Enterprises Division immediately for guidance and assistance in the event that:

2.10.7.1 The Bidder anticipates or has difficulty in identifying and/or obtaining SBEs for subcontract participation;

2.10.7.2 The Bidder is unable to identify portions of the work that can be broken down for SBE subcontract participation; or

2.10.7.3 The Bidder determines that breaking down the work is not possible or feasible.

The County's Small Business Enterprises Division will work with and assist the Bidder to meet its SBE participation goal; however, it shall ultimately be the Bidder's responsibility to comply with the participation goal.

2.10.8 Bidder Responsiveness/Goal Attainment

In order to be deemed responsive to the County's SBE participation goal, Bidders must document goal attainment using the Subcontractor/Material Suppliers List – Construction Contracts (SBE-1 Form) in their Bid. The County's Small Business Enterprises Division shall be responsible for making the determination regarding the responsiveness of Bidders to the SBE participation goal. If the Bidder has achieved the SBE participation goal in its Bid, then a recommendation of Bidder "responsiveness" shall be made. If the Bidder has not achieved the SBE participation goal in its Bid, then a recommendation of Bidder "non-responsiveness" shall be made. In the event the responsiveness determination is not in favor of a Bidder, then the Bidder will be notified in writing by Procurement Services. Any objection to a non-responsive determination shall be deemed a protest, and the Bidder will be required to file said protest in strict accordance with Hillsborough County's Procurement Protest Policy and Procedures Ordinance (Hillsborough County Ordinance No. 23-15) – Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3.

2.10.9 Additional Credit Toward Goal Attainment *Before* Contract Award

If, prior to the County's award of the Contract, the Bidder submits additional SBE executed Subcontract agreements and/or Letters of Intent that are over and above what is listed on the Bidder's Subcontractor/Material Suppliers List – Construction Contracts (SBE-1 Form), then these additional firms and/or monetary amounts will be credited toward Bidder's SBE participation goal attainment. However, Please Note that the Bidder must first be deemed to be responsive to the goal through the SBE-1 Form in order to receive this additional credit toward goal attainment. Registration of these additional SBE firms must be verified in order for this additional credit to be received.

2.10.10 Additional Credit Toward Goal Attainment *After* Contract Award

If, after the Contract has been awarded by the County, the Successful Bidder/Contractor during the course of the Contract wishes to utilize additional registered SBE subcontractors for the project, then this shall be allowed with the approval of the County's Small Business Enterprises Division and will be counted towards the Successful Bidder's/Contractor's overall SBE participation goal attainment for the project/Contract. Registration of these additional SBE firms must be verified in order for this additional credit to be received.

2.10.11 Notice to Proceed

For Contracts/projects with SBE goals, the County will issue the Notice to Proceed only after the Successful Bidder's/Contractor's compliance with the stated goal is documented in accordance with the County's SBE Policy/Procedures and confirmation of such compliance is received from the County's Small Business Enterprises Division.

2.10.12 Documents Due to County upon Completion of Project/Contract

2.10.12.1 Statement of Satisfaction or Final Lien Release Waiver. Upon completion of the Project/Contract, the Contractor shall submit to County's Small Business Enterprises Division documentation of all payments made and/or all outstanding payments due to the SBE firms which are confirmed on the Subcontractor's Statement of Satisfaction or Final Lien Release Waiver for the Project/Contract. If there are outstanding payments due to a SBE subcontractor, then the Contractor and the SBE subcontractor must agree on the balance due amount and how this amount due will be paid or resolved, before the County will issue final payment for the Project/Contract. A Consent of Surety Bond **will not** be accepted in lieu of the Subcontractor's Statement of Satisfaction or Final Lien Waiver.

2.10.12.2 Failure to Meet SBE Goal. If the Contractor has not met its SBE participation goal, the Contractor must provide documentation outlining the reasons and/or circumstances that impacted its ability to meet the SBE participation goal. If the determination is made that all SBE subcontractors have not been paid for all acceptable work and materials and the Contractor is not in compliance with the County's Small Business Encouragement Program requirements, then the County's Small Business Enterprises Division may recommend that the final payment not be made.

2.10.13 Vendor Compliance System (B2GNOW)

2.10.13.1 For Contracts/projects with SBE goals, the Contractor is required to utilize the County's Vendor Compliance System on a monthly basis to confirm payments received from the County and to list any payments made by the Contractor to SBE Subcontractors in that monthly period. **Contractor is required to report monthly payments to all SBE Subcontractors whether or not payment has been made to the Contractor by the County.** If no payment has been made by the County, then Contractor must report a zero (0) dollar amount in the Vendor Compliance System.

2.10.13.2 The County's Vendor Compliance System can be accessed at the following link: https://hcfl.gov/sbe

2.10.13.3 Contractors will receive email and/or facsimile notifications alerting them when there is a need to respond.

2.10.13.4 To ensure that Contractor maintains compliance with the County's contract compliance program, the Contractor is required to update its contact information in the Vendor Compliance System, which is hosted by third party vendor - B2GNow.

2.10.13.5 In the event Contractor has any questions regarding how to create an account or require assistance accessing its account, Contractor should click on the "Help First Time Visitors" link located on the web page listed above. The following on-line classes on the Vendor Compliance System are available:

2.10.13.5.1 Contract Compliance Reporting – Vendor Training, classes are given on a weekly basis.

2.10.13.5.2 Introduction to the System – Vendor Training, classes are given on a bi-monthly basis.

To sign up for one of these training events, Contractor should click on the "Training and Events" link located on the webpage listed above.

2.10.14 Contract Compliance Requirements

2.10.14.1 Compliance Monitoring-General - Compliance monitoring and reviews are conducted by the County's Small Business Enterprises Division to determine if the Contractor and/or subcontractors are complying with the requirements of the County's Small Business Encouragement Program. Failure of the Contractor to comply with these requirements may result in the County taking remedial action by legal or non-legal means.

2.10.14.2 Substitution of SBE Subcontractor - If the Contractor or SBE subcontractor is unable to perform pursuant to a subcontract utilized by the County in a determination of the Contractor's responsiveness to the Small Business Encouragement Program, the Contractor shall substitute the affected SBE subcontractor with another registered SBE subcontractor. The Contractor shall not substitute with a non-SBE subcontractor or complete the work using its own resources without the prior written approval of the County. Approval shall be provided only upon a showing by the Contractor that it is not reasonable or possible to obtain the services of another registered SBE business to complete the relevant portions of the Contract.

2.10.14.3 Failure to meet SBE Goal – If the Contractor has not met its SBE participation goal, then the Contractor must provide documentation to the County's Small Business Enterprises Division outlining the reasons and/or circumstances that impacted the Contractor's ability to meet the participation goal.

2.10.14.4 Compliance Monitoring by the County - The County may utilize the following tools to determine if the Contractor and/or subcontractors are complying with their SBE

utilization requirements and/or other requirements of the County's Small Business Encouragement Program:

2.10.14.5 Information generated by the County's Vendor Compliance System (B2GNOW) based on the required monthly payment/utilization reporting requirements of the County's Small Business Encouragement Program.

2.10.14.6 The Small Business Enterprises Division may make scheduled and/or unannounced project site visits to assess Contractor's and/or subcontractor(s) performance and/or compliance.

2.10.14.7 The Small Business Enterprises Division may require the Contractor and/or subcontractors to furnish the County with additional documentation (separate from those generated by the County's Vendor Compliance System (B2GNOW)).

2.10.14.8 Communications, meetings and/or interviews with the Contractor and/or subcontractors, including their employees and/or agents, to identify and discuss other project-related matters or concerns such as performance and reporting relationships.

2.10.14.9 The Small Business Enterprises Division may review subcontract agreements, purchase orders and other related and relevant documents for the purpose of verifying that subcontractors are performing and receiving payment for the work specified therein.

2.10.14.10 Notification of Non-Compliance –

2.10.14.10.1 The County shall issue a non-compliance and/or "failure to meet goal" notification to the Contractor if the County determines that the Contractor is not in compliance with its SBE utilization requirements and/or the Small Business Encouragement Program requirements ("Non-Compliance Notice").

2.10.14.10.2 The Non-Compliance Notice shall specify the following:

(A) Identify the compliance deficiencies;
(B) Instruct the Contractor to take the following actions (1. or 2. below) to ensure its compliance with its SBE utilization requirements and/or the Small Business Encouragement Program requirements:
1.
(aa) Immediately take action to correct the compliance deficiency; and
(bb) Submit a written commitment to the County, within five (5) business days of the date of the notice, specifying the corrective actions to be taken to remedy the compliance deficiencies. Such written

commitment must include the specific actions to be taken and the date for completion.

OR

2. Contact the County within five (5) business days of the date of the notice to discuss any issues preventing the Contractor's compliance with the SBE requirements and to identify a resolution to such issues. Such resolution will be in writing and must be approved by the County's Small Business Enterprises Division.

2.10.14.10.3 The Small Business Enterprises Division shall have the right to approve the Contractor's written commitment and/or request modifications/adjustments to the Contractor's written commitment.

2.10.14.10.4 Any commitments made by the Contractor to remedy its compliance deficiencies will not preclude future determinations of non-compliance based on the County's finding that the Contractor commitments were not faithfully performed.

2.10.14.11 Non-Compliance – If the County issues a Non-Compliance Notice to the Contractor and the Contractor subsequently fails to address and/or remedy the compliance deficiencies as specified in the Non-Compliance Notice, then this failure by the Contractor (i) may be deemed by the County to be a material breach of the Contract, and (ii) shall entitle the County to exercise any or all of the remedies set forth in the Subsection below titled "Non-Performance of Contractor and Remedies of the County".

2.10.15 Non-Performance of Contractor and Remedies of County

2.10.15.1 Failure by the Contractor to comply with its SBE utilization requirements and/or comply with the requirements of the County's Small Business Encouragement Program may be considered by the County to be a material breach of contract.

2.10.15.2 Hillsborough County reserves the right to exercise any available remedy in the event of the Contractor's failure to comply with its SBE utilization requirements and/or comply with the requirements of the County's Small Business Encouragement Program.

2.10.15.3 Failure to perform under the terms of the Contract with regard to the Small Business Encouragement Program, includes, but is not limited to, the following:

2.10.15.3.1 Failure of the Contractor (without the prior written approval of the County) to utilize the services of a SBE pursuant to a subcontract submitted to the County and utilized by the County in a determination of the Contractor's responsiveness to the Small Business Encouragement Program.

2.10.15.3.2 Failure of the Contractor to address the compliance deficiencies as specified in a Non-Compliance Notice issued to the Contractor by the County.

2.10.15.3.3 Knowingly using a front company (i.e. a firm/business which is not, in fact, a registered SBE, but poses as such in order to participate in the County's Program) to achieve SBE participation on the County Contract.

2.10.15.3.4 Making any false statement(s) or using deceit for the purpose of influencing, in any way, any action of the County.

2.10.15.3.5 Unethical or other serious lack of business integrity with regard to SBE Contract performance.

2.10.15.3.6 Failure to report payments made to identified SBE businesses in the County's Vendor Compliance Management System (B2GNOW).

2.10.15.3.7 Remedies available to the County include, but are not limited to, the following:

2.10.15.3.7.1 Termination of the Contract with the County.

2.10.15.3.7.2 The exercise of any and/or all available legal remedies for breach of contract.

2.10.15.3.7.3 Either the total amount (or a percentage thereof as deemed appropriate by the County) paid to the Contractor or firm under the Contract intended for expenditure with a SBE firm and not so expended may be forfeited and recoverable by the County.

2.10.15.3.7.4 Any violations under this section of any applicable local, state or federal law or rule shall be referred to the applicable law enforcement or regulatory agency for investigation and/or prosecution.

2.10.15.3.7.5 The Director of the County's Small Business Enterprises Division may recommend to the County's Director of Procurement Services that the Contractor be suspended or debarred from bidding on and/or working on County contracts pursuant to the criteria set forth in the County's Procurement Policy.

2.10.15.3.8 Failure of the Contractor to comply with its SBE utilization requirements and/or reporting requirements may result in a non-responsibility determination of Bids/offers by the Contractor on future procurement solicitations issued by the County.

2.10.15.3.9 Any Contractor or firm that falsely represents to the County, pursuant to the County Contract, that it will use the commodities or services of a SBE firm and fails to do so, may be in breach of the Contract; whereupon, the County may exercise all available remedies for breach of contract.

2.10.15.4 **Prompt Payment Policy**

2.10.15.4.1 Every construction Contract let by the County for the performance of work shall contain a provision requiring the prime construction Contractor to certify, in writing, that all Subcontractors and suppliers have been paid for acceptable work and materials from previous progress payments received by the prime Contractor (less any retainage) prior to the County's disbursement of any further progress payments.

2.10.15.4.2 During the Contract the County may, and upon completion of the Contract the County shall, require documentation to certify that payments to such Subcontractors or suppliers have been made. This provision in no way creates any contractual relationship between any Subcontractor and the County or any liability on the County for the Contractor's failure to make timely payments to the Subcontractor or supplier. However, the County will consider the Contractor's failure to comply with this provision a breach of Contract.

2.10.15.5 **Unlicensed/Improperly Licensed SBE Firms**

Any SBE firm procuring or entering into a contract/agreement to perform work for which the SBE firm is not properly licensed is in violation of Hillsborough County Ordinances 86-6, 86-7, 86-8, 86-9, and 86-10, and Chapter 489, Part I, Florida Statutes; and violations thereof may be referred to the appropriate authorities for action.

2.11 Construction Apprenticeship Program

2.11.1 General Information

There is a shortage of skilled labor for construction projects. This shortage of labor results in delays, expenses, and other challenges to the County's construction projects. Apprenticeships create opportunities for training and experience that will assist in ensuring that a trained workforce will be available for future County construction projects. By incentivizing the use of Apprentices for County Construction Contracts as provided for in Chapter 2, Article VI, Division 4, Sections 2-577 through 2-580, it is the intent of the Board of County Commissioners to increase the number of Apprentices used by Contractors, thereby creating opportunities that will result in an increase in the number of skilled workers available for future County construction projects. The County

Administrator shall have the authority to develop policies and procedures applicable to the administration of the Apprenticeship Program as necessary.

2.11.2 This program will apply when:

2.11.2.1 The construction project funded by the County in an amount equal to or greater than $5,000,000.00 that involves the process of building, altering, repairing, improving, maintaining, or demolishing one ore more public facilities or buildings, or other public improvements of any kind to any real property or public facility owned or under the control of the County.

2.11.2.2 Construction Apprenticeship Program Incentive: "Incentive" for purposes of the County's Construction Apprenticeship Program shall mean a monetary payment or credit of thirty percent (30%) of the amount expended by a Contractor or its Subcontractor(s) on Apprentice Costs on a Construction Contract up to a maximum amount of one hundred thousand dollars ($100,000.00) for a Construction Contract of less than twenty million dollars ($20,000,000.00) or up to a maximum amount of two hundred thousand dollars ($200,000.00) for a Construction Contract equal to or exceeding twenty million dollars ($20,000,000.00).

2.11.3 Participation Incentive Guidelines

2.11.3.1 Subject to limitations and exceptions provided for in Chapter 2, Article VI, Division 4, Sections 2-577 through 2-580 of the Hillsborough County Code of Ordinances, and compliance by the Contractor with the requirements of this section and the Construction Contract, the County shall provide an Incentive on Construction Contracts when Apprentices are used on the Construction Contract.

2.11.3.2 The County shall provide the Incentive, when applicable, upon final completion of the project as part of the final payment due under the associated Construction Contract.

2.11.3.3 In order to qualify for the Incentive, the required documentation provided for in this division must be received, in a single package, by the County Administrator no later than thirty (30) calendar days from the final completion as defined in the associated Construction Contract.

2.11.3.4 Upon review and acceptance of the required documentation by the County, the Contractor shall include the Incentive amount as part of its final payment application under the Construction Contract. If applicable, the County shall provide the Incentive to the Contractor as part of the final payment within the timeframe provide under Section 218.735, Florida Statutes.

2.11.3.5 If the documentation required pursuant to this division is not received by the County Administrator within the time frame specified in this division, the Contractor shall not receive an Incentive.

2.11.4 Participation Incentive Exceptions

2.11.4.1 This division will not apply if:

2.11.4.1.1 It is prohibited by or in conflict with federal or state laws or the terms of a federal or state grant applicable to the construction project; or

2.11.4.1.2 The Board of County Commissioners determines that applying the division to the construction project Is not in the best interest of the County.

2.11.4.2 **Required Documentation**

2.11.4.2.1 In order to receive an Incentive, no later than thirty (30) calendar days from the final completion as defined in the associated Construction Contract, the Contractor shall:

2.11.4.2.2 Certify to the County Administrator that during the Construction Contract, the Contractor or its Subcontractor(s) used an Apprentice(s) on the Construction Contract; and

2.11.4.2.3 Provide the County Administrator with the following documentation, in a single package, that demonstrates the use of an Apprentice(s) on the Construction Contract and provides the Apprentice Cost.

Documentation must include the Contractor or its Subcontractor(s) contact information; Apprentice name(s); Registered Apprenticeship Partners Information Data Systems (RAPIDS) registration number or Florida Department of Transportation's On-the-Job Training identification data; certification from the Apprentice program that the Apprentice was in good standing during the Contract term; registered trade(s); and certified payroll reports for the Apprentice hours worked on the Contract showing the amount expended by the Contractor or its Subcontractors paying for work performed.

3. DEFINITIONS

The following words and expressions (or pronouns) shall, wherever they appear in this Solicitation Document and the Contract Documents, be construed as follows unless a different meaning is clear from the context.

HCFL.gov/Vendors
(813) 272-5790
Hillsborough County Florida
Procurement Services

3.1 Amendment(s), Addendum, or Addenda

"Amendment(s)", "Addendum", or "Addenda" shall mean the additional information and/or requirements concerning this Solicitation Document that are issued by the County, in writing, prior to the Close Date.

3.2 Agreement

"Agreement" shall mean the written agreement between the County and the Contractor covering the goods and/or Services to be provided and/or the Work to be performed pursuant to this Solicitation Document. The Agreement (if one is required for this particular Solicitation Document) will be attached to and made a part of the Contract Documents.

3.3 Application for Payment

"Application for Payment" shall mean the form issued by the managing County Department which is to be used by Contractor in requesting a progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

3.4 Apprentice

"Apprentice" for purposes of the Construction Apprenticeship Program shall mean any person who is enrolled and participating in an apprenticeship program registered with the Florida Department of Education or the United States Department of Labor, or a company-sponsored apprenticeship program approved by the Florida Department of Transportation.

3.5 Apprentice Costs

"Apprentice Cost" for purposes of the Construction Apprenticeship Program shall mean compensation paid by a Contractor or Subcontractor to an Apprentice, the cost of benefits paid by a Contactor or Subcontractor for an Apprentice, and payroll taxes paid by a Contractor or Subcontractor for an Apprentice.

3.6 Beneficial Occupancy

"Beneficial Occupancy" shall mean the status of completion of a specified portion of the Project which (in the opinion of the Project Manager as evidenced by a Certificate of Beneficial Occupancy) is sufficiently complete, in accordance with the Contract Documents, so that the County may utilize that portion for the purposes for which it was intended, when said use will not significantly interfere with the construction of the remaining (uncompleted) part of the Project.

3.7 Bid(s), or Bidder's Bid

"Bid(s)", "Bidder's Bid", "Proposal(s)", or "Quote(s)" shall mean the offer, bid, proposal, or quote of the Bidder/Proposer submitted on the prescribed forms setting forth the prices for the Work

to be performed, along with all other documents submitted by the Bidder/Proposer in response to this Solicitation Document.

3.8 Bidder

"Bidder" or "Proposer" shall mean any person, partnership, corporation or other entity or organization submitting a Bid, Proposal, or Quote to provide the goods, Services and/or Work solicited by the County in this Solicitation Document.

3.9 Board

"Board" shall mean the Board of County Commissioners of Hillsborough County, Florida.

3.10 Bond

"Bond" or "Earnest Money Deposit (EMD)" shall mean bid bond, performance bond, and/or payment bond and other instruments of security furnished by the Bidder/Proposer/Contractor and its Surety in accordance with this Solicitation Document and/or the Contract Documents.

3.11 Business Day

"Business Day" shall mean any day on which the County is open to the public.

3.12 Change Order

"Change Order" A written order signed by the Chairman of the Board of County Commissioners authorizing an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

3.13 Close Date

"Close Date" shall mean the date and time set for delivery to the County of all Offers submitted in response to this Solicitation Document.

3.14 Construction Contract

"Construction Contract" shall mean a Contract between the County and a Contractor funded by the County in an amount equal to or greater than five (5) million dollars ($5,000,000.00) that involves the process of building, altering, repairing, improving, maintaining, or demolishing one or more public facilities or buildings, or other public improvements of any kind to any real property or public facility owned or under the control of the County.

3.15 Construction Services

"Construction Services" shall mean all labor and materials to be provided by Contractor in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property. Construction Services also means Work.

3.16 Contract or Contract Documents

"Contract" or "Contract Documents" shall mean the Definitions, Instructions, General Terms and Conditions, Special Terms and Conditions, Insurance and Bond requirements, Specifications, Equal Employment Opportunity and Affirmative Action Requirements, all Amendment(s) issued, the Offer, the Agreement (if applicable), all the attached documents identified in this Solicitation Document, all supplementary drawings issued after award of the contract, all Change Orders, all Allowance Authorization Releases, and all provisions required by law to be a part of the Contract Documents, whether actually inserted therein or not.

3.17 Contract Price

"Contract Price" shall mean the total monies payable to the Contractor under the Contract Documents.

3.18 Contract Purchase Agreement (CPA)

“Contract Purchase Agreement (CPA)” shall mean the County’s written document to the Contractor stating the products/Services/Work to be provided, the pricing for said products/Services/ Work, the effective dates for the provision of said products/Services/Work, and additional terms and conditions of the Contract, if applicable.

3.19 Contract Time

"Contract Time" shall mean the number of Days stated in the Agreement for Completion of the Work, including the performance of any Allowance Work authorized, and any Work approved by Change Order(s). The first day of the Contract Time is the Notice to Proceed Date shown in the Notice to Proceed.

3.20 Contractor

"Contractor" shall mean any individual, firm, corporation, partnership, company, association, joint venture, or other entity awarded a Construction Contract.

3.21 County

"County" shall mean the Board, and the Board acting by and through its authorized designees, agents and employees.

3.22 County Administrator

"County Administrator" shall mean Hillsborough County's County Administrator, or a designee identified by the County Administrator to perform certain functions on behalf of the County Administrator.

3.23 Day

"Day" shall mean one (1) calendar day when used in the Contract Documents, measured from midnight to the next midnight, unless the Contract Documents specifically say Business Day.

3.24 Defective

"Defective" shall mean an adjective which, when modifying the Work, refers to Work that is unsatisfactory, faulty, deficient or otherwise does not conform to the Contract Documents.

3.25 Department

"Department" shall mean the Department or division within the County that is initiating and managing the Project.

3.26 Director

"Director" shall mean the Director of the Department or Division initiating and managing the Project.

3.27 Drawings

"Drawings" shall mean the drawings which show the character and scope of the Work to be performed and which have been prepared or approved by the Professional.

3.28 Electronic Bidding System

"Electronic Bidding System" shall mean County Electronic Bidding System.

3.29 Equal/Equivalent

"Equal/Equivalent" shall mean a product, service, component or system which is demonstrated, to the satisfaction of the Project Manager, to be equal to the product, service, component or system specified. The Project Manager shall be the sole judge of acceptability of an equal.

3.30 Field Order

"Field Order" shall mean a written direction to the Contractor from the Professional that modifies Drawings and Specifications without changing Contract Price or Contract Time.

3.31 Final Acceptance

"Final Acceptance" shall mean acceptance of the Work by County as evidenced by signature of the Project Manager upon the Certificate of Final Completion form. Final Acceptance shall be deemed to have taken place only if and when such signature is affixed to such certificate. The Certificate of Final Completion shall be signed only after the Project Manager has assurance by tests, inspection, or otherwise that all of the provisions of the Contract Documents have been carried out, including completion of the Punch List.

3.32 Good Faith Efforts

"Good Faith Efforts" shall mean that the Contractor, without an intent to defraud or seek an unfair advantage, took all necessary steps to secure and maximize, consistent with the requirements of Hillsborough County Ordinance No. 21-17, the required percentage for apprentices on a Construction Project.

3.33 Nonconformance Report

"Nonconformance Report" shall mean written notice from the Project Manager to the Contractor reporting on an aspect of defective work which requires the immediate correction of same by the Contractor.

3.34 Notice

"Notice" shall mean a written notice. Notice shall be served upon the Contractor at the place of business given in the Contract Documents. Notice to the County or to the Project Manager shall be served at the office of the Project Manager.

3.35 Notice of Intent to Recommend Award

"Notice of Intent to Recommend Award" shall mean the written notice issued by the County, using the message board within the County's electronic bidding system, to the successful Bidder(s) specifying that compliance by the successful Bidder with the precedent conditions enumerated therein and within the time specified must be completed before a contract can be awarded and/or a Notice to Proceed with the Work will be issued.

3.36 Notice to Proceed

"Notice to Proceed" shall mean a written notice given by the Project Manager to the Contractor fixing the date on which the Contract Time will commence and the Contractor shall start to perform the obligations under the Contract Documents.

3.37 Offer(s)

"Offer(s)" or "Bid(s)" or "Proposal(s)" or "Quote(s)" shall mean the offer, bid, proposal, or quote of the Offeror submitted on the prescribed forms setting forth the prices for the Work to be

performed, along with all other documents submitted by the Offeror in response to this Solicitation Document.

3.38 Offeror

"Offeror" shall mean any person, partnership, corporation or other entity or organization that has submitted an Offer, Bid, or Proposal to the County in response to a procurement solicitation issued by the County to provide equipment, supplies, materials, or Services.

3.39 Pay Quantity

"Pay Quantity" shall mean, when applicable, the estimated quantity multiplied by the unit price for each pay item specified in the Bid Proposal.

3.40 Professional

"Professional" shall mean the professional architectural/engineering firm designated to perform the design and/or resident engineer services for the Work by a prior agreement entered into between the County and said firm. At times, County staff may perform the design and/or resident engineer services for the Work and shall be considered the Professional in relation to the Work or portion of the Work.

3.41 Project

"Project" shall mean the entire action and/or improvement which is the subject of this Solicitation Document and/or the Contract Documents.

3.42 Project Manager

"Project Manager" shall mean an individual employed by the County and assigned to manage and administer the Project which is the subject of the Contract Documents. The Project Manager may designate in writing a Project Representative to perform certain duties and responsibilities as set forth in the Special Terms and Conditions.

3.43 Project Schedule

"Project Schedule" shall mean the schedule, showing the sequence and schedule of the Contractor's furnishing of all labor, services, equipment and materials for the Project. The Project Schedule shall be submitted by Contractor for review and approval of County within ten (10) Days after issuance of Notice of Award, but no later than pre-construction conference date. The Project Schedule may be amended, modified or revised only in accordance with the terms of the Contract.

3.44 Proper Invoice

"Proper Invoice" shall mean an invoice that conforms with all statutory requirements and all requirements specified in the Contract Documents.

3.45 Punch List

"Punch List" shall mean the approved list of incomplete and/or deficient Work that shall be completed by Contractor after Substantial Completion but before Final Acceptance can be certified by the Project Manager. The Punch List enumerates the items required to render complete, satisfactory and acceptable all Work by the Contractor. The Punch List is developed by Contractor, County and Professional (if any) in accordance with the provisions of the Contract and within the time frames required therein. The Punch List essentially includes items of a minor nature; major items must be completed before Substantial Completion and cannot be considered to be Punch List work.

3.46 SBE

"SBE" shall mean an entity registered as a small business enterprise pursuant to Hillsborough County's Small Business Encouragement Program as set forth in the Board's Resolution No. R25-071and the County's corresponding Operational Procedures.

3.47 Schedule of Values

"Schedule of Values" shall mean a schedule showing all activities of the Work subdivided into component parts in sufficient detail to serve as the basis for measuring quantities in place and/or calculating amounts for progress payments during construction. The Schedule of Values shall be satisfactory in form and substance to the Project Manager. The Schedule of Values for a unit price contract is also called a Line Item Summary.

3.48 Site(s)

"Site(s)" shall mean the area(s) upon or in which the Contractor's operations are carried on and such other areas adjacent thereto as may be designated as such by the County.

3.49 Specifications

"Specifications" shall mean those portions of the Contract Documents consisting of written (general or detailed) technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

3.50 Subcontractor

"Subcontractor" shall mean an entity or individual providing services to the County through a Contractor for all or any portion of the Construction Contract.

3.51 Submittals

"Submittals" shall mean all drawings, diagrams, illustrations, schedules, samples, test results, and other data which are specifically prepared by a Contractor, Subcontractor, manufacturer, fabricator, supplier, or distributor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams, and other information prepared by a manufacturer, fabricator, supplier, or distributor and submitted by Contractor to illustrate material or equipment for some portion of the Work.

3.52 Substantial Completion

"Substantial Completion" shall mean the status of completion of the Work which, in the opinion of the Project Manager as evidenced by a definitive Certificate of Substantial Completion, is complete in accordance with the Contract Documents, except for minor outstanding items listed on the Punch List. Substantial Completion includes, but is not limited to, the following occurring:1) the Work can be safely utilized for the purposes for which it was intended; 2) all regulatory agency requirements are satisfied, including occupancy permits, operating certificates and similar releases, 3) all operational testing has successfully occurred; 4) all required training has successfully occurred; 5) all close-out documents (such as as-built drawings, certifications, warranties, guaranties, test reports, test logs, operational manuals, etc.) have been provided by Contractor and accepted by County; 6) permit acceptance by permitting agencies, if applicable.

3.53 Substitution

"Substitution" shall mean a product, service, component or system which is not equal to that specified, but is proposed by Contractor in lieu of that specified. The acceptability of a substitute shall be based on the data submitted and the benefit of the County. The Project Manager shall be the sole judge of acceptability.

3.54 Supplemental Drawings

"Supplemental Drawings" shall mean the drawings issued after the execution of the Agreement to explain further, to illustrate, or to show changes in the Work.

3.55 Surety

"Surety" shall mean any business entity that executes, as Surety, the Contractor's Bid, Performance, or Payment Bonds.

3.56 Work

"Work" shall mean the Work to be performed under this Agreement shall consist of furnishing all plant, tools, equipment, materials, supplies, and manufactured articles and for furnishing all

transportation and services, including fuel, power, water, and essential communications, and for the performance of all labor, work, or other operations required for the fulfillment of the Agreement in strict accordance with the Specifications, schedules, Drawings, and other Contract Documents as herein defined, all of which are made a part hereof, and including such detailed sketches as may be furnished by the Professional from time to time during construction in explanation of said Contract Documents. The Work shall be complete, and all work, materials, and services not expressly shown or called for in the Contract Documents which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally so specified or shown, at no increase in cost to the County.

4. INSTRUCTIONS

4.1 Bid Submissions

4.1.1 The County shall only accept Offers through its Electronic Bidding System.

4.1.2 Offers delivered by non-electronic means, facsimile, electronic mail (e-mail) or electronic means other than through the County's Electronic Bidding System will not be considered

4.2 Non-Discrimination and Compliance with Laws

4.2.1 Bidder shall comply with the requirements of all applicable federal, state and local laws prohibiting discrimination and the rules, regulations, policies, and executive orders promulgated thereunder, all of which are incorporated herein by reference.

4.2.2 The County prohibits any person/business involved in County contracting and procurement activities, to discriminate on the basis of actual or perceived race, color, religion, sex, national origin, age, marital status, disability, sexual orientation, or gender identity or expression.

4.2.3 Bidder shall comply with the requirements of all applicable federal, state and local laws and the rules, regulations, policies and executive orders promulgated thereunder, all of which are incorporated herein by reference.

4.3 Assignment of Contract

Bidder may not make any assignment of the resulting Agreement between the parties, in whole or in part, without prior written authorization as may be given at the sole discretion of the Board.

4.4 Availability

The successful Bidder must have sufficient personnel and equipment to perform as required by the Contract Documents. A pre-award survey may be conducted by the County to ascertain the availability of such. Should the County have reasonable doubt as to Bidder's ability to provide sufficient personnel and equipment to perform the Work, County may request specific assurance of Bidder's ability to perform. Bidder's failure to provide such assurance within the time specified by County may serve as basis for rejection of the bid.

4.5 Award of Contract and Rejection of Bids

4.5.1 A contract will be awarded by the Board of County Commissioners to the lowest responsive and responsible Bidder, provided that Bidder's Bid/Proposal is considered (within the sole discretion of the County) reasonable and in the best interest of County. The successful Bidder to whom a contract is awarded will be so notified by County staff. County, however, at its sole discretion, reserves the right to reject any and all Bid/Proposals and to waive any informality concerning Bids/Proposals whenever such rejection or waiver is in the best interest of County. County, likewise, reserves the right to reject the Bid/Proposal of any Bidder who has previously failed to perform properly, or to complete on time, contracts of similar nature; who is not in a position to perform the contract; or who has habitually and without just cause neglected the payment of bills or otherwise disregarded its obligations to Subcontractors, materialmen or employees. Ability of a Bidder to obtain a Performance Bond and/or Payment Bond shall not be regarded as the sole test of such Bidder's competency or responsibility.

4.5.2 No award of the contract shall be made until the successful Bidder has received a Notice of Intent to Recommend Award and has submitted certified copies of the Bonds shall be submitted to the County and any and all required Certificate of Insurance (with the exception of Builders Risk and Installation Floater, if required) within ten (10) Business Days of the issuance of such Notice and such other further documentation as may be required by the County as a condition precedent to such an award. Evidence of Builders Risk and Installation Floater when required acceptable to the County must be provided within ten (10) business days after the execution of the Contract by the County and in no instance, later than the start of the Work involved.

4.6 Bid Errors

Where Bid Proposals have erasures or corrections, each erasure or correction should be initialed in ink by the Bidder. County shall reject any Bid Proposal with such erasures or corrections where the accuracy or intent of said Bid Proposal as corrected cannot be determined by County staff. In the case of unit price contracts, if an error is committed in the extension of an item, the unit price as shown in the Bid Proposal will govern. Unit prices will be utilized to adjust the total compensation due the successful Bidder based on actual quantities encountered. No negotiation of these unit prices after contract award will be allowed. Significant changes in quantities

including total deletions are possible. Therefore, Bidders shall proportionately distribute overhead and profit across the unit prices.

4.7 Bidder/Proposer Request for Interpretation of Solicitation Document

No interpretation of the meaning of the Specifications or Scope of Work contained in this Solicitation or related Contract Documents will be made to any Bidder/Proposer orally. Every request for such interpretation must be submitted in writing through the electronic bidding system (Euna Procurement). **To be given consideration, such requests must be received no later than 14 calendar days after the date of Solicitation issuance in Euna Procurement, site visit, or pre-bid conference, whichever is later.** All interpretations and supplemental instructions provided by the County will be in the form of a written amendment which, if issued, will be communicated to all Bidders/Proposers who have acknowledged participation within Euna Procurement. All issued amendments shall become part of the Contract Documents. The "Primary Contact" information on Page 1 of this Solicitation is provided in the event assistance is needed. No Bids or Proposals shall be submitted or accepted through electronic mail (e-mail), facsimile, or by hard copy (paper). Bids and Proposals will only be accepted and considered if submitted through Euna Procurement.

4.8 Brand Names, Etc.

4.8.1 In instances where the Specifications make this subject applicable, any use therein of brand names, manufacturers' names, trade names, information and/or catalog numbers are used solely for the purpose of providing descriptions and for establishing acceptable quality levels. Such references are not intended to place restriction on the Bidders/Proposers (other than as to quality) and Bidders/Proposers may propose and describe upon the Bid/Proposal/Quote forms deviations that the Bidder/Proposer believes to be equal to or better than the requirements set forth in this Solicitation Document. The burden of proof that the Bidder's/Proposer's proposed brand is in fact equal lies with the Bidder/Proposer.

4.8.2 Bidders/Proposers must furnish all requested information in the spaces provided on the Bid Proposal. Additionally, where required pursuant to the provisions of this solicitation, Bidders must submit the following with their Bid Proposal: catalog cuts, sketches, descriptive literature, and/or complete specifications relative to the items proposed and offered. References to previously submitted material concerned with previous Bid Proposals are not acceptable to County.

4.9 Qualification for Construction Apprenticeship Program Incentive

Contractor's seeking to secure the incentive available under the Construction Apprenticeship Program must comply with the guidelines and exceptions provided for in Hillsborough County Ordinance No. 23-14 as set forth in this Contract.

4.10 Compliance With Occupational Safety and Health Act (O.S.H.A.)

In instances where such is applicable due to the nature of the bid matter with which this bid package is concerned, all material, equipment, etc., as proposed and offered by Bidders must meet and conform to all O.S.H.A. requirements as set forth in Subpart E of the O.S.H.A. Standards for Construction (29 CFR 1926). The Bidder's submission of the Bid Proposal shall be by reference a certification of such fact.

4.11 Contractor Licensing/Registration/Certification

4.11.1 Bidder shall be properly licensed, certified and/or registered with the State of Florida or Hillsborough County, as applicable, for the appropriate category of work specified in this bid.

4.11.2 For categories of work which are exempt from certification and registration requirements under Florida Statute, but where Florida Department of Transportation certification is available, Bidder shall be certified by the Florida Department of Transportation in the appropriate category.

4.11.3 At the Close Date, Bidder must be certified with the Florida Construction Industry Licensing Board, if applicable, and must be registered in Hillsborough County prior to issuance of a Notice to Proceed. If the Bidder is not certified in Florida as stated above, the Bidder must be registered with Hillsborough County in the appropriate category at the Close Date.

4.12 Contractual Obligations

The successful Bidder may not sublet or subcontract any of the contractual obligations concerning this bid matter except as provided for in the written contract between the County and Contractor. This statement does not prohibit subcontracting of the Work but does prohibit subcontracting overall management obligations pertaining to the Work and requires the Contractor to retain ultimate liability for all contractual obligations.

4.13 Delivery Time/Liquidated Damages

Bidders are hereby advised that if the Contract Documents so indicate, an amount determined for liquidated damages at the rate specified shall be assessed against the successful Bidder not complying with a stated delivery time or performance time (or similarly stated information) as found in the Agreement.

4.14 Deviations

Bidder's/Proposer's Offer must state all deviations to the exact requirements imposed upon the Bidder/Proposer. Such deviations must be stated upon the Bidder's/Proposer's Offer form; otherwise, the County may consider Bidder's/Proposer's Offer as being made in strict compliance with the requirements of this Solicitation Document. The County reserves the right to accept or

reject any and all Offers, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if doing so will serve the County's best interest. Only Offers which conform in all material respects to this Solicitation Document will be accepted. The County may reject any Offer not submitted in the manner specified by this Solicitation Document.

4.15 Drug Free Workplace Program

Pursuant to Section 287.087, Florida Statutes, Bidders/Proposers may submit with their Offers a certificate certifying that they have implemented a drug free workplace program. If two or more Offers are equal in price, quality, and service, preference will be given in the award process to the Bidder/Proposer who has furnished such certification with its Offer. A copy of the Drug-Free Workplace Form is attached to this solicitation and is also available from the Procurement Services Department website at:

https://hcfl.gov/departments/procurement

4.16 Electronic Payment Solution

4.16.1 Automated Clearing House (ACH). Payments from the County will be made through an ACH payment solution where Offerors are paid with direct deposit. If the Offeror requests to opt out of being paid by direct deposit, then the Offeror should indicate its opt out in its Offer.

Note: If Bidder is already enrolled in the County's ACH solution for an existing contract/award, the Bidder will automatically receive payment using their enrolled solution in the event the Bidder is the Successful Bidder.

4.16.2 To enroll in ACH, Bidders must complete the Direct Deposit Authorization Form (included in this solicitation) or at:

https://hcfl.gov/businesses/doing-business-with-hillsborough

4.17 Execution of Written Contract

The Bidder receiving a Notice of Intent to Recommend Award will be required to sign and submit to the County, within ten (10) Business Days after the issuance of said notice, a written agreement that has been made a part of this bid package and identified as the Agreement. Said written Agreement will evidence in written form the contract to be made by the County following award by the Board to the successful Bidder. For Projects involving funds from Environmental Protection Agency, the ten (10) Business Day period will not begin to run until after the County has received approval of the award by Department of Environmental Protection and/or Environmental Protection Agency, as applicable. The contract shall be contingent upon the timely provision by the Bidder to the County of all documentation required by these Contract Documents, and the Notice of Intent to Recommend Award may be unilaterally rescinded by the County at the County's sole discretion upon the failure of the Bidder to supply said Bonds, Certificate of

Insurance and other required documentation within the time frames set forth in the Contract Documents.

4.18 Hillsborough County Business Tax

All Bidders are requested to submit a copy of their Hillsborough County Business Tax Receipt with their response to this solicitation, if applicable. The Business Tax Receipt must be current as of the Close Date of this solicitation.

4.19 Laws and Regulations

4.19.1 The Bidder's attention is directed to the fact that all applicable Federal, State, and local laws, ordinances, rules and regulations shall apply to the Contract throughout and they will be deemed to be included in the Contract the same as though herein written. Florida law will govern all questions concerning implementation and execution of this Contract and shall also be controlling in any cause of action brought pursuant to this Contract. Bidder's compliance with County's Procurement Policy and Procedures and Hillsborough County Ordinance: Bidder is advised that by submitting a Bid, Bidder hereby agrees to comply with the County's Procurement Policy and Procedures, including, but not limited to, the County's policy and procedures regarding Bid protests and Hillsborough County Ordinance No. 23-15. The County's Procurement Policy and Procedures can be found on the County's website at:

https://hcfl.gov/businesses/doing-business-with-hillsborough/vendors/vendor-policies-forms-and-documents

4.19.2 Cone of Silence: Pursuant to Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3, there shall be a Cone of Silence for all procurement solicitations (except sole source procurement) issued by the County that are at or over the County's formal bid limit in order to safeguard the integrity of the County's procurement and protest process. Except as otherwise provided in this section, the Cone of Silence shall go into effect on the date a procurement solicitation is issued by the County and shall end the earlier of five (5) Business Days after the County posts its Notice of Intent to Recommend Award the contract(s) associated with this solicitation or on the date the procurement solicitation is canceled by the County. However, if a protest is timely filed, then the Cone of Silence shall remain in effect for the duration of the protest process including the exhaustion of any related appeals related to the protest. Unless otherwise provided for in Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3, during the time period the Cone of Silence is in effect, no Offeror, interested party and/or their principals, officers, employees, attorneys or agents shall communicate with County employees, the Hearing Master assigned to hear the applicable protest appeal and/or members of the Board of County Commissioners,

including their aides and employees regarding a procurement solicitation and/or its related protest. The Cone of Silence does not prohibit an Offeror from communicating with the Director of the County's Procurement Services Department, County Procurement staff, or the attorney in the County Attorney's office that is directly responsible for the applicable procurement solicitation (this information can be obtained by contacting the County Procurement staff person listed as the contact in the applicable procurement solicitation). **It is the responsibility of any Offeror/interested party to ensure that the Cone of Silence is no longer in effect prior to communicating with any person under the Cone of Silence (including determining whether protests have been filed for the subject solicitation and the status of such protests – which extends the Cone of Silence time period as stated above).** A violation of the Cone of Silence will result in the disqualification of the Offeror from consideration in the award of the procurement solicitation unless it is determined that the violation is unintentional and/or not material.

4.20 Overhead Cost

All Bidders shall include in their bids the cost of home office overhead and field office overhead for the original Contract Time. Additional compensation for field office overhead may be considered only if the Contract Time is extended by a change order or allowance authorization release. Home office overhead for additional work where the Contract Time is extended shall be in accordance with the General Conditions. Additional work completed within the original Contract Time will not be eligible for additional compensation for field office overhead. Field office overhead includes on-site supervision. This amount shall not exceed the amounts stated in the General Conditions.

4.21 Plans and Specifications

After the award and execution of the contract, an executed copy of the Contract Documents will be issued to the Contractor.

Upon issuance of the work order the Department shall furnish a copy of all available documents to the Contractor to perform the work.

4.22 Preconstruction Conference

Prior to the start of construction, a joint meeting shall be held with representatives of all prime Contractors, County, and other invited parties or government agencies which may be affected by or have jurisdiction over the Project. This meeting is intended to introduce the various key personnel from each organization and to discuss the start of construction, order of work, labor and legal requirements, insurance requirements, names of the major subcontractors, method of payment, shop drawing requirements, protection of existing facilities, and other pertinent items associated with the Project.

4.23 Preliminary Bid Results

Preliminary results are generally available within two (2) Business Days to Bidders in the County Electronic Bidding System.

4.24 <u>Prohibition Against Considering Social, Political, or Ideological Interests in Government Contracting</u>

Bidders are advised that pursuant to Florida Statutes, Section 287.05701, the County cannot (a) request documentation of or consider a Bidder's social, political, or ideological interests when determining if the Bidder is a responsible vendor, and (b) give preference to a Bidder based on the Bidder's social, political, or ideological interests.

4.25 <u>Prohibition Against Contracting with Entities of Foreign Countries of Concern if Entity Would Give Access to an Individual's Personal Identifying Information</u>

Bidders are advised that pursuant to Florida Statutes, Section 287.138, beginning January 1, 2024, the County cannot accept a bid on, proposal for, or reply to, or enter into a contract with an entity that would give access to an individual's personal identifying information if (a) the entity is owned by the government of a Foreign Country of Concern, (b) the government of a Foreign Country of Concern has a controlling interest in the entity, or (c) the entity is organized under the laws of or has its principal place of business in a Foreign Country of Concern. For purposes of this section, a "Foreign Country of Concern" shall mean the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country.

4.26 <u>Bidder Must Provide County with Affidavit Denying Involvement with a Country of Concern</u>

4.26.1 Beginning January 1, 2024, if the resulting Contract with the Bidder will grant the Bidder/Contractor access to an individual's personal identifying information – e.g. driver's license, military ID, passport, social security number, etc.), then pursuant to Florida Statutes, Section 287.138(4)(a), the Bidder/entity <u>must</u> provide the County with an affidavit signed by an officer or representative of the entity, under penalty of perjury, attesting that the entity <u>does not</u> meet any of the criteria set forth in Florida Statutes, Section 287.138(2)(a) through (c); (i.e., an affidavit stating that (a) the Bidder/entity is not owned by the government of a Foreign Country of Concern, (b) the government of a Foreign Country of Concern has no controlling interest in the Bidder/entity, and (c) the Bidder/entity is not organized under the laws of or does not have its principal place of business in a Foreign Country of Concern. **<u>Said affidavit MUST be submitted with Bidder's Bid/offer</u>**. For purposes of this section, a "Foreign Country of Concern" shall mean the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime

of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country.

4.26.2 Bidder is advised that per Florida Statutes, Section 287.138(4)(a), beginning January 1, 2024, the County cannot accept a bid on, a proposal for, or reply to, or into a contract with an entity which would grant the entity access to an individual's personal identifying information unless the entity provides the County with aforementioned affidavit.

4.27 Public Entity Crimes Statement

4.27.1 A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit an Offer on a contract to provide any goods or services to a public entity for the construction or repair of a public building or public work; may not submit Offers on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

4.27.2 Additionally, pursuant to County policy, a conviction of a public entity crime may cause the rejection of an Offer. The County may make inquiries regarding alleged convictions of public entity crimes. The unreasonable failure of an Offeror to promptly supply information in connection with an inquiry may be grounds for rejection of an Offer.

4.28 Public Meetings

Reasonable notice of all public meetings will be given prior to the event, and minutes of the meeting(s) will be recorded and maintained in the formal procurement file.

4.29 Responsibility Reference(s) Request

The apparent low Offeror will be so notified by County staff and may be required, upon receiving such notice, to provide the reference(s) requests as identified and provide all information and documentation requested therein within five (5) Business Days. If, after reviewing the references and accompanying submissions, the County elects to reject the apparent low Offeror based on its responsibility evaluation, the County may perform the same responsibility evaluation, in succession, with each apparent next lowest Offeror until a contract is awarded to a suitable candidate or withdrawn.

4.30 Submittal Deadline

Offeror must submit its Offer prior to the time specified in the Close Date. Late Offers will not be accepted.

4.31 Taxes

The Bidder's attention is directed to the fact that the tax laws of the State of Florida, including, but not limited to, Chapter 212, Florida Statutes, apply to this bid matter and that all applicable taxes and fees shall be deemed to have been included in Bidder Proposal.

4.32 Time Period Offer is Valid

Offeror's Offer shall be in force for a period of not less than ninety (90) Days after the Close Date. Further, said Offer shall continue in force after said ninety (90) Day period, until thirty (30) Days following the date of receipt by County of written notice from the Offeror of its intent to withdraw its Offer, or until the date specified in said written notice as the expiration date of the Offer, whichever is later. The aforementioned time periods will remain in effect irrespective of whether an award has been made by the County. Notwithstanding the provisions of the preceding sentence, the Offeror may extend its Offer at any time prior to the scheduled expiration thereof.

5. GENERAL TERMS AND CONDITIONS

5.1 Preliminary Matters

5.1.1 Commencement of Contract Time; Notice to Proceed

The Contract Time shall commence on the date indicated in the Notice to Proceed. Notice to Proceed shall be issued within ninety (90) Days after the Contract Award, unless extended by mutual agreement between the Contractor and the Project Manager.

5.1.2 Starting the Project

The Contractor shall begin the Work on the date the Contract Time commences. No Work shall be done prior to the date on which the Contract Time commences. Any Work performed by the Contractor prior to date on which Contract Time commences shall be at the sole risk of the Contractor.

5.1.3 Before Starting Construction

5.1.3.1 Before undertaking each part of the Work, the Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures and all applicable field measurements. The Contractor shall promptly report in writing to the Project Manager any conflict, error, or discrepancy which it may discover. However, the Contractor shall not be liable to the County for failure to report any conflict, error, or discrepancy in the Drawings or Specifications unless the Contractor had actual knowledge of same or, which by reasonable diligence, should have known about.

5.1.3.2 At the preconstruction conference the Contractor shall submit to the Project Manager a Project Schedule covering the activities of Work during the Contract Time. The Project Schedule shall include start and completion dates of the various stages of the entire Work. The Project Schedule shall indicate a project completion date and Completion Milestone dates the same as required by the Agreement and the Special Terms and Conditions. The Project Schedule shall be subject to review and acceptance by the Project Manager and when accepted shall constitute the project work schedule unless a revised schedule is approved by the Project Manager. The Project Schedule may be adjusted only in accordance with the terms of the Contract.

5.1.3.3 No work shall be performed by the Contractor or Subcontractors and no irrevocable commitments to vendors made until issuance of Notice to Proceed and approval of the appropriate submittals by the Project Manager.

5.1.4 Qualifications of Subcontractors, Vendors, and Suppliers

5.1.4.1 Within ten (10) Days after receipt of Notice of Award, the Contractor shall submit to the Project Manager a list of all Subcontractors and all such other persons and organizations whom the Contractor intends to utilize in performing portions of the Work. The Contractor shall indicate the corresponding line item as shown on the Schedule of Values that each Subcontractor will be working under.

5.1.4.2 The Contractor agrees, within fourteen (14) Days of receipt of a written request from Director, to promptly remove any personnel employed or retained by the Contractor, whom Director may request in writing to be removed, with or without cause. Any substitution submitted by Contractor shall be acceptable to the Director and said substitution shall be at no additional cost to the County.

5.1.4.3 The Contractor agrees, within fourteen (14) Days of receipt of a written request from Director, to promptly remove and replace any Subcontractors employed or retained by the Contractor, whom Director shall request in writing to be removed, with cause. If Director requires the removal of any Subcontractor, the Contractor shall submit a substitute acceptable to Director and said substitution shall be at no additional cost to the County.

5.1.5 Preconstruction Conference

Before the Notice to Proceed is issued, a conference shall be held for review and acceptance of the Project Schedule, to establish procedures for handling submittal and process, Applications for Payment, and to establish a working understanding among the

parties as to the Work. These items are discussed in greater detail within the Specifications.

5.2 Contract Documents; Intent, Conflicts, Interpretation, and Reuse

5.2.1 Precedence

5.2.1.1 The Contract Documents comprise the entire agreement between the County and Contractor concerning the Work and may be altered only by Change Order.

5.2.1.2 It is the intent of the Contract Documents to describe the total Work to be constructed. The Contract Documents are complementary. What is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error, or discrepancy in the Contract Documents, the Contractor shall call it to the Professional's attention in writing before proceeding with the Work. The Professional shall respond with a written clarification. Any delays associated with the clarification shall be considered for time extensions only, but no damages for delay will be allowed. In resolving such conflicts, errors, and discrepancies, the Contract Documents shall be given precedence in terms of the most stringent requirements as determined by the Project Manager. Enforcement of the most stringent requirements shall be at the County's option. Figure dimensions on the Drawings shall govern over scale dimensions, and the detailed Drawings shall govern over general Drawings. Any work that may reasonably be inferred from the Contract Documents 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 have such recognized meaning.

5.2.2 Reuse of Documents

Neither Contractor nor any Subcontractor, manufacturer, fabricator, supplier, or distributor shall have or acquire any title or ownership rights in any of the Drawings, Specifications, or other documents (or copies thereof) prepared by or bearing the seal of the Professional. They shall not reuse any of them on extensions of the Project or any other project.

5.3 Project Conditions

5.3.1 Availability of Lands

5.3.1.1 The County shall furnish, at the times indicated in the Contract Documents, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designated for use by the

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Procurement Services

Contractor. Easements for permanent structures or permanent changes in existing facilities shall be obtained by the County unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the County's furnishing of these lands or easements is valid reason for an extension of the Contract Time, Contractor may make a claim for such time extension, in accordance with the Contract Documents, but in no event will the Contractor be entitled to any damages or additional compensation for such delay. The Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.3.1.2 Upon request, the Project Manager shall furnish to the Contractor copies of all available boundary surveys and subsurface tests.

5.3.2 Unknown or Concealed Conditions

5.3.2.1 If conditions are encountered, excluding existing utilities, at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then the Contractor shall give the County notice thereof promptly before conditions are disturbed and in no event later than forty-eight (48) hours after first observance of the conditions.

5.3.2.2 The Project Manager and Professional shall promptly investigate such conditions, and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, the Project Manager shall recommend an equitable adjustment in the Contract Price or Contract Time, or both. If the Project Manager determines that the conditions at the Site are not materially different from those indicated in the Contract Documents or are not materially different from those ordinarily found and that no change in the terms of the Agreement is justified, the Project Manager shall notify the Contractor of the determination in writing. The Work shall be performed after direction is provided by the Project Manager.

5.3.2.3 Contractor shall ascertain such conditions, as may be readily determined by inspection and inquiry, such as the location, accessibility and general character of the Site, prior to submitting a Bid Proposal.

5.3.2.4 The basis of determining payment for unknown or concealed conditions involving excavation and/or fill shall be by cross-sections before and after performing the Work.

5.3.3 Reference Points

The Professional shall establish on the Drawings such general reference points as in its judgment will enable the Contractor to proceed with the Work. Professional shall establish the coordinates and elevations of two permanent benchmarks at the Site. The Contractor shall establish construction control, including, but not limited to, construction baseline, any additional temporary benchmarks and elevations at 1000-foot intervals by utilizing a registered land surveyor in compliance with all of the requirements of Chapter 472, Florida Statutes (Land Surveying). The Contractor shall be responsible for the layout of the Work, shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the Professional. The Contractor shall within forty-eight (48) hours give notice to the Project Manager or Project Representative whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor shall replace and accurately relocate all reference points so lost, destroyed, or moved by utilizing a registered land surveyor in compliance with all of the requirements of Chapter 472, Florida Statutes (Land Surveying).

5.3.4 Existing Utilities

5.3.4.1 Information shown on the Drawings as to the location of existing utilities has been prepared from the most reliable data available to the County. Prior to commencing work, the Contractor shall be responsible for verification and location of all underground utilities to the extent that the utilities can be reasonably located. The Contractor shall, as a minimum, contact all utility companies for the purpose of having all utilities located by the utility companies. The Contractor shall clear and grub those areas identified by the affected utility as essential to its work. Furthermore, the Contractor shall be responsible for discovery of existing underground installations, in advance of excavating or trenching, by contacting all local utilities, and by prospecting to ascertain that the utilities shown or otherwise identified are in the area shown. When such exploratory excavations show the utility location as indicated on the drawings to be in error, Contractor shall so notify Project Manager. The County shall not be liable for any damage or delay caused by any utility line that was or could have been identified by the Contractor using reasonable means. If Contractor fails to fulfill its due diligence investigation or negligently conducts the due diligence investigation with respect to existing utilities prior to the commencement of Work, Contractor will be deemed to have waived any claim it

might otherwise have had to an adjustment of the Contract Price or Contract Time. If Contractor fully performs its due diligence investigation with respect to existing utilities prior to the commencement of Work, and Contractor is subsequently delayed by an unknown existing utility conflict, the Contractor may make a claim for an extension to the Contract Time in accordance with the requirements of the Contract Documents, but in no event will the Contractor be entitled to any damages or additional compensation from the County.

5.3.4.2 The Contractor and their Subcontractors shall cooperate with the owners of all underground or overhead utilities in their removal and rearrangement operation in order that these operations may progress in a reasonable manner, that duplication or rearrangement work may be reduced to a minimum, and that services rendered by the utility owners will not be unnecessarily interrupted. The Contractor shall also provide survey information as required to ensure proper relocation of the utilities. In the event of interruption of any utility services as a result of accidental breakage, exposure, or lack of support, the Contractor shall promptly notify the proper authority and cooperate with the authority in the prompt restoration of services. If water or wastewater services are interrupted and the Contractor is performing or assisting the repair work, the Contractor shall work continuously until the service is restored. Do not begin work around fire hydrants until the local fire authority has approved provisions for continued service.

5.4 Contractor Responsibilities

5.4.1 Supervision Superintendence

5.4.1.1 The Contractor shall supervise and direct the Work efficiently and with its best skill and attention. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction unless specifically addressed in the Contract Documents. The Contractor shall be responsible for seeing that the finished Work complies accurately with the Contract Documents. The Contractor shall cooperate with and be responsible for coordination of the Work with other contractors and/or utilities at the Site in accordance with the Specifications, if applicable. The Contractor shall attend meetings as requested by the Project Manager.

5.4.1.2 The Contractor shall keep on the Work at all times during its progress a competent resident superintendent who shall not be replaced without written notice to the Project Manager except under extraordinary circumstances. The superintendent shall be the Contractor's representative at the Site and shall have

authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

5.4.2 Labor, Materials, and Equipment

5.4.2.1 The Contractor shall provide and pay for competent, suitable, qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order on the Site.

5.4.2.2 The Contractor shall furnish and pay for all investigations, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities, and all other facilities and incidentals whether temporary or permanent necessary for the execution, testing, initial operation, and completion of the Work as required by the Contract Documents.

5.4.2.3 All materials and equipment shall be new and of good quality, except as otherwise provided in the Contract Documents. If required by the Professional, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

5.4.3 Substitute Materials or Equipment

If the Contractor wishes to furnish or use a proposed substitute after the award of the Agreement, it shall within thirty (30) Days after Notice to Proceed make written application to the Professional for consideration of such substitute, certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance or quality to that specified, and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the prior written approval of the Project Manager, who shall be the sole judge of acceptability. The application shall also contain an itemized estimate of all costs that may result directly or indirectly from acceptance of such substitute, including costs of redesign, delays, maintenance, and claims of other contractors affected by the resulting change, all of which shall be considered by the Project Manager in evaluating the proposed substitute. Approval of any change in costs or schedule as a result of acceptance of the substitute by the Project Manager shall be by Change Order.

5.4.4 Concerning Subcontractors

5.4.4.1 The Contractor shall be fully responsible for all acts and omissions of its Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent as if they were employed by the Contractor. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the County or any obligation on the part of the County to pay or to see to the payment of any monies due any Subcontractor, except as may otherwise be required by law. The County may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor for specific Work done.

5.4.4.2 The divisions and sections of the Specifications and the identifications of any Drawings shall not control the Contractor in dividing Work among Subcontractors or delineating the Work to be performed by any specific trade.

5.4.4.3 The Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents, including but not limited to the General Conditions and Special Conditions, for the benefit of the County.

5.4.4.4 All Work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate written agreement between the Contractor and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance, except such rights as they may have to the proceeds of such insurance held by the County as trustee. The Contractor shall pay each Subcontractor an appropriate amount, determined by value of the Work, of any insurance monies received by the Contractor under this insurance.

5.4.4.5 County as intended Beneficiary of Subcontracts. The County shall be an intended substantial beneficiary of the written agreements between the Contractor and its Subcontractors.

5.4.5 Patent Fees and Royalties

The Contractor shall pay all license fees and royalties and assume all costs incident to the use of any invention, design, process, or device which is the subject of patent rights or copyrights held by others.

5.4.6 Permits

The Contractor shall secure and pay for all construction permits, licenses, governmental charges and inspection fees, and all public utility charges which are applicable and necessary for the execution of the Work at the time of its Bid.

The following is a list of potentially required permits along with an estimated cost for each:

Permit	**Cost**
Temporary Traffic Control	$0.00
Hillsborough County Right of Way Use Permit	$ 0.00
NPDES Notice of Intent Note: Less than 1 acre not required	
1-5 acres	$250.00
Over 5 acres	$400.00
Hillsborough County Temporary Traffic Control Permit	$ 0.00

Please refer to sections 1.04R and 2.08R Attachment F Supplemental Specifications for further information.

A permit allowance may be established by the County in the Bid Proposal. This is an estimated amount only included for the purpose of tracking the costs of the identified permits as well as the costs of any unanticipated permit costs that may arise. The inclusion of this permit allowance does not remove the obligation of the Contractor to include all estimated permit costs in the base bid. Permits, if any that are provided and paid for by the County are listed in the Contract Documents. Any delays associated with the permitting process will be considered for time extensions only and no damages or additional compensation for delay will be allowed.

5.4.7 Laws and Regulations

The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If the Contractor observes that any of the Contract Documents are contradictory to such laws, rules, and regulations, it will notify the Project Manager promptly in writing. Any necessary changes shall then be adjusted by an appropriate Change Order. If the Contractor performs any Work that it knows or should have known to be contrary to such laws, ordinances, rules, and regulations and without such notice to the Project Manager, it shall bear all related costs.

5.4.8 Use of Premises

5.4.8.1 The Contractor shall confine its equipment, the storage of materials and equipment, and the operations of its workers to the areas permitted by law, ordinances, permits, or the requirements of the Contract Documents. The

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Procurement Services

Contractor shall not unreasonably encumber the Site with materials and equipment. Any loss or damage to the Contractor's or any Subcontractor's equipment is solely at the risk of the Contractor.

5.4.8.2 The Contractor shall not load or permit any part of any structure to be loaded in any manner that will endanger the structure. The Contractor shall not subject any part of the Work or adjacent property to stresses or pressures that will endanger them.

5.4.9 Record Drawings

5.4.9.1 The Contractor shall keep at the Site and in good order one record copy of the Contract Documents and the Shop Drawings. The Contract Documents shall be annotated on a continuing basis to show all changes made during the construction process. These shall be available to the Professional and the Project Manager and shall be submitted for County's acceptance prior to Substantial Completion. Contractor shall provide record drawings in accordance with the Specifications.

5.4.9.2 For water and wastewater facilities, the minimum requirements for record drawings are specified in the Supplemental Specifications.

5.4.10 Safety and Protection

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

5.4.10.1.1 All employees on the Work and other persons who may be affected by it.

5.4.10.1.2 All the Work and all materials or equipment to be incorporated, whether in storage on or off the Site. The Contractor shall assume all risk of loss for stored equipment or materials, irrespective of whether the Contractor has transferred the title of the stored equipment or materials to the County.

5.4.10.1.3 Other property at the Site or adjacent to it, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

5.4.10.1.4 The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. Contractor shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Contractor shall notify owners of adjacent property and utilities when execution of Work may affect them prior to start of work. All damage, injury, or loss to any property caused directly or indirectly, in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable shall be remedied by the Contractor.

5.4.10.1.5 The Contractor shall designate a responsible member of its organization whose duty shall be the prevention of accidents at the Site. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Project Manager.

5.4.11 Emergencies

5.4.11.1 In emergencies affecting the safety of persons, the Work or property at the Site or adjacent thereto, the Contractor, without special instructions or authorization from the Project Manager if time or circumstances do not permit, is obligated to prevent or mitigate threatened damage, injury, or loss. Contractor shall give the Project Manager written notice that the emergency provision has been invoked and shall state the reasons therefore within twenty-four (24) hours of the incident. If the Contractor believes the emergency resulted in additional Work, a claim for a Change Order may be submitted in accordance with the procedures set forth herein.

5.4.11.2 The Contractor shall immediately notify the Project Manager of all events involving personal injuries to any person on the Site, whether or not such person was engaged in the construction of the Project, and shall file a written report on such person(s) and any other event resulting in property damage of any amount within five (5) Days of the occurrence.

5.4.11.3 The Project Manager, upon learning of an emergency situation, may direct the Contractor to call out work crews, equipment and materials to prevent threatened damage, injury or loss. If the Contractor believes the emergency resulted in additional work, a claim for Change Order is permissible.

5.4.12 Submittals and Samples

5.4.12.1 After checking and verifying all field measurements, the Contractor shall promptly submit to the Professional for approval, in accordance with the accepted schedule of submittals, all Submittals and samples required by the Contract Documents. All Submittals and samples shall have been checked by and stamped with the approval of the Contractor and identified as the Professional may require. The data shown on or with the Submittals will be complete with respect to dimensions, design criteria, materials and any other information necessary to enable the Professional to review the Submittal as required. At the time of each submission, the Contractor shall give notice to the Professional of all deviations that the Submittal or sample may have from the requirements of the Contract Documents.

5.4.12.2 The Contractor shall submit to the Project Manager for review and approval, within ten (10) Days after Notice of Award, a preliminary schedule of values for all of 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 shall include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by the Contractor at the time of submittal.

5.4.12.3 The Professional shall review and approve Submittals and samples. Professional's review and approval shall be only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. The approval of a separate item as such will not indicate approval of the assembly in which the item functions. The Contractor will make any corrections required by the Professional and resubmit the required number of corrected copies until approved. The Contractor's stamp of approval on any Submittal or sample shall constitute its representation to the Professional and County that the Contractor has determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, and that each Submittal or sample has been reviewed or coordinated with the requirements of the Work and the Contract Documents.

5.4.12.4 No Work requiring a Submittal or sample submission shall commence until the submission has been approved by the Professional. A copy of each approved Submittal and each approved sample shall be kept in good order by the Contractor at the Site and shall be available to the Professional and County staff. Any delays associated with the submittal process will be considered for time extensions only, and no damages or additional compensation for delay will be allowed.

5.4.12.5 The Professional's approval of Submittals or samples shall not relieve the Contractor of its responsibility for any deviations from the requirements of the Contract Documents unless the Contractor has called the Professional's attention to such deviation in writing at the time of submission and the Project Manager has given written approval to the specific deviation; any such approval by the Professional shall not relieve the Contractor from responsibility for errors or omissions in the Submittals.

5.4.12.6 To facilitate review, the Contractor shall number consecutively each Submittal. This numbering system shall be in order of Submittal. Any resubmittal required shall have the same number as the original Submittal followed by notation signifying that this is a second or third Submittal (e.g. #14 2nd submittal). All submittals shall provide a space for the Professional's review stamp, preferably on the first page. In addition, all Submittals shall contain the following notation placed by the Contractor:

5.4.12.6.1 Project Number and Name

5.4.12.6.2 Submittal Number

5.4.12.6.3 Deviations

5.4.12.6.4 None

5.4.12.6.5 As listed

5.4.12.6.6 Reference Specification Number

5.4.12.6.7 Reference Drawing Number

5.4.12.6.8 Space Requirement

5.4.12.6.9 As designed

5.4.12.6.10 Different, as listed

5.4.12.6.11 Contractor has reviewed and submitted for approval.

5.4.12.6.12 Signature / Date

5.4.12.7 The review of a particular Submittal will be undertaken only if the above such information is provided.

5.4.13 Cleaning Up

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5.4.13.1 The Contractor shall maintain the Site free from accumulations of waste materials, rubbish, and other debris resulting from the Work on a daily basis or as required. At the completion of the Work, the Contractor shall remove all waste materials, rubbish, and debris from the Site 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. In addition to any other rights available to County under the Contract Documents, the Contractor's failure to maintain the Site may result in the withholding of any amounts due Contractor. The Contractor will restore to original condition those portions of the Site not designated for alteration by the Contract Documents.

5.4.13.2 Pursuant to Hillsborough County Ordinance 96-34, as amended, all solid waste accumulated as a result of this contract that the Contractor is required to remove and dispose, which the Contractor chooses not to self haul, shall be removed and disposed of by one of the three authorized Hillsborough County solid waste franchise collectors. For a list of the authorized franchise collectors, please contact the Solid Waste Management Department at (813) 272-5680. The use of any other company or entity for the collection and disposal of solid waste in the Hillsborough County solid waste service area may be a violation of Hillsborough County Ordinance 96-34, as amended.

5.5 Work by Others

5.5.1 The County may perform additional work related to the Project with its own forces or may let other direct contracts. The Contractor shall provide the other contractors who are parties to such direct contracts, including but not limited to the other contractor's employees, agents, Subcontractors, and suppliers (or the County's forces performing the additional work), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate its Work with theirs. The Contractor is not entitled to exclusive use of the Site.

5.5.2 If any part of the Contractor's Work depends (for proper execution or results) upon the work of any such other contractor (or the County), the Contractor will inspect and promptly report to the Project Manager in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. Contractor's failure to report shall constitute an acceptance of the other work, except as to defects and deficiencies which may appear in the other work after the execution of its Work. Contractor shall be entitled to extension of time, but not to damages or additional compensation related to delay caused by such other contractors (or the County).

5.5.3 The Contractor will do all cutting, fitting, and patching of its Work that may be required to make its several parts come together properly, and fit it to receive or be

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Hillsborough County Florida
Procurement Services

received by such other work. The Contractor will not endanger any work of others by cutting, excavating, or otherwise altering such other work and will only cut or alter such other work with the written consent of the Project Manager, and only if such alteration will not increase the Contract Price or Contract Time.

5.5.4 If the performance of additional work by other contractors or the County is not noted in the Contract Documents prior to the execution of the Agreement, written notice shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the County or others involves additional expense or entitles it to an extension of the Contract Time, the Contractor may make a claim as provided in the Contract Documents.

5.6 County's Responsibilities

5.6.1 The County shall issue all communications to the Contractor through the Project Manager except for authorization required by Change Order pursuant to the Contract Documents.

5.6.2 The County shall furnish the data required under the Contract Documents and shall make payments to the Contractor when due as provided in the Contract Documents.

5.6.3 The County's responsibilities for providing lands, easements, and engineering surveys to establish reference points are set forth in the Contract Documents.

5.7 Professional's Status During Construction

5.7.1 County's Representative

The Professional shall be a representative of the County during the construction period. The duties, responsibilities, and limitations of authority of the Professional as the County's representative during construction are set forth in these General Conditions and shall not be extended without written designation from the Department administering the Project.

5.7.2 Visit to the Site

The Professional shall make periodic visits to the Site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

5.7.3 Clarifications and Interpretations

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Procurement Services

The Professional shall issue such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as may be determined necessary, or as reasonably requested by the Contractor, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the Contractor believes that a written clarification and interpretation entitles it to an increase in the Contract Price, and/or Contract Time, the Contractor may make a claim as provided for in the Contract Documents.

5.7.4 Rejecting Defective Work

The Professional has the authority to disapprove or reject Work which is defective. The Professional also has authority to require special inspection or testing of the Work at the Contractor's expense, as provided in the Contract Documents, whether or not the Work is fabricated, installed, or completed.

5.7.5 Resident Engineer

The Professional may furnish a full or part-time Resident Engineer and other personnel to assist it in carrying out services at the Site. The duties, responsibilities, and limitations of authority of any such Resident Engineer and other personnel are set forth in the Special Conditions, if applicable.

5.7.6 Decisions on Disagreements

5.7.6.1 The Professional shall interpret the requirements of the Contract Documents and determine the acceptability of the Work. If Contractor disagrees with the Professional's opinion, Contractor shall refer claims, disputes, and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents initially to the Project Manager in writing with a request for a formal decision. The Professional will render in writing its opinion concerning the Contractor's request for a formal decision and shall submit same to the Project Manager. After receipt of Professional's written opinion and all information requested from Contractor, the Project Manager shall render a formal decision in writing. Written notice of each such claim, dispute, and other matter shall be delivered by the Contractor to the Project Manager within seven (7) Days of the occurrence first happening. Written supporting data will be submitted to the Project Manager within fifteen (15) Days after such occurrence unless the Project Manager allows additional time. If Contractor fails to strictly comply with these notice and submittal time periods, the Contractor shall be deemed to have waived its right to assert a claim Contractor might otherwise have had concerning such matter.

5.7.6.2 Contractor's written supporting data of the claim shall include justification for the claim as a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract, for any claim, the Contractor shall submit a written claim to the County which will include for each individual claim, at a minimum, the following information:

5.7.6.2.1 A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected and included in each claim;

5.7.6.2.2 The date or dates on which actions resulting in the claim occurred or conditions resulting in the claim became evident;

5.7.6.2.3 Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;

5.7.6.2.4 Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;

5.7.6.2.5 A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:

5.7.6.2.5.1 documented additional job site labor expenses;

5.7.6.2.5.2 documented additional cost of materials and supplies;

5.7.6.2.5.3 a list of additional equipment costs claimed, including each piece of equipment and the rental rate claimed for each;

5.7.6.2.5.4 any other additional direct costs or damages and the documents in support thereof;

5.7.6.2.5.5 any additional indirect costs or damages and all documentation in support thereof.

5.7.6.2.5.6 a supporting schedule update that documents the impacts to the project's critical path.

5.7.6.2.6 A detailed compilation of the specific dates and the exact number of calendar days sought for a time extension, the basis for

entitlement to time for each day, all documentation of the delay, and a breakout of the number of days claimed for each identified event, circumstance or occurrence.

5.7.6.2.7 Further, the Contractor shall be prohibited from amending either the bases of entitlement or the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder, and any circuit court, arbitration, or other formal claims resolution proceeding shall be limited solely to the bases of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder. This shall not, however, preclude a Contractor from withdrawing or reducing any of the bases of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder at any time.

5.7.6.3 Mandatory Claim Records. After giving the County notice of intent to file a claim for extra work or delay, the Contractor must keep daily records of all labor, material and equipment costs incurred for operations affected by the extra work or delay. These daily records must identify each operation affected by the extra work or delay and the specific locations where work is affected by the extra work or delay, as nearly as possible. The County may also keep records of all labor, material and equipment used on the operations affected by the extra work or delay. The Contractor shall, once a notice of intent to claim has been timely filed, and not less than weekly thereafter as long as appropriate, provide the Engineer a copy of the Contractor's daily records and be likewise entitled to receive a copy of the County's daily records. The copies of daily records to be provided hereunder shall be provided at no cost to the recipient.

5.7.6.4 Non-Recoverable Items. The parties agree that for any claim the County will not have liability for the following items of damages or expense:

5.7.6.4.1 Loss of profit, incentives or bonuses;

5.7.6.4.2 Any claim for other than extra work or delay;

5.7.6.4.3 Consequential damages, including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;

5.7.6.4.4 Acceleration costs and expenses, except where the County has expressly and specifically directed the Contractor in writing "to accelerate at the County's expense"; nor

5.7.6.4.5 Attorney fees, claims preparation expenses and costs of litigation.

5.7.6.5 Exclusive Remedies. Notwithstanding any other provision of this Contract, the parties agree that the County shall have no liability to the Contractor for expenses, costs, or items of damages other than those which are specifically identified as payable within the Contract Documents. In the event any legal action for additional compensation, whether on account of delay, acceleration, breach of contract, or otherwise, the Contractor agrees that the County's liability will be limited to those items which are specifically identified as payable in the General Terms and Conditions, Change of Contract Price.

5.7.6.6 Settlement Discussions. The content of any discussions or meetings held between the County and the Contractor to settle or resolve any claims submitted by the Contractor against the County shall be inadmissible in any legal, equitable, arbitration or administrative proceedings brought by the Contractor against the County for payment of such claim. Dispute Resolution Board, State Arbitration Board and Claim Review Committee proceedings are not settlement discussions, for purposes of this provision.

5.7.6.7 Auditing of Claims. All claims filed against the County shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of this State. The audit may be performed, at the County's sole discretion, by employees of the County or by any independent auditor appointed by the County, or both. The audit may begin after ten (10) Days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records, to allow the County's auditors to verify the claim and failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery there under. Further, and in addition to such audit access, upon the Contractor submitting a written claim, the County shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to the County, copies of any and all documents in the possession of the Contractor or its subcontractors, material

men or suppliers as may be deemed relevant by the County in its review of the basis, validity or value of the Contractor's claim.

5.7.6.8 Without limiting the generality of the foregoing, the Contractor shall upon written request of the County make available to the County's auditors, or upon the County's written request for copies provide copies at the County's expense, any or all of the following documents:

5.7.6.8.1 Daily time sheets and foreman's daily reports and diaries;

5.7.6.8.2 Insurance, welfare and benefits records;

5.7.6.8.3 Payroll register;

5.7.6.8.4 Earnings records;

5.7.6.8.5 Payroll tax return;

5.7.6.8.6 Material invoices, purchase orders, and all material and supply acquisition contracts;

5.7.6.8.7 Material cost distribution worksheet;

5.7.6.8.8 Equipment records (list of company owned, rented or other equipment used);

5.7.6.8.9 Vendor rental agreements and subcontractor invoices;

5.7.6.8.10 Subcontractor payment certificates;

5.7.6.8.11 Canceled checks or remittance advices for the project, including, payroll and vendors;

5.7.6.8.12 Job cost report;

5.7.6.8.13 Job payroll ledger;

5.7.6.8.14 General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

5.7.6.8.15 Cash disbursements journal;

5.7.6.8.16 Financial statements for all years reflecting the operations on this project;

5.7.6.8.17 Income tax returns for all years reflecting the operations on this project;

5.7.6.8.18 All documents which reflect the Contractor's actual profit and overhead during the years this Contract was being performed and for each of the five years prior to the commencement of this Contract;

5.7.6.8.19 All documents related to the preparation of the Contractor's bid including the final calculations on which the bid was based;

5.7.6.8.20 All documents which relate to each and every claim together with all documents which support the amount of damages as to each claim;

5.7.6.8.21 Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, benefits and insurance, materials, equipment, subcontractors, and all documents that establish which time periods and individuals were involved, and the hours and rates for such individuals.

5.7.7 Limitations on Professional's Responsibilities

5.7.7.1 Neither the Professional's authority to act under this Clause or elsewhere in the Contract Documents, nor any decision made in good faith to exercise such authority shall give rise to any duty or responsibility of the Professional to the Contractor, any Subcontractor, any of their agents or employees.

5.7.7.2 The Professional shall not be responsible for the construction means, methods, techniques, sequences, or procedures or the safety precautions and programs used. The Professional shall not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents.

5.7.7.3 The Professional shall not be responsible for the acts or omissions of the Contractor, any Subcontractors, any agents or employees, or any other persons performing any of the Work.

5.8 Changes in the Work

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Procurement Services

5.8.1 Without invalidating the Agreement, the County may at any time or from time to time order additions, deletions, or revisions in the Work. The Contractor shall promptly submit a written proposal for the changed work prepared in accordance with the applicable conditions of the Contract Documents. If the proposal request calls only for the deletion of Work, the Project Manager may order the partial suspension of any Work related to the proposed deletion, in which case the Contractor must cease performance as directed; the Contractor shall not be entitled to additional compensation or an increase in the Contract Time as a result of the suspension. The Contractor shall not be entitled to claim lost profits on deleted work. All changed Work shall be executed under the applicable conditions of the Contract Documents.

5.8.2 Additional Work performed by the Contractor without authorization of a Change Order will not entitle the Contractor to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided under the applicable conditions of the Contract Documents. The effect of this paragraph shall remain paramount and shall prevail irrespective of any conflicting provisions contained in these Contract Documents.

5.8.3 Upon agreement as to changes in the Work to be performed, Work performed in an emergency as provided under the applicable conditions of the Contract Documents, and any other claim of the Contractor for a change in the Contract Time or the Contract Price, the Project Manager will prepare a written Change Order to be signed by the Contractor and submitted to the Board for approval.

5.8.4 It is the Contractor's responsibility to notify its Surety of any changes affecting the general scope of the Work, Contract Price, or Contract Time.

5.8.5 In the absence of agreement as provided under the applicable conditions of the Contract Documents, the County may, at its sole discretion issue a unilateral Change Order to the Contractor. Pricing of the unilateral Change Order will be in accordance with the applicable conditions of the Contract Documents. The Change Order will specify a price, and if applicable a time extension, determined to be reasonable by the County. If Contractor fails to sign such Change Order the Contractor may submit a claim in accordance with the applicable conditions of the Contract Documents, but the Contractor shall nevertheless be obligated to fully perform the work as directed by the Change Order.

5.8.6 Should the Contractor make a claim for an increase in Contract Time or an increase in Contract Price, upon request of the Project Manager, the claim shall be accompanied by an affidavit stating that:

5.8.6.1 The claim is made in good faith;

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Hillsborough County Florida
Procurement Services

5.8.6.2 The supporting data have been thoroughly reviewed by the Contractor and are accurate and complete to the best of the Contractor's knowledge and belief; and

5.8.6.3 The amount requested accurately reflects the contract adjustment for which the Contractor believes the County is liable.

Absent such affidavit, if requested by the Project Manager, the claim will not be considered. Submission of the affidavit shall be a condition precedent to filing a lawsuit.

5.8.7 If the County determines the Contractor has submitted a baseless, frivolous, unsupported, exaggerated, or otherwise spurious claim or Change Order request, the County shall deduct from any amounts due the Contractor the costs incurred by the County in reviewing and responding to that Change Order request or Claim. Deductible costs include, but are not limited to, any costs incurred by the County or its Professional to review and respond to the requested Change Order or claim.

5.8.8 The Contractor shall proceed diligently with performance of the Work as directed by the County, regardless of pending claim actions, unless otherwise agreed to in writing.

5.9 Change of Contract Price

5.9.1 The Contract Price

5.9.1.1 The Contract Price is as defined under the applicable conditions of the Contract Documents. All duties, responsibilities, and obligations assigned to or undertaken by the Contractor shall be at its expense without change in the Contract Price.

5.9.1.2 The Contract Price represents the total compensation to which the Contractor may be entitled under the terms of these Contract Documents which is based upon the estimated quantities of items listed therein or a lump sum price. The actual total compensation paid to the Contractor for the Work described in these Contract Documents may vary from that amount stated in the Bid Proposal due to: Adjustments in pay quantity/quantities resulting from changes in item quantity/quantities, and/or Adjustments in pay quantity/quantities as otherwise permitted by these Contract Documents.

5.9.1.3 The Contract Price may only be increased or decreased by a written Change Order. Any claim for an increase shall be in writing and delivered to the Project Manager within seven (7) Days of the occurrence first happening. Written supporting data will be submitted to the Project Manager within fifteen (15) Days after such occurrence unless the Director allows additional time.

5.9.1.4 Except as provided under the applicable conditions of the Contract Documents, any Change Order adjusting the compensation to be paid Contractor shall be priced in accordance with the following procedures:

5.9.1.4.1 Unit Prices Included in the Bid Proposal: The Contractor and the County recognize and acknowledge that the quantities shown for those items designated in the Bid Proposal as unit price items are approximations prepared by the County for bid purposes and that the actual compensation payable to the Contractor for the utilization of such items is based upon the application of unit prices to the actual quantities of items involved as measured in the field and required to complete the Project as originally defined in the Contract Documents.

When it is determined by the County that an addition, deletion, or revision to the Project as defined in these Contract Documents is required and affects the quantities required for items designated in the Bid Proposal as unit price items, the Contractor and the County agree that the compensation payable to the Contractor for such unit price items shall be adjusted accordingly by a Change Order based upon the application of the appropriate unit prices shown in the Bid Proposal to the quantity of the unit price item required to complete the Project as defined in the Contract Documents.

5.9.1.4.2 Unit Prices Not Included in the Bid Proposal: Unit prices for items not designated in the Bid Proposal, but which have been mutually agreed upon by the County and the Contractor may be utilized in determining the actual compensation payable to the Contractor based upon field measured quantities.

5.9.1.4.3 Lump Sum: When it is determined by the County that an addition, deletion or revision to the Project is required which results in a change in Work designated in the Bid Proposal as a lump sum item, the amount of increase or decrease in the lump sum price shall be established by mutual agreement of the parties.

5.9.1.5 If the pricing methods specified under the existing conditions of the Contract Documents are inapplicable, or if the parties are unable to agree on a price for the changed work, a reasonable price for the same shall be established by the County in accordance with under the applicable conditions of the Contract Documents. The County shall then process a unilateral Change Order, specifying the said reasonable price, in accordance with the applicable conditions of the

Contract Documents. The Contractor shall perform the Work as directed in the Change Order.

5.9.1.6 Failure on the part of the Contractor to construct any item to plan or authorized dimensions within the Specification tolerances shall result in: reconstruction to acceptable tolerances at no additional costs to the County; acceptance at no pay; or acceptance at reduced final pay quantity or reduced unit price, all at the discretion of the County. Determinations of aggregate monetary change for items identified as lump sum quantities shall be made by the County based upon an analysis of the scope of the Contractor's failure to construct to plan or authorized dimensions.

5.9.2 Cost of Work

5.9.2.1 The term, "Cost of Work," for the purpose of Change Orders, means the costs necessarily incurred and paid by the Contractor in the proper performance of the Change Order Work. Except as may be agreed to in writing by the Project Manager, such costs shall be in amounts no higher than those prevailing in the area of the Project and may include the following categories:

5.9.2.1.1 Actual cost of labor (payroll, taxes, fringe benefits, worker's compensation, health and retirement benefits, sick leave) to perform change order work.

5.9.2.1.2 Owned Equipment (at lowest applicable equipment rate manual rate).

5.9.2.1.3 Rented Equipment (at actual rental rate).

5.9.2.1.4 Materials.

5.9.2.1.5 Subcontractors' costs.

5.9.2.1.6 Extra Bonds and Insurance.

5.9.2.1.7 Contractor's Fee.

5.9.2.2 The Contractor shall require all Subcontractors and suppliers to comply with all requirements of, and provide itemizations of all claims in accordance with this Clause.

5.9.2.3 The term "Cost of the Work" shall not include any of the following:

5.9.2.3.1 Payroll costs and other compensation of the Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, job superintendents, project managers, clerks, and other personnel employed by the Contractor whether at the Site or in its principal or a branch office for general administration of the Change Order work and not specifically included in the agreed-upon schedule of job classifications, all of which are to be considered administrative costs covered by the Contractor's Fee.

5.9.2.3.2 Extraordinary fringe benefits not specifically identified within the provisions set forth above.

5.9.2.3.3 Expenses of Contractor's principal and branch offices other than the Contractor's office at the Site. Field overhead costs, including, but not limited to, cost of on-site temporary facilities and Contractor's on-site supervision. Compensation for these costs will be considered only if the Final Completion date is extended by a Change Order or Allowance Authorization Release.

5.9.2.3.4 Any part of the Contractor's capital expenses, including interest on the Contractor's capital used for the Change Order Work and charges against the Contractor for delinquent payments.

5.9.2.3.5 Cost of premiums for all bonds and insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same (except for additional bonds and insurance required because of changes in the Work).

5.9.2.3.6 Costs due to the negligence of the 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.

5.9.2.3.7 All overhead or general expense costs of any kind (other than as set forth in this Clause.)

5.9.3 Contractor's Fee

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Procurement Services

5.9.3.1 The maximum percentage allowed for the Contractor's combined overhead (including home office and field office overhead) and profit shall be as follows:

5.9.3.1.1 For all such Change Order Work done or to be done by the Contractor's own organization, a fixed percentage of the total adjustment to the Contract Price shall not exceed ten (10) percent (10%).

5.9.3.1.2 For all such Change Order Work done or to be done by Subcontractors, each Subcontractor may add up to ten percent (10%) to its allowable cost of work for combined overhead and profit and the Contractor may add up to five percent (5%) to the Subcontractor's allowable cost of work for its combined overhead and profit; provided, however,

5.9.3.1.2.1 no markup of the cost incurred in connection with premiums for bonds or insurance shall be permitted, and

5.9.3.1.2.2 the total maximum markup allowed by this Clause including, but not limited to, Contractor, Subcontractors, and all lower-tier Subcontractors, shall in no event exceed twenty percent (20%) of allowable costs.

5.9.3.1.3 For all changes, the Contractor shall submit an itemized cost breakdown, together with supporting data in such detail and form as prescribed by the Project Manager. When a credit is due, the amount of credit to be allowed by the Contractor to the County for any such change which results in a net decrease in cost will be the amount of the actual net decrease in direct cost as determined by the Project Manager, plus the applicable reduction in overhead and profit. When both additions and credits are involved in any change, the combined overhead and profit shall be calculated on the basis of the net change, whether an increase or decrease. In any event, the minimum detail shall be an itemization of all manhours required by discipline/trade with the unit cost per manhour and total labor price, labor burden, equipment hours and rate for each piece of equipment, material by units of measure and price per unit, other costs specifically itemized, plus the overhead and profit markup.

5.10 Changes of Contract Time

5.10.1 The Contract Time may only be changed by a Change Order. Any request for an extension in the Contract Time shall be made in writing and delivered to the Project

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Hillsborough County Florida
Procurement Services

Manager within seven (7) Days of the occurrence first happening and resulting in the claim. Written supporting data will be submitted to the Project Manager within fifteen (15) Days after such occurrence unless the Project Manager allows additional time. All claims submitted by the Contractor for adjustments to the Contract Time must set forth in detail the reasons for and causes of the delay and clearly indicate why the subject delay was beyond the Contractor's control or fault.

5.10.2 If the Contractor is delayed at any time in the performance, progress, commencement, or completion of the Work by any act or neglect of the County or the Professional, or by any employee of either, or by any separate contractor employed by the County, or by changes ordered in the Work, or by labor disputes, fire, unavoidable casualties, utility conflicts which could not have been identified or foreseen by the Contractor using reasonable diligence, or any causes beyond the Contractor's control or fault, then the Contract Time shall be extended by Change Order for such reasonable time as the County may determine. Contractor shall be entitled to an extension of time for such causes only for the number of days of delay which the County may determine to be due solely to such causes and only to the extent such occurrences actually delay the completion of the Project and then only if the Contractor shall have strictly complied with all the requirements of the Contract Documents. Provided, however, notwithstanding anything in the Contract Documents to the contrary, no interruption, interference, inefficiency, suspension or delay in the performance, progress, commencement or completion of the Work for any cause whatsoever, including those for which the County or the Professional may be responsible in whole or in part, shall relieve Contractor of its duty to perform or give rise to any right to damages or additional compensation from the County. Contractor's sole and exclusive remedy against the County for interruption, interference, inefficiency, suspension or delay of any aspect of the Work shall be the right to seek an extension to the Contract Time in accordance with the procedures set forth herein. This paragraph shall expressly apply to claims for early completion, as well as claims based upon late completion.

5.10.3 The Contractor shall become familiar with and prepare for the normal weather conditions existing in Hillsborough County, Florida. Normal weather conditions are expected to impact the Work in numerous ways, including but not limited to delays during and after periods of rainfall, temporary flooding and ponding, wet ground, high winds and debris. The Contractor acknowledges that its bid and subsequent schedule anticipates and includes as a minimum the normally anticipated number of unfavorable weather days set forth in the applicable conditions of the Contract Documents for the period of time covered by this Agreement. The consequences and impact of such unfavorable weather conditions are neither excusable nor compensable.

5.10.4 (d) The Contractor acknowledges that the following conditions must all exist before unfavorable weather conditions may be found to exist

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Procurement Services

5.10.4.1 Unfavorable weather conditions actually existed at the Project Site for one or more work days in excess of the number of work days set forth in paragraph f)

5.10.4.2 As a direct result of the unfavorable weather conditions, the Contractor was unable to perform critical path work for a continuous period of more than four (4) hours on each specific day.

5.10.4.3 The Contractor had taken reasonable precautions, such as but not limited to proper drainage, temporary drainage or diversion, and pumping (including pre- and post-shift pumping), to mitigate the impact of such unfavorable weather conditions.

5.10.4.4 The Contractor was in fact scheduled to and attempted to perform Work.

5.10.5 An evaluation of weather conditions shall be made on the dates identified elsewhere in the Agreement as "Milestone Dates," the Substantial Completion Date, and the Final Completion Date (collectively "Milestone Dates"). On those dates, if all the conditions set forth in paragraph d) are found to exist, the number of work days from the date of the Notice to Proceed through the pertinent Milestone Date actually affected by unfavorable weather conditions will be compared with the normally anticipated number of unfavorable weather days set forth in paragraph (f) for that same period of time. If the number of affected days during that period exceeds the normally anticipated number of unfavorable weather days, the Project Schedule shall be adjusted in accordance with the applicable conditions of the Contract Documents. Subsequent Milestone Dates shall not be adjusted unless and until subsequent evaluations demonstrate independent entitlement to the same. If any of the Milestone Dates are adjusted in accordance with the foregoing procedures, the Project Manager shall, at the time of Final Completion, prepare and submit to the Board a Change Order increasing the Contract Time by the total of all such adjustments for unfavorable weather conditions. Notwithstanding anything herein to the contrary, liquidated damages shall not be assessed for the period of time between the originally scheduled Milestone Date(s) and the adjusted Milestone Date(s) as described hereinabove. This extension of the Milestone Date shall be the sole consideration for the impact of weather conditions, and Contractor shall not be entitled to damages or additional compensation resulting from delays caused by such weather conditions. If the number of affected days during that period does not exceed the normally anticipated number of unfavorable weather days set forth in paragraph f), no adjustment shall be made. For Milestone Dates which occur on a day other than the last day of the month, the number of days set forth in paragraph f) shall be prorated and rounded to the nearest whole day.

5.10.6 (f) The parties expressly acknowledge that unfavorable conditions will exist at the Site as a result of normal weather. The parties also acknowledge that, based on a five-day work week, the normal and to-be-anticipated number of unfavorable weather days per month are as follows:

5.10.6.1 January - 2 work days

5.10.6.2 February - 3 work days

5.10.6.3 March - 3 work days

5.10.6.4 April - 2 work days

5.10.6.5 May - 3 work days

5.10.6.6 June - 5 work days

5.10.6.7 July - 7 work days

5.10.6.8 August - 7 work days

5.10.6.9 September - 6 work days

5.10.6.10 October - 2 work days

5.10.6.11 November - 2 work days

5.10.6.12 December - 2 work days

5.10.7 All time limits stated in the Contract Documents are of the essence to the Agreement. The provisions of this Clause shall not preclude recovery of liquidated damages.

5.10.8 As a condition precedent to receiving an extension of the Contract Time for delay on any portion of the Work, the Contractor shall reasonably reschedule the Work so as to minimize the impact of the delay and to allow continued progress on the unimpacted portions of the Work.

5.10.9 Interim milestones may be adjusted by the Director or his designee, upon recommendation of the Project Manager, when appropriate, as long as the adjustment does not affect Final Completion.

5.11 Warranty and Guarantee: Acceptance of Defective Work

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Procurement Services

5.11.1 Warranty and Guarantee

The Contractor warrants and guarantees to the County that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality, performed in a workmanlike manner, free from faults or defects, and in accordance with the requirements of the Contract Documents and any inspections, tests, or approvals referred to in this Clause. All unsatisfactory Work, all faulty Work and all Work not conforming to the requirements of the Contract Documents or such inspections, tests, approvals, or all applicable building, construction and safety requirements shall be considered defective. Notice of all defects shall be given to the Contractor by the Project Manager. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Clause.

5.11.2 Test and Inspections

5.11.2.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor shall give the Project Manager timely notice of readiness therefore. The testing firm(s) (if assigned by the County to this Project) and all such inspections, tests, or approvals provided for by the County shall be identified in writing by the Project Manager to the Contractor. All other inspections, tests or approvals shall be at the Contractor's expense including additional expenses for inspection and tests required as a result of delays by the Contractor or hours worked in excess of forty (40) hours per week. For all required inspections, tests, and approvals on any Work prepared, performed, or assembled away from the Site, the Contractor will furnish the Project Manager with the required Certificates of Inspection, testing, or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organizations as may be required by law or the Contract Documents. Materials or Work in place that fail to pass acceptability tests shall be retested at the direction of the Project Manager and at the Contractor's expense. The rates charged the Contractor pursuant to this clause shall be those found in the County's current annual Testing Contract which is available for inspection.

5.11.2.2 Neither observations by the Professional or Project Manager nor inspections, tests, or approvals by persons other than the Contractor shall relieve the Contractor of its obligations to perform the Work in accordance with the requirements of the Contract Documents.

5.11.3 Access to the Work

For the duration of the Project, the Professional and its representatives, other designated representatives of the County, and authorized representatives of any regulatory agency shall at all times be given access to the Work. The Contractor shall provide proper facilities for such access and observation of the Work and also for any inspection or testing by others.

5.11.4 Uncovering the Work

5.11.4.1 If any Work required to be inspected, tested or approved is covered prior thereto without the prior written approval of the Project Manager, or if any Work is covered contrary to the request of the Project Manager, the Work shall, if requested by the Project Manager, be uncovered for observation, inspection, testing or approval and replaced at the Contractor's expense.

5.11.4.2 If any Work has been covered which either the Professional or Project Manager has not specifically requested to observe, or if the Professional or Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, upon written request of the Project Manager, shall uncover, expose, or otherwise make available for observation, inspection, or testing that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, the Contractor shall bear the expense of such uncovering, exposure, observation, inspection, testing, and satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction, if it makes a claim as provided within the Contract Documents.

5.11.5 Stop Work

When Work is defective or when the Contractor fails to supply sufficient skilled workmen or suitable materials or equipment, or make prompt payments to Subcontractors for labor, materials, or equipment, or if the Contractor violates any provisions of these Contract Documents, the Department Director may order the Contractor to stop the Work until the cause for such order has been eliminated. However, this right of the Director to stop the Work shall not give rise to any duty on the part of the Director to exercise this right for the benefit of the Contractor or any other party. The Contractor shall have no right to claim an increase in the Contract Price or Contract Time or other damages for a stop work order under this paragraph.

5.11.6 Correction or Removal of Defective Work

5.11.6.1 When directed by the Project Manager, the Contractor shall promptly, without cost to the County and as specified by the Project Manager, either correct the defective Work whether fabricated, installed, or completed, or remove it from the Site and replace it with nondefective Work. If the Contractor does not correct such defective Work or remove and replace such defective Work within a reasonable time, all as specified in a written notice from the Project Manager, the County may have the deficiency corrected. All direct and indirect costs of such correction shall be paid by the Contractor or deducted from payment to Contractor. The Contractor will also bear the expense of correcting or removing and replacing all Work of others destroyed or damaged by the correction, removal, or replacement of the defective Work.

5.11.6.2 If, after approval of final payment and prior to the expiration of one (1) year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, incomplete, or otherwise not in accordance with the Contract Documents, the Contractor shall promptly, without cost to the County and in accordance with the County's written instructions, either correct such defective Work, or if it has been rejected by the County, remove it from the Site and replace it with non- defective Work. If the Contractor does not promptly comply with the terms of such instructions, the County may have the defective Work corrected, removed, or replaced. All direct and indirect costs of such action will be paid by the Contractor.

5.11.7 Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, the County prefers to accept it, the County may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order incorporating the necessary revisions in the Contract Documents, including an appropriate reduction in the Contract Price, shall be issued. If the acceptance occurs after approval of final payment, the Contractor shall pay to the County an appropriate sum to compensate for the defect in the Work.

5.11.8 Neglected Work by Contractor

5.11.8.1 If the Contractor neglects to execute the Work in accordance with the Contract Documents, including any requirements of the Project Schedule, the Project Manager may direct the Contractor to submit a recovery plan and take specific corrective actions including, but not limited to, employing additional workmen, and/or equipment, and working extended hours and additional days, all at no cost to the County in order to put the Project back on schedule. If the

Contractor fails to correct the deficiency or take appropriate corrective action, the Board may terminate the contract or Contractor's right to proceed with that portion of Work and have the Work done by others. The cost of completion under such procedure shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including an appropriate reduction in the Contract Price. If the payments due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County.

5.11.8.2 When the Contractor is more than four percent (4%) behind schedule based on the accepted Project Schedule, the Project Manager may deduct from the Contractor's progress payment a sum equal to the liquidated damages for the number of days behind schedule. Additional withholding may be made if the Project Manager determines the Work cannot be completed for the unpaid balance of the Contract Price.

5.11.8.3 Should the Contractor work overtime, weekends or holidays to regain the schedule, all costs to the County of associated inspection, construction management and resident engineering shall be identified to the Contractor and the Contract Price reduced by a like amount via Change Order.

5.12 Payment and Completion

5.12.1 Schedule of Values

5.12.1.1 At least ten (10) Days prior to submitting the first Application for Payment, the Contractor shall submit to the Project Manager a final schedule of values and cash flow projection for all activities of the Work shown on the accepted schedule, including quantities and unit prices totaling to the Contract Price. This schedule of values shall be satisfactory in form and substance to the Project Manager and shall subdivide the Work into component parts in sufficient detail to serve as the basis for measuring quantities in place and calculating amounts for progress payments during construction. Unsupported or unreasonable allocation of the Contract Price to any one activity shall be justification for rejection of the schedule of values. Upon approval of the schedule of values by the Project Manager, it shall be incorporated into the form of Application for Payment prescribed by the Project Manager. The Contractor shall not submit an unbalanced schedule of values which provides for overpayment to the Contractor on activities which would be performed first. The schedule of values shall be revised and resubmitted until acceptable to Project Manager. Once the schedule has been accepted by the Project Manager, the County reserves the right (at its option) throughout the Contract to require that

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Procurement Services

the Contractor honor a particular price contained in the schedule of values, if the activity pertaining to it is being deleted or modified.

5.12.1.2 On unit price contracts, the Schedule of Values shall be in accordance with the Offer.

5.12.1.3 No payment can be made until the Schedule of Values/Line Item Summary, with the activity dollar resources, has been approved by the Project Manager. The Application for Payment shall delineate all activities on the schedule, the approved value, previous percentage complete approved, current percentage complete requested, and value of percentage requested.

5.12.1.4 The cash flow projection shall be a monthly projection of the value of Work in place. If the actual cash flow (represented by the Application for Payment) for any month is less than eighty-five percent (85%) of the projected amount for that month, then the Contractor may be barred from bidding other County projects until the value of Work in place is corrected and within ninety-five percent (95%) of the projected value.

5.12.2 Application for Payment

5.12.2.1 Application for Payment shall be made no earlier than thirty (30) Days after Notice to Proceed, and monthly thereafter, but not more often than once a month. The Application for Payment, when submitted, shall be filled out accurately and signed by the Contractor, covering the Work completed as of the date of the Application and supported by such data as required by the Department. The Contractor shall certify in writing that all Subcontractors and suppliers have been paid for acceptable work and materials from previous progress payments received (less any retainage) prior to receipt of any further progress payments. The Contractor shall submit an Application for Payment on the form provided within these Contract Documents and which includes the aforementioned certification. 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 such supporting data as will establish the County's title to the material and equipment and protect its interest therein, including applicable insurance. Payment of stored materials, in whole or in part, shall be at the sole discretion of the County.

5.12.2.2 Prior to the submission of an Application for Payment, the Contractor shall submit the Schedule of Values/Line Item Summary, showing the work in place for that Application for Payment (including stored materials, if applicable)

to the County's reviewer(s) previously designated by the Project Manager. If the County's reviewer(s) determine that the proposed Schedule of Values/Line Item Summary is acceptable, the Contractor shall prepare and submit the Application for Payment (suitable for signature) to the party identified in the Notice to Proceed.

5.12.2.3 Beginning with the Contractor's second request for payment, the Contractor shall submit a Subcontractor's Statement of Satisfaction, on the form provided within these Contract Documents from each Subcontractor whose work appeared on the prior Application for Payment and for which the Contractor has been paid. If the Contractor is unable to obtain the required Subcontractor's Statement(s) of Satisfaction, a consent from the Contractor's surety company shall be required. In the event the Contractor is unable to furnish a Subcontractor's Statement of Satisfaction or a consent of surety, the disputed amount may be withheld by the County until the Contractor can provide a Subcontractor's Statement of Satisfaction or a consent of Surety.

5.12.3 Contractor's Warranty of Title

If at any time there shall be evidence of any claim for which, if established, the County might become liable, and which is chargeable to Contractor, or if Contractor shall incur any liability to the County, or the County shall have any claim or demand against Contractor, whether or not reduced to judgment or award, of any kind or for any reason, whether related to or arising out of this Agreement or any other agreement between the Contractor and the County, the County shall have the right to retain out of any payment due, or which may become due, under this Agreement or any other Agreement between the Contractor and the County, an amount sufficient to indemnify the County against such claim, and/or to compensate the County for and fully satisfy such liability, claim or demand, and charge or deduct all cost of defense or collection with respect thereto, including reasonable attorney fees. Should any claim develop after final payment has been made, the Contractor shall refund to the County all monies that the latter may be compelled to pay in discharging such claims or incurred in collecting said monies from the Contractor.

5.12.4 Approval of Payments

5.12.4.1 The due date for payment shall be determined as follows:

5.12.4.1.1 If the Professional must approve the Application for Payment prior to the invoice being submitted to the County, a payment request shall be made submitted to the County's Chief Financial Officer for payment within twenty (20) Business Days after the date on which the Professional stamps the Application for Payment as received.

5.12.4.1.2 If the Professional is not required to approve the Contractor's Application for Payment, a payment request shall be submitted to the County's Chief Financial Officer for payment within fourteen (14) Days after the date on which the invoice is stamped as received by the County.

5.12.4.2 The County may reject the Application for Payment within fourteen (14) Days after the date on which the Application for Payment is originally stamped as received. The rejection shall be written and shall specify the deficiency in the Application for Payment and the action necessary to make the Application for Payment proper.

5.12.4.3 If an Application for Payment is rejected as stated above and the Contractor submits a corrected Application for Payment, the corrected Application for Payment shall be paid or rejected ten (10) Business Days after the date the corrected Application for Payment is stamped as received.

5.12.4.4 The Director may refuse to approve the whole or any part of any payment if, in the Director's opinion, he/she is unable to make the representation that the Application is acceptable to the County. The Director may also refuse to approve any such Application, or because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in the Director's opinion to protect the County from loss because:

5.12.4.4.1 The Work is defective.

5.12.4.4.2 The Critical Path Method (CPM) schedule or another method of scheduling as directed, and regular updates, as required in the Specifications have not been submitted or accepted.

5.12.4.4.3 Claims have been filed against the County for which the Contractor may be liable.

5.12.4.4.4 The Contract Price has been reduced because of Change Order(s).

5.12.4.4.5 The County has been required to correct defective Work or complete the Work in accordance with the Contract Documents.

5.12.4.4.6 Approved Maintenance of Traffic Plan or revisions as directed by the Project Manager have not been submitted.

5.12.4.4.7 The Work was executed unsatisfactorily, or the Contractor failed to clean up, or failed to control traffic or dust or otherwise is not in compliance with these Contract Documents.

5.12.4.5 Payment disputes shall be resolved in accordance with the County's Prompt Payment Procedures as set forth below:

5.12.4.5.1 If a dispute arises with the Contractor concerning payment of a Payment Request or Proper Invoice, the dispute shall be resolved by the Department Director. The Department Director shall investigate and ascertain whether the work for which the Payment Request or Proper Invoice has been submitted was performed to Hillsborough County's satisfaction and accepted by the Proper Authority. "Proper Authority" for this purpose is defined as the Hillsborough County representative who is designated as the approving authority for the Work under the Contract Documents. The Department Director will issue his/her decision in writing. The dispute resolution activities shall be commenced within thirty (30) Days after the Payment Request or Proper Invoice is received and must be concluded by final decision of the Department Director within forty-five (45) Days after the date the Payment Request or Proper Invoice is received.

5.12.4.5.2 If the dispute is resolved in favor of the County, interest charges as set forth in the Florida Prompt Payment Law, Section 218.76(2)(a), Florida Statutes, begin to accrue fifteen (15) Days after the County's final decision. If the dispute is resolved in favor of the Contractor, interest accrues as of the original date the payment became due.

5.12.4.5.3 If the County disputes a portion of the payment request, the undisputed portion must be paid by the date required under the Contract or by twenty (20) business days after receipt of the request, whichever is earlier.

5.12.5 Substantial Completion and Development of Punch List

5.12.5.1 Substantial Completion is as defined in this Contract. When the Contractor believes Substantial Completion has been achieved, it shall certify in writing to the Project Manager that the Project is Substantially Complete in accordance with the Contract Documents and request the Project Manager to inspect the Work and to issue a Certificate of Substantial Completion. Prior to making such a request, the Contractor must:

5.12.5.1.1 Complete all Work necessary for the safe, proper and complete use or operation of the Project as intended, including: all regulatory agency requirements are satisfied, including occupancy permits; operating certificates and similar releases; all operational testing has successfully occurred; all required training has successfully occurred; all close-out documents (such as as-built drawings, certifications, warranties, guaranties, test reports, test logs, operational manuals, etc.) have been provided by Contractor and accepted by County.

5.12.5.1.2 Prepare a Contractor-generated punch list, i.e., a list of all items required to render the Project complete, satisfactory, and acceptable, along with an estimated cost to complete each item on the list for submission with the request for inspection and issuance of a certificate of Substantial Completion.

5.12.5.2 Upon receipt of the request from the Contractor, the Project Manager, assisted by the Professional, (if any), and other County personnel, as appropriate, shall review the request, the Work and the Contractor-generated Punch List to determine whether the Work is ready for Substantial Completion inspection. If this review fails to support Substantial Completion inspection, the Project Manager shall so notify the Contractor citing the reasons for rejection. If the Project Manager and Professional (if any) determine the Work is ready for Substantial Completion inspection, the following procedures will be followed:

5.12.5.2.1 The Project Manager will, within a reasonable time and schedule, conduct inspection(s) of the Work with the Professional (if any), other County personnel as required, and the Contractor for the purpose of formally reviewing the status of completion of the Work, the readiness of the Project for use and the Contractor-generated punch list. A copy of the Contractor-generated punch list will be provided to all participants and any additional items noted during the inspection will be added to the list. The Project Manager, the Professional, their representatives and other County representatives will review the Work and the Contractor-generated punch list to assure all deficiencies are noted on a final document (the "Punch List"). The Punch List must include all items required to render the Project complete, satisfactory and acceptable. If Project Manager and Contractor disagree on whether an item belongs on the Punch List, the Project Manager has the final say on whether the item is included or not. The Punch List shall be finalized and issued to the Contractor by the County within the time frames indicated below.

5.12.5.2.2 If, upon completion of the inspection(s) the County does not consider the Project Substantially Complete, the Project Manager will notify the Contractor in writing giving reasons why the Project is not Substantially Complete.

5.12.5.2.3 If, upon completion of the inspection(s), the County considers the Project Substantially Complete, the Project Manager shall prepare a Certificate of Substantial Completion to establish the date for Substantial Completion as the date of the completed inspection(s). The Certificate of Substantial Completion shall be approved by the County upon the signature of both the Project Manager and the Professional and shall be issued to the Contractor. This Certificate shall fix the date of Substantial Completion.

5.12.5.3 Where Beneficial Occupancy may not be applicable to the Project or to certain portions thereof, warranties for the Project or those portions shall commence on the date of Substantial Completion, unless otherwise provided for in the Contract Documents.

5.12.5.4 Substantial Completion cannot occur until all conditions necessary for safe and proper use, occupancy, maintenance and operations are in place.

5.12.6 Time Frames for Issuance of Punch List

5.12.6.1 County shall issue the Punch List to the Contractor within the time frames described below, provided that the Contractor has completed its obligations in providing a proper contractor-generated punch list prior to Substantial Completion inspection. The failure of the County to include any corrective work or pending items not yet completed on the Punch List does not alter the responsibility of the Contractor to complete all the construction services purchased pursuant to the Contract.

5.12.6.2 For construction projects estimated to cost less than ten million dollars ($10,000,000.00), the Punch List must be finalized and issued within thirty (30) Days after Substantial Completion date and at least thirty (30) days prior to the contract Final Completion date.

5.12.6.3 For construction projects estimated to cost ten million dollars ($10,000,000.00) or more, the Punch List must be finalized and issued within thirty (30) days or, if extended by Contract, up to forty-five (45) Days after Substantial Completion date as defined in the Contract and at least thirty (30) days prior to the contract Final Completion date.

5.12.6.4 For construction projects involving more than one building or structure or multiple phases, the Punch List must be prepared for each building, structure or phase within thirty (30) Days of Substantial Completion date of a particular building, structure or phase if it is estimated to cost less than ten million dollars ($10,000,000.00) or if it is estimated to cost ten million dollars ($10,000,000.00) or more, within thirty (30) days or, if extended by Contract, up to forty five (45) Days after Substantial Completion date as defined in the Contract .

5.12.6.5 Should the Punch List not be provided to the Contractor by the agreed upon dates set forth in the subsections above, the Final Completion date will be extended by the number of days the County has exceeded the delivery date

5.12.6.6 The failure to include any corrective work or pending items not yet completed on the Punch List does not alter the responsibility of Contractor to complete all the construction services purchased pursuant to the Contract Documents.

5.12.7 Completion of Punch List Work and Release of Remaining Retainage

5.12.7.1 Upon completion of the Punch List work, the Contractor shall certify in writing to the Project Manager that all Punch List Work has been completed in accordance with the Contract Documents and request the Project Manager to inspect the Work and to approve Punch List completion. If, in the Project Manager's opinion, the Work is not ready for such inspection, the Project Manager will so inform the Contractor, giving reasons for such opinion. If the Project Manager is satisfied that an inspection is warranted, the Project Manager will, within a reasonable time, schedule and conduct inspection(s) of the facility with representatives of the County's user department, the Professional (if any), and the Contractor, for the purpose of formally reviewing the completion of Punch List Work. If the Project Manager and Contractor disagree on whether an item remains incomplete, the Project Manager has the final say on whether the item is completed or not.

5.12.7.2 If, upon completion of the inspection(s) the County does not consider the Punch List work complete, the Project Manager will notify the Contractor in writing giving specific reasons why the Punch List work is not complete.

5.12.7.3 Within twenty (20) business days after the final Punch List is created the Contractor may submit a Payment Request for the remaining Contract balance (including all remaining retainage). If a good-faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the Contract Documents, the County may continue to withhold an amount not to

exceed one hundred and fifty percent (150%) of the total costs to complete such items. This remaining balance may be requested by the Contractor in its Application for Final Payment after Final Acceptance of the Work by County.

5.12.7.4 All items that require correction under the Contract Documents and that are identified after the preparation and delivery of the Punch List shall remain the obligation the Contractor.

5.12.7.5 Warranty items may not affect the final payment of retainage pursuant to 218.735(7)(e), Florida Statutes.

5.12.7.6 If County fails to comply with its responsibilities to develop the Punch List within the time frame applicable to the Project (as described in Section 5.12.6 above), Contractor may submit a request for the remaining Contract balance (including retainage) withheld by County. Such payment shall be due within twenty (20) business days after receipt of a proper invoice or payment request from the Contractor. If, however, the County has provided written notice to the Contractor specifying the failure of the Contractor to meet contract requirements in the development of the list of items to be completed, the County is only obligated to pay the remaining contract balance (including retainage), less an amount equal to 150 percent of the estimated costs to complete the items the County intended to include on the Punch list. Additionally, County does not have to pay or release any amounts that are the subject of a good-faith dispute, the subject of a claim brought pursuant to Section 255.05, Florida Statutes.

5.12.8 Partial Utilization

Where a portion of a Project is sufficiently completed to allow Beneficial Occupancy, but significant other portion(s) remain uncompleted, the Project Manager may direct the Contractor to permit the County to take control of that portion, operate and utilize it (take Beneficial Occupancy), when the County believes such use will not significantly interfere with construction of the other parts of the Project. If the Contractor is of the opinion that said Beneficial Occupancy is not in the County's best interests, it shall give written notice of such opinion and include a statement of all reasons why certification of Beneficial Occupancy should not be issued. Otherwise, the Contractor shall certify to the County that all critical elements of that part of the Project are complete to the extent that the County may take Beneficial Occupancy, and request the Project Manager to prepare a Certificate of Beneficial Occupancy for that part of the Project. Thereafter, the Project Manager, assisted by other personnel as required, along with Contractor will make an inspection of that part of the Project to determine the status of completion. If the Project Manager considers that part of the Project to be ready and appropriate for Beneficial Occupancy, the Project Manager will deliver to the Contractor a Certificate of Beneficial

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(813) 272-5790
Hillsborough County Florida
Procurement Services

Occupancy to that effect, fixing the date of Beneficial Occupancy as to that part of the Project, attaching a list of items to be completed or corrected before final payment of total Contract, and fixing responsibility between the County and Contractor for any outstanding obligations on that part of the Project. The County shall have the right to occupy and use the portion of the Project after date of Beneficial Occupancy for that portion, but the Project Manager will allow the Contractor reasonable access to complete or correct items on the list. Acceptance of Beneficial Occupancy shall not negate the Contractor's obligation to meet milestone requirements, including Substantial and Final Completion Dates for the entire Project, as said dates may have been set forth in the Contract Documents. Where Beneficial Occupancy has been established for a portion of the Project, warranties for that portion shall commence on the date of Beneficial Occupancy unless otherwise provided for in the Contract Documents.

5.12.9 Final Completion

5.12.9.1 Upon written notice from the Contractor that the Project is complete, the Project Manager shall schedule a final inspection with the Contractor and any other personnel requested by the Project Manager. The Project Manager shall notify the Contractor in writing of any Work this inspection reveals to be defective, or otherwise not in accordance with the Contract Documents. The Contractor shall immediately take such action as may be necessary to remedy such defects and bring the Project into full compliance with the Contract Documents and then request another inspection.

5.12.9.2 Final Completion of the Work shall be achieved by the Contractor when all Work required under the Contract Documents has been satisfactorily completed, including all Punch List work, and specifically as noted in the Specification section.

5.12.9.3 After the Project Manager has determined that all Work has been completed, the Project Manager will issue a Certificate of Final Completion for the Work. Where Beneficial Occupancy or Substantial Completion may not be applicable to the Project, warranties will commence on the date of Final Completion.

5.12.10 Application for Final Payment

After the Certificate of Final Completion for the Work has been issued by the Project Manager, the Contractor may make Application for Final Payment following the procedure for progress payments. The Application for Final Payment shall be accompanied by the Contractor's Affidavit of Payment of Debts and Claims, Certificate of Final Completion, and the Consent of Surety to Final Payment, all submitted on forms provided by the County. Where Certificates of Beneficial Occupancy have been issued for

HCFL.gov/Vendors
(813) 272-5790
Hillsborough County Florida
Procurement Services

portions of the Project in accordance with the Contract Documents, they shall be maintained in the Project file.

5.12.11 Approval of Final Payment

If, on the basis of the Project Manager's observations and review of Work during construction, final inspection, and review of the Application for Final Payment (all as required by the Contract Documents), the Project Manager is satisfied that the Work has been completed and the Contractor has fulfilled all of its obligations under the Contract Documents, the Project Manager will, within ten (10) days after receipt of the Application for Final Payment, indicate in writing approval of payment. Otherwise, the Project Manager will return the Application to the Contractor, indicating in writing the reason for refusing to approve for final payment, in which case the Contractor will make the necessary corrections and resubmit the Application.

5.12.12 Contractor's Continuing Obligation

The Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment, the issuance of a Certificate of Substantial Completion, any payment by the County to the Contractor under the Contract Documents, any use or occupancy of the Project or any part thereof by the County (with or without issuance of a Certificate of Beneficial Occupancy), the issuance of a Certificate of Final Completion, 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.

5.12.13 Waiver of Claims

The making and acceptance of final payment shall constitute a waiver of any and all claims by the Contractor against the County, except for those previously submitted in writing in accordance with the Contract Documents.

5.13 Prohibition Against Contracting with Scrutinized Companies and Termination of Contracts with Scrutinized Companies

5.13.1 Contractor is advised that Florida Statutes, Section 287.135, prohibits agencies and governmental entities from contracting (in any amount) with a company for goods and/or services that is (a) on the Scrutinized Companies that Boycott Israel List (created pursuant to Florida Statutes, Section 215.4725), or (b) engaged in a boycott of Israel. The County reserves the right to terminate the Contract if the County discovers that the Contractor has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

5.13.2 Contractor is advised that Florida Statutes, Section 287.135, prohibits agencies and governmental entities from contracting with a company for goods and/or services in the amount of One Million Dollars $1,000,000) or more if such company is (a) on the Scrutinized Companies with Activities in Sudan List (created pursuant to Florida Statutes, Section 215.473), or (b) on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (created pursuant to Florida Statutes, Section 215.473), or (c) engaged in business operations in Cuba or Syria. The County reserves the right to terminate the Contract if the County discovers that the Contractor has (i) submitted a false certification regarding the Contractor's business operations in the countries and/or industries listed in (a) through (c) of this paragraph, (ii) been placed on the Scrutinized Companies with Activities in Sudan List, (iii) been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or (iv) engaged in business operations in Cuba or Syria.

5.14 Suspension of Work and Termination

5.14.1 Suspension of Work

The Director may, at any time, suspend the Work or any portion thereof for a continuous period of not more than ninety (90) days by notice in writing to the Contractor. The Project Manager shall fix the date on which Work shall be resumed, and the Contractor shall resume the Work on the date so fixed. The Contractor shall be allowed an extension of the Contract Time if directly attributable to any suspension as the sole compensation and remedy for such suspension, provided it makes a proper claim for same as provided for in "Change of Contract Time" Clause. Contractor shall not be entitled to any damages or additional compensation for any such suspensions.

5.14.2 Termination of Work

5.14.2.1 If the Contractor is adjudged bankrupt or insolvent, if it makes a general assignment for the benefit of its creditors, if a trustee or receiver is appointed for it or for any of its property, if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws, if it repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment or make prompt payments to Subcontractors or for labor, materials, or equipment; if it disregards laws, ordinances, rules, regulations, or orders of any public body having jurisdiction; if it fails to submit the bonds and Certificates of Insurance within the times required by the Contract Documents; if it disregards the authority of the Professional; or if it otherwise materially violates any provisions of the Contract Documents, then the Board may, without prejudice to any other right or remedy, terminate the services of the Contractor. Prior to such termination, County shall provide Contractor and its surety with seven (7) Days written notice of County's intent to terminate. Upon termination, the County shall take possession of the Project and may take possession of all materials,

equipment, tools, construction equipment, and machinery thereon owned by the Contractor and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the direct and indirect cost of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such cost exceeds the unpaid balance, the Contractor shall pay the difference to the County. Such cost incurred by the County shall be incorporated in a Change Order. If, after notice of termination of this Agreement as provided for herein, it is determined for any reason that the Contractor was not in default, or that its default was excusable, or that the County was not entitled to the remedy against Contractor provided herein, the termination will be deemed to be a termination for convenience pursuant to paragraph "Termination for Convenience" and the Contractor's remedies against the County shall be the same as and limited to those afforded thereunder.

5.14.2.2 Where the Contractor's services have been so terminated pursuant to the paragraph above by the County, said termination shall not affect any rights of the County against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the County due the Contractor will not release the Contractor from liability. In addition, the County reserves the right to suspend/debar the Contractor from bidding on Hillsborough County procurements/contracts for a period of up to twenty-four (24) months and/or pursue any and all other remedies available to the County.

5.14.3 Termination for Convenience

5.14.3.1 The performance of Work under this Agreement may be terminated by the County in accordance with this Clause in whole, or from time to time in part, whenever the County shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination for Convenience specifying the extent to which performance of Work under the Agreement is terminated, and the date upon which such termination becomes effective.

5.14.3.2 After receipt of a Notice of Termination for Convenience, and except as otherwise directed by the County, the Contractor shall:

5.14.3.2.1 Stop Work under this Agreement on the date and to the extent specified in the Notice of Termination for Convenience.

5.14.3.2.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work under this Agreement as is not terminated.

5.14.3.2.3 Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination for Convenience.

5.14.3.2.4 In the sole discretion of the County, the Contractor shall either:

5.14.3.2.4.1 assign to the County, in the manner, at the time, and to the extent directed by the Project Manager, all of the right, title, and interest of the Contractor under some or all of the orders and subcontracts so terminated; or

5.14.3.2.4.2 settle all outstanding liabilities and all claims arising out of such termination of nonassigned orders and subcontracts.

5.14.3.2.5 Transfer title and deliver to the County, in the manner, at the times and to the extent, if any, directed by the Project Manager, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the Work terminated by the Notice of Termination for Convenience.

5.14.3.2.6 Complete performance of such part of the Work as shall not have been terminated by the Notice of Termination for Convenience.

5.14.3.2.7 Take such action as may be necessary or as the County may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Contractor and in which the County has or may acquire an interest.

5.14.3.3 After receipt of a Notice of Termination for Convenience, the Contractor shall submit to the County its termination claim, in the form and with the certification set forth in the paragraph titled "Changes". Such claim shall be submitted promptly, but in no event later than four (4) months from the effective date of termination unless one or more extensions in writing are granted by the Director. No claim will be allowed for machinery and equipment rental expense incurred after the effective date of the Notice of Termination for Convenience. Upon failure of the Contractor to submit its termination claim within the time allowed, the County shall determine, on the basis of information

available to it, the amount, if any, due to the Contractor by reason of the Termination for Convenience.

5.14.3.4 The Contractor and the County may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of Work pursuant to this Clause, which amount or amounts may include a reasonable allowance for profit on Work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of Work not terminated. The Agreement shall be amended accordingly and the Contractor shall be paid the agreed amount.

5.14.3.5 In the event of the failure of the Contractor and the County to agree on the whole amount to be paid to the Contractor by reason of the termination of Work pursuant to this Clause, the County shall determine, on the basis of information available to it, with respect to all Work performed prior to the effective date of the Notice of Termination for Convenience, the total (without duplication of any items) of the cost of such Work and a sum, as profit, equal to seven percent (7%) of said cost of the Work; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this Clause and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss. In no event will the Contractor be entitled to recover any anticipated or lost profit.

5.14.3.6 The total sum to be paid to the Contractor shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of Work not terminated. Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as determined by the County, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the County.

5.14.3.7 In arriving at the amount due the Contractor under this Clause there shall be deducted

5.14.3.7.1 all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this Agreement,

5.14.3.7.2 any claim which the County may have against the Contractor in connection with this Agreement, and

5.14.3.7.3 the agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the Contractor or sold, pursuant to the provisions of this Clause, and not otherwise recovered by or credited to the County.

5.15 Contractor Use of Hillsborough County for Marketing Prohibited

The Contractor shall in no way use any statements, whether written or oral, made by the County's employees to market, sell, promote or highlight the Contractor and/or the Contractor's product(s) and/or service(s) unless authorized to do so, in writing, by the County Administrator or his/her designee. In addition, the Contractor shall not use subjective or perceived interpretations, even if factual, regarding the County's opinion of the Contractor's performance, product(s) and/or service(s) in any document, article, publication or press release designed to market, promote or highlight the Contractor and/or the Contractor's product(s) and/or service(s). This does not prevent the Contractor from including the County on its client lists and/or listing or using the County as a reference.

5.16 Maintenance of Records/Public Records Law

The Contractor shall keep adequate records and supporting documentation applicable to this Project and Agreement. Said records and documentation shall be retained by the Contractor for a minimum of five (5) years from the date of Final Completion or termination of this Agreement. The County shall have the right to audit, inspect, and copy all such records and documentation as often as the County deems necessary during the period of this Agreement and for a period of five (5) years thereafter provided, however, such activity shall be conducted only during normal business hours. The County, during this period of time, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the Contractor as concerns the aforesaid records and supporting documentation.

5.17 Apprentices and Trainees

When apprentices and trainees are utilized by the Contractor on the Work pursuant to this Agreement, the behavior of the Contractor shall be governed by the provisions of Chapter 446, Florida Statutes.

5.18 Non-Discrimination

The Contractor shall comply with the requirements of all applicable federal, state and local laws prohibiting discrimination and the rules, regulations, policies, and executive orders promulgated thereunder, all of which are incorporated herein by reference.

5.19 Allowances

5.19.1 Allowance Categories

5.19.1.1 Because of the size, complexity and nature of the Project, the Board has determined that it is in the County's best interest to establish certain allowance categories for various portions of additional or revised work. The Allowance Work may consist of, but is not limited to, the following:

5.19.1.1.1 General Site Work

5.19.1.1.2 Concrete Structures

5.19.1.1.3 General Road Work

5.19.1.1.4 Utility Work

5.19.1.1.5 Process Work

5.19.1.2 The Allowance Work is included in the Contract Price and the Contract Work, and shall be performed in full compliance with all requirements of the Contract Documents. The Contract Time also includes a number of calendar days reserved for performance of Allowance Work in accordance with this Clause, calculated as follows: twenty percent (20%) of Days allocated from Notice to Proceed to Final Completion (as awarded), or sixty (60) Days, whichever is less.

5.19.2 Authorized Expenditure and Allocations of Time

All charges and time for Allowance Work must be pre-approved in writing by the County Administrator or appropriate authorized designee. Said written pre-approval shall be in the form of an Allowance Authorization Release (AAR), which shall describe in detail the Allowance Work to be performed, the time, if any, required, and the price for the Allowance Work, as well as containing the authorized signature of the County Administrator or appropriate authorized designee. If Contractor proceeds to perform any Allowance Work without the required AAR, the Contractor shall be deemed to have waived any rights it might otherwise have had to reimbursement and time for such Allowance Work. Any monies designated for Allowance Work remaining at the completion of all Work shall be deducted from the Contract Price by an approved Change Order.

5.19.3 Pricing of Allowance Work

When the County has determined that it wishes to have the Contractor perform certain Allowance Work, the Professional or Project Manager shall provide Contractor with an

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allowance proposal request, identifying the Allowance Work to be performed and requesting the Contractor to submit a price for such proposed Allowance Work. The Contractor shall submit a price for the proposed Allowance Work in a timely fashion, but in no event shall Contractor require more than five (5) Days within which to submit its price on the proposed Allowance Work, unless a longer period of time is permitted by the Project Manager. The Contractor shall prepare its price for the proposed Allowance Work in accordance with the pricing procedures established for Change Orders.

5.19.4 Allocation of Contract Time

If the Contractor requests an allocation of Contract Time for performance of Allowance Work, the Contractor shall state with particularity in its response to the County's allowance proposal request the reasons for its request and the manner in which performance of Allowance Work will affect the Contract schedule. The Contractor shall be entitled to an allocation of time for performance of Allowance Work only for the number of days which the County Administrator or his designee may determine to be due solely on account of such performance and only to the extent such performance affects the Contractor's ability to meet Contract Milestone Dates. In no event may the County Administrator or his designee allocate more Contract Time for all Allowance Work hereunder than the number of calendar days designated for Allowance Work in the Agreement. If the County and Contractor agree on the time to be allocated for performance of Allowance Work, the time shall be stated in the AAR. The County Administrator or his designee may adjust any Milestone Dates affected by allocation of time for Allowance Work and shall state such adjusted Milestone Dates in the AAR. If sufficient allowance time is not available for the Allowance Work, then the time for the Allowance Work (or a portion of the time) may be adjusted by Change Order. Contractor shall not be entitled to damages for delays or disruptions caused by time for Allowance Work and shall state such adjusted Milestone Dates in the AAR. Contractor shall not be entitled to damages for delays or disruptions caused by performance of Allowance Work hereunder. Any time designated for Allowance Work remaining at the completion of all Work shall be deducted from the Contract Time by an approved Change Order.

5.19.5 Disputes as to Price or Time

If the County and Contractor/Construction Manager/Design Builder (whichever is appropriate) agree on the price for proposed Allowance Work but cannot agree on the amount of time for such work, or vice-versa, then the price or time agreed upon shall be included in the AAR, and the disputed item (whether price or time) shall not be included in the AAR but may be resolved through the Change Order process.

5.20 Partnering

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5.20.1 The County intends to encourage the foundation of a cohesive partnership with the Contractor and its Subcontractors. The term "partnering", and any reference to partnership is merely meant to set the tone of the relationship between the parties and does not imply any rights or obligations normally associated therewith. This partnership will be structured to draw on the strengths of each organization to identify and achieve reciprocal goals. The objectives are effective and efficient contract performance, intended to achieve completion within budget, on schedule, and in accordance with plans and Specifications.

5.20.2 This partnership will be bilateral in makeup, and participation will be totally voluntary. Any cost associated with effectuating this partnership will be agreed to by both parties and will be shared equally with no change in Contract Price. To implement this partnership initiative, it is anticipated that prior to issuance to Notice to Proceed, the Contractor's and the County's respective Project Managers and other key personnel will attend a partnership and team-building development workshop. Follow-up workshops will be held periodically throughout the duration of the Contract as agreed to by the Contractor and the County.

5.20.3 An integral aspect of partnering is the resolution of disputes in a timely, professional, and non-adversarial manner. Alternative dispute resolution (ADR) methodologies will be encouraged in place of the more formal dispute resolution procedures. ADR will assist in promoting and maintaining an amicable working relationship to preserve the partnership. ADR in this context is intended to be a voluntary, non-binding procedure available for use by the parties to this Contract to resolve any dispute that may arise during performance.

5.20.4 Nothing in this provision, however, shall take precedence over the rest of the Contract Documents, and if there is a perceived conflict between this provision and any other Contract provision, the other Contract provision will take precedence.

5.21 Security of Construction Documents

The plans and information contained in this Contract may relate to vital infrastructure facilities within Hillsborough County. This information is highly sensitive and must be secured and protected at all times from access by unauthorized persons. Release of documents or information other than as required to fulfill the scope of the Contract is prohibited. The County's Project Manager is empowered to authorize release of documents. Failure to protect these documents could jeopardize the safety of the citizens of Hillsborough County, so they must always be treated with the utmost care.

5.22 Contractor Must Use E-Verify, Must Have Legally Authorized Workforce & Utilize IMAGE Best Practices

5.22.1 E-Verify

5.22.1.1 Pursuant to Florida Statutes Section 448.095, the Contractor (and its Subcontractors) are required to register with and utilize the United States Department of Homeland Security's (DHS) E-Verify system for all newly hired employees. The E-Verify system is an Internet-based system operated by DHS that allows participating employers to electronically verify the employment eligibility of newly hired employees.

5.22.1.2 Contractor is advised that there is no requirement that the Contractor must be registered with and use the E-Verify system prior to or at the time the Contractor submits its bid/offer to the County. However, **in the event the Contractor is selected for the award of this contract, then the Contractor is required to be registered with, and use the E-Verify system**. The County shall not award this contract to the Contractor if the Contractor has not complied with the E-Verify registration and usage requirements set forth in Florida Statutes Section 448.095 by or at the time of contract award.

5.22.1.3 Pursuant to Florida Statutes Section 448.095, the Contractor must obtain an affidavit from its Subcontractors stating that the Subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor is required to maintain a copy of such affidavit for the duration of the Contract Period and shall provide the County with a copy of such affidavit within three (3) Business Days of the County's request for said affidavit.

5.22.1.4 Contractor is advised that pursuant to Florida Statutes Section 448.095, the County is required to terminate this Contract if it has a good faith belief that the Contractor knowingly violated Florida Statutes Section 448.09(1); whereupon, the Contractor will not be eligible for award of a public contract for at least one (1) year from the date of such termination. . The Contractor will be liable for any additional costs incurred by the County as a result of the termination of the Contract.

5.22.2 Legally Authorized Workforce

5.22.2.1 Contractor is advised that the County has entered into an agreement (the IMAGE 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 knowingly hiring unauthorized workers through self-governance, and provide for voluntary reporting of the discovery of unauthorized workers to ICE. Accordingly, by submitting its Offer, Contractor represents and warrants:

5.22.2.1.1 that Contractor (and any subcontractor thereof) is registered with and uses the E-Verify system and 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;

5.22.2.1.2 that all of Contractor's employees are legally eligible to work in the United States; and

5.22.2.1.3 that the Contractor has actively and affirmatively verified such eligibility utilizing the E-Verify system and/or the Federal Government's Employment Eligibility Verification Form (the Form I-9).

5.22.2.2 . A mere allegation of 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 Contractor unless the County has a good faith belief that the Contractor knowingly violated Florida Statutes Section 448.09(1) or such allegation has been determined to be factual by ICE prior to the date the Contract is scheduled to be awarded by the County.

5.22.2.3 Good faith claims/beliefs of the Contractor's use of unauthorized workers must be reported to both of the following agencies: The County's Compliance Services hotline at (813) 272-6554; and ICE (Immigration and Customs Enforcement) at 1-866-DHS-2-ICE (1-866-347-2423).

5.22.3 IMAGE Best Practices

Contractor is required to incorporate the following IMAGE Best Practices into its business and, incorporate verification requirements into its agreements with Subcontractors as required under Federal law and Florida Statutes Section 448.095:

5.22.3.1 Use the Department of Homeland Security employment eligibility verification program (E-Verify) to verify the employment eligibility of all new hires.

5.22.3.2 Use the Social Security Number Verification Service and make a good faith effort to correct and verify the names and Social Security numbers of the current workforce. Establish a written hiring and employment eligibility verification policy.

5.22.3.3 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.

5.22.3.4 Require the Form I-9 and E-Verify process to be conducted only by individuals who have received appropriate training and include a secondary

review as part of each employee's verification to minimize the potential for a single individual to subvert the process.

5.22.3.5 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.

5.22.3.6 Establish a procedure to report to ICE credible information of suspected criminal misconduct in the employment eligibility verification process.

5.22.3.7 Establish a program to assess subcontractors' compliance with employment eligibility verification requirements. Encourage contractors to incorporate the IMAGE Best Practices contained in this paragraph and, when practicable, incorporate the verification requirements in Subcontractor agreements.

5.22.3.8 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.

5.22.3.9 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.

5.22.3.10 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.

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

5.23 Force Majeure

The Contract Time may be extended in an amount equal to time lost due to delays beyond the control of the Contractor. Such delays shall include, but is not limited to, acts or neglect by the County or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God. In order to receive an extension of the Contract Time due to a force majeure event, the Contractor is required to make a claim of force majeure to the County and such claim must be approved by the County.

5.24 Hand Sanitizer Ordinance

Hand Sanitizer Ordinance; Hillsborough County, Florida - Code of Ordinances and Laws, Part A, Chapter 28, Article III. (This provision shall be applicable only if the Services and/or Work to be performed under this Contract will involve and/or require the use of portable restrooms.) Pursuant to Hillsborough County Ordinance; Hillsborough County, Florida - Code of Ordinances and Laws, Part A, Chapter 28, Article III (Hand Sanitizer Ordinance), as amended, every portable restroom in service in Hillsborough County which does not have a hand washing facility located within the portable restroom must have an operable hand sanitizer dispenser containing sanitation liquid affixed to the inside of the portable restroom or immediately adjacent to the portable restroom. The Contractor is solely responsible for ensuring that any and all portable restrooms owned or leased by the Contractor are in compliance with the ordinance.

5.25 Indemnification

5.25.1 Contractor, in consideration of the payments, mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, shall protect, defend, indemnify and hold the County, and its employees, agents, independent contractors, subcontractors, invitees, successors and assigns harmless from and against any and all claims, actions, causes of action, and judgments made or filed against the County for all liabilities, losses, penalties, damages, costs or professional fees arising out of Contractor's performance of the Work (including obtainment of all license fees and royalties) or the performance of the Work by the Contractor's Subcontractors, agents, employees, or respective officers, or anyone directly or indirectly employed by any of them. Contractor may defend any claim for which Contractor has responsibility hereunder with counsel of its choice, subject to the County's prior written approval. Contractor's obligation under this provision shall not be limited in any way by the Contractor's or its subcontractor's limit of, or lack of, sufficient insurance. This provision shall survive the termination of this Agreement and shall continue in full force and effect so long as the possibility of any liability, claim or loss exists, unless otherwise prohibited by law.

5.25.2 In any and all claims against the County or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under the previous paragraph shall not be limited in any way as to the amount or type or damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts, or other employee benefit acts.

5.25.3 The Contractor shall indemnify and hold harmless the County and anyone directly or indirectly employed by it from and against all claims, suits, demands, damages, losses, and expenses (including attorney's fees) arising out of any infringement or patent rights or copyrights held by others and shall defend all such claims in connection with any alleged infringement of such rights.

5.26 Legally Required Statement and Provisions Regarding Access to Records for Services Contracts

5.26.1 The Parties acknowledge and agree that the statement and provisions below are required by Florida Statute to be included in this contract for services. The inclusion of this statement and provisions below shall not be construed to imply that the Contractor/Service Provider has been delegated any governmental decision-making authority, governmental responsibility or governmental function or that the Contractor/Service Provider is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, or that the statement or provisions are otherwise applicable to the Contractor/Service Provider. As stated below, the Contractor/Service Provider may contact the County's Custodian of Public Records with questions regarding the application of the Public Records Law; however, the Contractor/Service Provider is advised to seek independent legal counsel as to its legal obligations. The County cannot provide the Contractor/Service Provider advice regarding its legal rights or obligations.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

5.26.1.1 813-272-5790,

5.26.1.2 StromerS@HCFL.gov,

5.26.1.3 Procurement Services, 601 E. Kennedy Blvd., 25th Floor, Tampa, Florida 33602.

If under this Contract, the Contractor is providing services and is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, the Contractor will comply with public records law, and agrees to:

5.26.2 Keep and maintain public records required by the County to perform the services.

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

5.26.4 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Contractor does not transfer the records to the County.

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

Failure of the Contractor to comply with Chapter 119, Florida Statutes, and/or the provisions set forth above, where applicable, shall be grounds for immediate unilateral termination of this Contract by the County.

5.27 Miscellaneous

5.27.1 All Specifications, Drawings, and copies furnished by the County shall remain the County's 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 County upon completion of the Project.

5.27.2 Should the County or the Contractor suffer injury or damage to its person or property because of any error, omission, or act of the other or of any of their employees, agents, or others for whose acts they are legally liable, claim should be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

5.27.3 If the Contract Price exceeds one hundred thousand dollars ($100,000.00), Contractor shall comply with all the requirements of Section 114 of the Clean Air Act (42 USC 7414 et seq.) as amended and Section 308 of the Federal Water Pollution Control Act (33 USC 1251 et seq.) as amended.

5.27.4 Pending resolution of any claim or dispute between the County and Contractor, unless otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Work as directed by the County and the County shall continue to make payments in accordance with the Contract Documents.

5.27.5 Project Representative. County may furnish a Project Representative and assistants to aid the Project Manager in carrying out the Project Manager's responsibilities at the Site.

5.27.6 Historical or Archaeological Deposits. If, during the course of construction, evidence of deposits of historical or archaeological interest is found, Contractor shall cease operations affecting the find and shall notify the Project Manager who shall notify the Regional Office of the Environmental Protection Agency and the State Historic Preservation

Office. No further disturbance of the deposits shall ensue until Contractor has received written instructions from the Project Manager. The Project Manager will issue written instructions only after the State office has surveyed the find and made a determination to the Environmental Protection Agency and County. Compensation to Contractor, if any, for changes in construction shall be determined in accordance with changed conditions or change order provisions of the Contract Documents; provided however, in no event will the Contractor be entitled to damages or additional compensation for any delays incurred, the Contractor's sole remedy being to seek an extension to the Contract Time pursuant to the provisions of the Contract Documents.

5.28 Payment to Contractor by Electronic Payment Solution

ACH (Direct Deposit): If the Contractor is enrolled in the County's ACH electronic payment solution, all payments will be made using the direct deposit. The Contractor's bank account information will remain confidential to the extent provided by law as necessary to make direct deposit payments. Once the County has approved payment, an electronic remittance will be sent to the Contractor via e-mail.

5.29 Unbalanced Offers and/or Excessive Line Item Prices

The County reserves the right to reject any Offer in which unit prices, in the sole opinion of the County, are unbalanced. In addition, where the County has decided to award this Solicitation Document, it further reserves the right not to utilize a particular line item that, in the sole opinion of the County, is excessively priced, and reserves the right to obtain that item from another source.

5.30 Failure to Perform in Emergencies

Contracts Related to Emergency Response for Natural Emergencies - Pursuant to Florida Statutes Section 252.505, if this a Contract for goods and/or services related to emergency response for a natural emergency, then the Contractor shall pay the County a Five Thousand Dollars ($5,000) penalty (in addition to any other remedies provided for under this Contract and/or law) if the Contractor fails to perform and/or breaches this Contract during the emergency recovery period. For the purpose of this section, the term "emergency recovery period" shall mean a 1-year period that begins on the date the Governor of the State of Florida initially declared a state of emergency for a natural emergency. The term "natural emergency" shall have the meaning set forth in Florida Statutes Section 252.34(8).