



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Solicitation Acknowledgement Form
REQUEST FOR PROPOSALS
CONTRACTUAL SERVICES

Page 1 of 93 pages	Submit Bid To: Florida Department of Environmental Protection DEP Procurement Section, Carr Building, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 Telephone Number: 850-245-2361
AGENCY RELEASE DATE: August 6, 2018	

SOLICITATION TITLE: Deepwater Horizon Restoration and Planning Support	SOLICITATION NO.: 2019002
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SEALED PROPOSALS DUE: No Later Than September 10, 2018 at 2:00 PM ET
SEALED PROPOSALS OPENED: On September 11, 2018 at 2:00 PM ET
 and may not be withdrawn within 180 days after such date and time.

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

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

I certify that I am authorized to sign this response to this Solicitation for the Respondent and that the Respondent is in compliance with all requirements of this Solicitation; including, but not limited to, the certification requirements contained in this Solicitation as well as those contained above. In submitting this response, the Respondent offers and agrees that if the response is accepted, the Respondent will convey, sell, assign or transfer to the State of Florida all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the State of Florida. At the State's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders' final payment to the Respondent.

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

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

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

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

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

If Respondent asserts that any portion of the Proposal is exempt from disclosure under the Florida Public Records law, Respondent must submit a redacted version of the Proposal along with the un-redacted version, per Section 1.07, Submittal of Proposal of this Solicitation. The redacted copy shall be clearly titled “Redacted Copy.”

IF RESPONDENT CLAIMS CONFIDENTIALITY AS TO ANY PORTION OF THE PROPOSAL AND DOES NOT PROVIDE AN ACCOMPANYING “REDACTED COPY,” SUCH PROPOSAL MAY BE CONSIDERED NON-RESPONSIVE AND REJECTED PRIOR TO ITS CONSIDERATION.

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Schedule of Events

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

Link to Vendor Bid System (VBS) - http://www.myflorida.com/apps/vbs/vbs_main_menu

DATES	EVENTS	METHOD
August 6, 2018	Solicitation Advertised	Vendor Bid System (VBS)
August 14, 2018 by 5:00 PM ET	Questions Submitted in Writing	Email to Procurement Officer identified in Section 1.02.
On or about, August 20, 2018	Answers to Questions Posted	Vendor Bid System (VBS)
Must Be Received No Later Than September 10, 2018 at 2:00 PM ET	Sealed Proposals Due	<u>Submit to:</u> Florida Department of Environmental Protection DEP Procurement Section, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000 Solicitation # 2019002 (MUST BE ON ENVELOPE)
September 11, 2018 at 2:00 PM ET	SEALED PROPOSALS OPENED	<u>Sealed Proposals Opened at:</u> Florida Department of Environmental Protection DEP Procurement Section, Room 215 3800 Commonwealth Blvd, MS93 Tallahassee, Florida 32399-3000
September 14, 2018 – October 1, 2018	Evaluation Period	DEP evaluation of submitted bids.
September 17 – 20, 2018	Contact the 3-Client References Provided by Contractor	Contract Manager will contact the 3-Client References (Section 1.06 – C. Tab C-Past Performance/Client References)
On or about, October 8, 2018	Anticipated Posting of Recommended Award	Vendor Bid System (VBS)

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Section 1.00 Introduction

1.01. Purpose and Scope. The Florida Department of Environmental Protection (hereinafter referred to as the Department and/or DEP) is requesting proposals from qualified vendors for professional environmental consulting services to assist DEP with natural resource restoration activities related to the 2010 *Deepwater Horizon* Gulf of Mexico oil spill. The service requires the unique combination of expertise and experience with environmental consulting; large, complex project/program management; stakeholder management and public engagement; and a commitment to and understanding of Florida's unique environment. This is a combination of perspective, expertise, experience, and delivery capability.

This service will include, but is not limited to, the following tasks assignments:

- a) restoration planning and implementation under the Natural Resource Damage Assessment (NRDA) settlement;
- b) logistical and support planning of restoration activities related to the Resources and Ecosystems Sustainability, Tourism Opportunities, and Revived Economy of the Gulf Coast Act of 2011 (RESTORE Act);
- c) activities related to the Gulf Environmental Benefit Fund (GEBF) administered by the National Fish and Wildlife Foundation (NFWF);
- d) public/stakeholder engagement, including facilitating and planning in-person and webinar meetings that may require renting public venues and audio/video equipment, developing and printing related materials; stakeholder relations; and communications through traditional and social media;
- e) scoping, identification, generation, development, and evaluation of project and program concepts;
- f) restoration planning, including conceptual project design, spatial and environmental analysis, cost estimation, budget production, adaptive management development, and the drafting and editing of planning and proposal documents using best available science;
- g) planning activities related to the design and implementation of project, program, resource, and cross-resource monitoring efforts;
- h) participating in working groups or technical groups;
- i) conducting gap analyses of future restoration needs or evaluations of overall project/program impacts for the development of adaptive management;
- j) conducting regulatory compliance analysis, permitting, and related tracking and reporting; Converting documents to achieve compliance with Section 508 of the Rehabilitation Act of 1973; and
- k) logistical planning and execution, including attending regular meetings and teleconferences associated with the above activities.

Respondents must be able to provide detailed documentation of successful experience in providing these services. Only responsive and responsible Respondents will be considered for award of this Request for Proposal (RFP). Multiple contracts may be awarded for this RFP. Assigned work will be tasked by the Department as needed. Specific work assignments and deliverables will be determined by the scope of each task assignment as deemed necessary by the Department.

1.02. Procurement Officer.

Belinda Croft, Procurement Officer
DEP Procurement Section, Carr Building, Room 215

Florida Department of Environmental Protection
 3800 Commonwealth Boulevard, MS#93
 Tallahassee, Florida 32399-3000
 Telephone Number: (850) 245-2467
 Email: Belinda.Croft@dep.state.fl.us

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

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

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

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

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

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

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

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

Question #	Solicitation Section	Solicitation Page #	Question

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

1.04. Addenda. If the Department finds it necessary to supplement, modify, or interpret any portion of the Solicitation documents, a written “Addendum” will be posted on the VBS. It is the responsibility of the prospective Respondents to be aware of any Addenda that might have a bearing on their Proposal.

1.05. Cost Response Form. Section 7.00 must be completed and submitted for the Response. The Department will not accept any other type “Response Form” as a valid Proposal to this Solicitation. By affixing the authorizing signature, the Respondent hereby affirms and agrees to all terms, conditions, provisions, and specifications within the Solicitation. Prior to issuance of a contract, the selected

Respondent must be properly licensed to do business within the State of Florida, if required by federal or state law, for the service or commodities the Respondent will provide the Department.

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

Part I, Technical Proposal: The Technical Proposal shall consist of the following Tab's A through F:

- A. **Tab A - Solicitation Acknowledgement Form:** The Solicitation Acknowledgement Form (page one of the VBS Solicitation) shall be completed as instructed. The original signed copy shall be submitted in one (1) copy of the Proposal package marked "Original". One (1) electronic copy of the complete Technical Proposal, in .pdf format, shall be provided on a CD, DVD, or USB memory stick. If a Respondent fails to submit a completed Solicitation Acknowledgement Form with their Proposal, the Department reserves the right to contact the Respondent by telephone for submission of this document via fax with follow up via mail. This right shall be exercised when the Technical and Price Proposals have met all other requirements of the Solicitation.

If Respondents submit a Proposal as a joint venture, each member of the joint venture must complete and sign a separate Solicitation Acknowledgement Form.

Respondents may not respond to this Solicitation as both prime contractor and as a subcontractor. The Respondent **shall be disqualified** if and to the extent it responds to this Solicitation as a proposed prime contractor and has agreed to serve as a subcontractor to any other Respondent to this Solicitation. A Respondent may not disclose to any other Respondent or subcontractor what prices or terms Respondent has included in its Proposal as a prime contractor. All Proposals to this Solicitation to provide services as prime contractors which are received from affiliated entities (those with any common ownership, management or control), shall be rejected if discovered prior to selection and any award or contract thereon shall be terminated if discovered subsequent thereto.

- B. **Tab B - Technical Response:** The Technical Proposal Package shall be prepared by each Respondent using 8.5" x 11" paper (one-inch margins, Calibri 11pt font) and should use double-sided printing. The Technical Proposal is limited to twenty-four (24) pages, not including work products or resumes of core positions.

Using the description of work outlined in the Scope of Services, Respondents shall prepare their Technical Proposal Package in the order outlined below for ease of the identification and review by the evaluators. If a portion of any section is omitted, the Respondent will receive a score of zero for that section. However, Respondent shall not use the tab pages to present additional information.

1. **Introduction (limited to one (1) page):** This section should provide a general description of how the Respondent will accomplish the overall goal of this project.
2. **Background and Organizational Structure (limited to three (3) pages):** This section shall provide information on the historical background of the Respondent and on the Respondent's organizational structure. This should include years in operation and years involved in work related to this project. In addition, Respondents should present the organizational structure of the proposed team and outline the responsibilities of each team member, as applicable. If subcontractors will be used, identify the tasks for which they will be

responsible. Only personnel who are current employees of the Respondent or of the subcontractors shall be identified.

3. Respondent Qualifications and Experience (limited to twenty (20) pages): This section should present the qualifications of the Respondent and Respondent's team. The following topics must be addressed:
- a) respondent's knowledge of and experience in NRDA;
 - b) respondent's knowledge of and experience in RESTORE;
 - c) respondent's knowledge of and experience in GEBF;
 - d) respondent's knowledge of and experience in restoration planning;
 - e) respondent's knowledge of and experience in water quality restoration planning and projects;
 - f) respondent's knowledge of natural sciences;
 - g) respondent's knowledge and ability facilitating stakeholder engagement and mass communications;
 - h) respondent's knowledge of and experience with NEPA;
 - i) respondent's knowledge of and experience with OPA;
 - j) respondent's knowledge of and experience in Environmental Permitting and Regulatory Compliance; and,
 - k) respondent's knowledge of and ability to create Section 508 of the Rehabilitation Act of 1973 compliant documents.

In addition, respondent must provide at least one (1) tangible end work product sample for review (not counted in page limit).

4. Qualifications and Experience of Proposed Personnel (no page limit): Each Team member's experience and examples of qualifications to perform assigned tasks should be outlined. Intended subcontractors' qualifications should also be included. This includes the resume or curriculum vitae for individuals proposed for each core position. Resumes are not included in the page count; however, they should be kept to one page if possible.

Qualifications of personnel can only be presented as part of the Respondent's proposal for individuals who are currently employed by the Respondent, not individuals the Respondent proposes to hire if they are awarded a contract. The same applies to qualifications of subcontractor personnel. In an appendix to this section, the Respondent shall supply resumes or curricula vitae showing the qualifications of the individual(s) who will perform the work, including experience in similar services outlined in this Solicitation.

The following describes the functional responsibilities of the core roles the successful Respondent will be expected to provide in fulfilling tasks stemming from this solicitation. For each resume submitted, the Respondents should clearly identify which of these core roles the individual is qualified to fill, regardless of the individual's actual professional title and experience.

a. Core Role - Program Manager - Functional Responsibilities:

- Providing executive level consultation services to the Department;
- Ensuring the timely performance and completion of all contractual obligations;
- Organizing and directing the overall performance of the contract;

- Possessing the authority to make binding decisions on behalf of the successful Respondent(s);
 - Formulating organizational strategy and directing major strategic initiatives;
 - Ensuring that goals and objectives are accomplished within budgetary parameters;
 - Developing and maintaining Department relationships;
 - Assisting on large, complex, or multi-discipline engagements;
 - Allocating financial and human resources and material assets;
 - Formulating and enforcing work standards; and,
 - Participating in the design phase of tasks and ensuring their successful execution.
- b. Core Role - Project Manager - Functional Responsibilities:
- Ensuring the quality and timely completion of projects;
 - Providing technical and subject matter expertise in fulfillment of tasks;
 - Participating as a senior team member providing high-level consulting services;
 - Planning, organizing, and executing project tasks in successful delivery of services;
 - Developing and defining strategic visions;
 - Planning, directing, controlling, scheduling, coordinating, and organizing management of tasks;
 - Providing Department interface in fulfillment of tasks;
 - Possessing authority and responsibility for the execution of tasks;
 - Planning, organizing, and overseeing all subordinate work efforts;
 - Ensuring quality standards and work performance on all tasks and projects; and,
 - Organizing, directing, and managing support services.
- c. Core Role - Senior Level Scientist/Technician/Planner - Functional Responsibilities:
- Applying professional consultative scientific or technical expertise in fulfillment of tasks;
 - Planning, organizing, executing, and controlling project tasks in successful delivery of services;
 - Interfacing with the Department on a day-to-day basis to ensure delivery of project status;
 - Applying a broad set of management skills and technical expertise as a project leader;
 - Providing solutions through analysis;
 - Directing subordinates in the completion of tasks;
 - Organizing, directing, and managing support services;
 - Assigning tasks and overseeing projects; and,
 - Directing project activities in fulfillment of tasks and deliverables.
- d. Core Role - Junior Level Scientist/Technician/Planner - Functional Responsibilities:
- Applying a broad set of subject matter and technical expertise;

- Directing the completion of projects within estimated timeframes and budget constraints;
 - Organizing, directing, and managing support services;
 - Serving as a member of a team performing mid-level assignments; and,
 - Providing solutions through analysis.
- e. Core Role - Administrative Support - Functional Responsibilities:
- Coordinating and providing administrative support services to consulting staff;
 - Supporting the production of deliverables and performing administrative functions required to complete tasks;
 - Providing graphics and editorial support services and desktop publishing services;
 - Creating Section 508 of the Rehabilitation Act of 1973 compliant documents;
 - Maintaining version control of project documents; and,
 - Providing direct support to consulting staff, including supporting the development of all tasks and deliverables.
- f. Core Role - Stakeholder Engagement Coordinator - Functional Responsibilities:
- Developing and implementing proposals for stakeholder engagement;
 - Preparing and disseminating stakeholder materials using plain language;
 - Preparing and presenting information at meetings and stakeholder events;
 - Working closely with the Department's Public Affairs Manager and the Department's Project Manager on media relations and social media outreach;
 - Preparing and distributing social media to stakeholders and partners; and,
 - Coordinating and staffing formal and informal public meetings and stakeholder events.

NOTE: The functional responsibilities as listed in these core role specifications are not necessarily descriptive of any single position in the class. The omission of specific statements does not preclude management from assigning specific duties not listed herein if such duties are a logical assignment to the position.

C. Tab C - Past Performance/Client References (Must use pages provided):

1. The Respondent must provide the required information on the Client Reference Form (Section 14.00) for three (3) verifiable clients for which the Respondent has completed projects similar in nature to this Solicitation over the past five (5) years.
 - Confidential clients shall not be included.
 - The same client may not be listed for more than one (1) reference (*for example, if the Respondent has completed a project for the Florida Department of Transportation – District One and one project for the Florida Department of Transportation – District Two, only one of the projects may be listed*).
 - If the Respondent has performed work similar in nature to this Solicitation for the Department, the Respondent shall list the Department as a client reference.
 - Clients that are listed as subcontractors in the Respondent's proposal will not be accepted as Past Performance references under this Solicitation.

- A client that is currently a parent or a subsidiary company to the Respondent will not be accepted as a Past Performance references under this Solicitation.
 - For Respondents that submit a proposal as a joint venture, at least one (1) past performance client must be listed for each member of the joint venture.
2. A Department representative will contact the three (3) of the provided Respondent references via telephone to complete the Evaluation of Past Performance form (Section 15.00).
- If DEP is listed as one of the client references, then the DEP client will be used as one (1) of the required number of references.
 - For Respondents that submit a proposal as a joint venture, one (1) past performance client will be contacted for each member of the joint venture.
 - References should be available to be contacted during normal working hours.
 - The Department will attempt to contact each selected reference by phone up to two (2) times during the duration of one (1) week.
 - If the contact person cannot be reached following the specified number of attempts, the Respondent shall receive a score of zero (0) for that reference evaluation.
- D. **Tab D- Respondent/Subcontractor Summary Form**: On the Respondent/Subcontractor Summary Form (Section 16.00) provided, the Respondent shall list the name of the Respondent(s)/Subcontractor(s) and indicate the one business category of the Respondent/Subcontractor.
- E. **Tab E - Vendor Principal Place of Business Attestation**: The Respondent shall complete and submit Section 11.00, the Principal Place of Business and Foreign State Preferences in Contracting Form, indicating whether its principal place of business is within the State. For the purpose of this Solicitation, “principal place of business” means the state in which the Respondent’s high-level officers direct, control, and coordinate the Respondent’s activities. Section 287.084(2), F.S., states:
- A vendor whose principal place of business is outside this state must accompany any written bid, proposal, or bid documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal place of business are in that foreign state in the letting of any or all public contracts.*
- Consistent with section 287.084 (2), F.S., if a Respondent indicates on its form that its principal place of business is outside of this State, it shall have an attorney provide the opinion on the Principal Place of Business and Foreign State Preferences in Contracting Form.
- F. **Tab F - Disclosures and Attestations**: Each Respondent must complete and include the following Disclosures and Attestations:
- Vendor Financial Attestation (Section 8.00)
 - Vendor Responsibility Disclosure (Section 9.00)
 - Vendor Conflicts of Interest Attestation (Section 10.00)
 - Vendor Drug-Free Workplace Attestation (Section 12.00)
 - Certification Regarding Scrutinized Companies List (Section 13.00)

Part II, Price Proposal

Proposals that do not include a completed Cost Response Form and Cost Response Summary (Section 7.00) in the sealed package marked "Price Proposal" shall be rejected. Respondents must provide ceiling hourly labor rates for each core positions on the Cost Response Form (Section 7.00) that are required to perform the Scope of Work described herein. The hourly labor rates must include the cost of all Respondent expenses (overhead cost) necessary to provide the services described in this Solicitation and the Respondent's proposal, including, but not limited to, personnel and labor costs, miscellaneous expenses (i.e. postage, printing), and the application of any multipliers (i.e. overhead, fringe benefits, etc.). Failure by the Respondent to provide a cost for any of the labor categories identified in Section 7.00 shall result in the response being deemed non-responsive and therefore, rejected. Footnotes, notations, and exceptions made to this form will not be considered. The Total Cost used for evaluation process will be calculated as the sum of the hourly labor rates for both the Original and Renewal terms.

Respondents may provide additional labor categories and hourly labor rates for roles (positions) that may be utilized in performing the described work. The additional categories will not be considered in the cost evaluation under this Solicitation.

With the Department approval in advance and in writing, charges for services or expenses, including services and expenses of subcontractors, directly identifiable to a specific task assignment of work, which are not included in Cost Response Forms (Section 7.00), will be compensated on a "Cost Plus %" basis only and must be documented through an executed task assignment form. Such approvals will not be common, but will enable the Department to obtain services that may be unanticipated, but which are related to this Solicitation. In the event the Department determines that such hourly labor rates should become a part of the rate schedule attached to the Contract resulting from this Solicitation, the Department shall initiate a change order evidencing hourly labor rates mutually agreed to by both parties for inclusion in Cost Response Form (Section 7.00).

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

- A. **Part I – Technical Proposal (Tab's A-F)** (One Separately Sealed package); and
- B. **Part II – Price Proposal** (One Separately Sealed package)

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

1. **The face of the envelope(s) shall have written on it "Solicitation No. 2019002".**
2. All Solicitations are subject to the conditions specified herein. Those that do not comply with these conditions are subject to rejection.
3. The Respondent must submit two (2) hard copies, one (1) original and one (1) duplicate copy, and one (1) electronic copy of the Technical Proposal and the Price Proposal to the Department.
4. The original hard copy of the Proposal shall bear original signatures and be marked as the "Original". The electronic copy of the Proposal may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format.
5. The Department will reject Proposals submitted in alternate file formats or which contain information different from that in the hard copy of the Proposal.

6. If Respondent asserts that any portion of the Proposal is exempt from disclosure under the Florida Public Records law, Respondent must submit a redacted version of the Proposal along with the un-redacted version. The redacted copy shall be clearly titled "Redacted Copy."
7. All proposed materials must be packaged so that each box (envelope) of materials shipped to the Department does not exceed 25 pounds.
8. Respondents submitting are advised to assure the files are not corrupt prior to mailing as any material which is not readable will not be considered.

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

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

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

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

1.10. General Evaluation Information. The Department reserves the right to accept or reject any or all proposals received; waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State's best interest; and reserves the right to make an award without further discussion of the proposals submitted. No allowances will be made to the Respondent because of a lack of knowledge of conditions or requirements and will not relieve any liabilities and obligations.

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

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

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

1.11. Administrative Review. All Proposals will be reviewed by the Procurement Officer to ensure that complete Proposals have been submitted and to ensure that the Proposals meet the minimum requirements of this Solicitation. Complete Proposals that meet the minimum requirements of this Solicitation will be sent to the Evaluation Team for their qualitative review. In order to foster maximum competition, the Department will seek to minimize Respondent disqualifications resulting from non-responsiveness during the administrative review process. Therefore, the Department may, in its sole discretion, notify Respondents whose qualifying information or documentation does not meet the

requirements of the Solicitation and will allow the correction of errors and omissions prior to making a final determination of responsiveness. Timely cures will be accepted by the Department.

1.12. Administrative Cure Process. In the interest of maximizing competition, the administrative cure process seeks to minimize, if not eliminate, Respondent disqualifications resulting from nonmaterial, curable deficiencies in the Proposal. During the Administrative Review portion of the evaluation, if the Department determines that a nonmaterial, curable deficiency in the Proposal will result in the disqualification of a Respondent, the Department may notify the Respondent of the deficiency and a timeframe within which to provide the information. This process is at the sole discretion of the Department; therefore, the Respondent is advised to ensure that its Proposal is compliant with the Solicitation at the time of submittal.

1.13. Department’s Reserved Rights. The Department reserves the right to:

- A. Reject all proposals at any time, including after an award is made when doing so would be in the best interest of the State of Florida.
- B. Withdraw the RFP at any time, including after an award is made, when doing so would be in the best interest of the State of Florida.
- C. Withdraw or amend its Notice of Award at any time prior to execution of a contract, including, but not limited to situations in which the selected vendor fails to execute the contract.
- D. Withdraw or amend its Notice of Award if the contractor defaults in performance.
- E. Re-procure services in accordance with Rule 60A-1.006(3), F.A.C.

By exercising the above listed rights, the Department assumes no liability to any vendor.

1.14. Evaluation Criteria Scoring. With the exception of the cost and past performance reviews, each proposal will be reviewed by at least five (5) evaluators. Each of the evaluators will work independently using the evaluation criteria contained in Section 17.00, Evaluation Criteria Scoresheet. A Department representative will contact references via telephone to obtain the past performance reviews. The DEP Procurement Section will evaluate the cost section of the Proposal. The scores for the past performance reviews and the cost evaluation shall be provided to the evaluators for inclusion on their scores sheets for calculation of the total numerical rating. The DEP Procurement Section will use the total point scores to rank each Respondent by each evaluator, and then calculate an average rank for each proposal for all evaluators. The DEP Procurement Section shall present the average rankings to the Director of the Division of Water Restoration Assistance, who will then determine the recommended contract award.

For example:

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

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

1.15. Basis of Award. The Department intends to award to the highest-ranked responsible, responsive Respondent meeting all specifications and conditions. The Department reserves the right to award to a single Respondent or multiple Respondents, or to make no award, as determined to be in the best interest of the State. The Department reserves the right to award to the next highest-ranked Respondent if the highest-ranked Respondent is unable to meet the terms and conditions of the Solicitation.

1.16. Posting of Agency Decision. The Department will post a Notice of Intent to Award, stating its intent to enter into one (1) or more contract with the Respondent(s) identified therein, on the Vendor Bid System (VBS) website. If the Department decides to reject all Responses, it will post its notice on the same VBS website. The Notice of Intent to Award will be posted for review by interested parties on the VBS on or after the date listed on the Schedule of Events.

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

- Click on Search Advertisements;
- Under the “Agency” search field, select the “Department of Environmental Protection” and scroll to the bottom of the page and click “Advertisement Search”;
- A list of all advertisements posted for DEP will be displayed; and
- Click on the applicable solicitation number.

NOTE: *This section supersedes Section 2.00, General Instructions to Respondents (PUR-1001), Paragraph #3, Electronic Posting of Notice of Intended Award.*

1.17. Type of Contract Contemplated. A combination fee schedule/fixed-price/cost reimbursement schedule contract is proposed (based on the hourly labor rates by the selected Respondent on Cost Response Form, Section 7.00); however, the Department reserves the right to award another type contract, if such will be most advantageous to the Department and the State of Florida, price and other factors considered. Travel expenses will be compensated on a cost reimbursement basis in accordance with Section 112.061, Florida Statutes (F.S.), and may be included in agreed fixed-price amounts. The selected Contractor shall be paid for the services rendered under the contract resulting from this Solicitation upon satisfactory completion of these services.

A copy of the proposed contract containing all requirements is included as Section 18.00. The requirements contained in the proposed contract should be closely reviewed by the offeror since modifications proposed by the Respondent will not be considered.

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

1.19. Contract Renewal. The Department reserves the right to renew any contract resulting from this Solicitation. Renewal(s) shall be in writing and subject to the same terms and conditions as the original Contract, and any amendments thereto, for a period no greater than five (5) years. All renewals are contingent upon satisfactory performance by Contractor. Renewals may be for the entire period or in increments.

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

1.21. Convicted Vendor List. A company placed on the Convicted Vendor List may not submit a Reply or be awarded a contract to provide any goods or services pursuant to Rule 60A-1.006 F.A.C. The “Convicted Vendor List” is published at:

http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists/convicted_vendor_list.

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

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

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

- 77101600 Environmental Planning;
- 77101700 Environmental Advisory Services; and,
- 77102000 Environmental Reporting Services.

1.23. Diversity. The Department is dedicated to fostering the continued development and economic growth of small, minority-owned, veteran-owned, and women-owned businesses. Participation of a diverse group of Respondents doing business with the State is central to the Department’s effort.

To this end, small, minority-owned, veteran-owned, and women-owned business enterprises are encouraged to participate in the State’s procurement process as both prime Respondents and subcontractors under prime contracts. Respondents are encouraged to partner with certified small, minority-owned, veteran-owned, and women-owned businesses for contract performance. Enterprises that desire to be certified as a small, minority-owned, veteran-owned, or women-owned business and prime contractors who wish to partner with these entities can request certification information from the State’s Office of Supplier Diversity (OSD) within the Florida Department of Management Services.

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

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

Only documents delivered by the U.S. Postal Service, a private delivery service, or in person, during Business hours (Monday-Friday, 8:00 a.m. - 5:00 p.m., Eastern Standard Time) will be accepted. Documents received after hours will be filed the following business day.

No filings may be made by email or any other electronic means. All filings must be made with the Agency Clerk ONLY and are only considered "filed" when stamped by the official stamp of the Agency Clerk. It is the responsibility of the filing party to meet all filing deadlines.

The Agency Clerk's mailing address and physical address for hand deliveries is:

Agency Clerk, Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Boulevard
Douglas Building, MS#35
Tallahassee, Florida 32399-3000

Do not send Bids/Responses to the Agency Clerk's Office. Send all Bids/Responses to the Procurement Officer identified in Section 1.02 of the solicitation.

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Section 2.00 General Instructions to Respondents (PUR 1001)

This section contains instructions explaining the RFP process and the actions necessary to respond. General Instructions to Respondents (Form PUR 1001 – incorporated herein by reference) need not be returned with the response. In the event of any conflict between Form PUR 1001 and other instructions provided in this document, the additional instructions in this document shall take precedence over the Form PUR 1001 unless the conflicting term is required by any section of the Florida Statutes (F.S.), in which case the statutory requirements shall take precedence.

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19. Public Records.
20. Protests.
21. Limitation on Vendor Contact with Agency During Solicitation Period

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

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

2. **General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.
3. **Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:
 - an electronic signature on the response, generally,
 - an electronic signature on any form or section specifically calling for a signature, and
 - an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.
4. **Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:
 - Scope of Services,
 - Special Conditions and Instructions,
 - Instructions to Respondents (PUR 1001),
 - General Conditions (PUR 1000), and
 - Introductory Materials.

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

5. **Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.
6. **Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

- 7. Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:
- submitting a bid on a contract to provide any goods or services to a public entity;
 - submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
 - submitting bids on leases of real property to a public entity;
 - being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
 - transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.
- 8. Discriminatory Vendors.** An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:
- submit a bid on a contract to provide any goods or services to a public entity;
 - submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
 - submit bids on leases of real property to a public entity;
 - be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
 - transact business with any public entity.
- 9. Respondent's Representation and Authorization.** In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).
- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
 - To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
 - Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
 - The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
 - The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.

- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
 - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

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

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

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

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

13. Electronic Posting of Notice of Intended Award. Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://www.myflorida.com/apps/vbs/vbs_main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

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

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

16. Minor Irregularities/Right to Reject. The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the

Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

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

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

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

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

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

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

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

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

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Section 3.00 Special Instructions to Respondents

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

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

3.02. Assertion of Confidentiality Regarding Submitted Materials.

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

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

3.04. Disclosure. Information will be disclosed to Respondents in accordance with State statutes and rules applicable to this Solicitation after evaluations are complete.

3.05. Federal Conditions for RESTORE Act Funding. Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a Council official) are subject to 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government-wide Guidance for New restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

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

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

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

3.08. Public Requests for Proposals.

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

Section 4.00 Scope of Services

4.01 Purpose. The intent of this Solicitation is to enter into a contract for professional environmental consulting services to assist the Florida Department of Environmental Protection (DEP) with natural resource restoration activities related to the 2010 *Deepwater Horizon* Gulf of Mexico oil spill. Respondents must have documented extensive and successful experience providing support services for natural resource restoration, conservation, and/or management activities. Services may include, but are not limited to, identification, evaluation, planning, and implementation of programs and projects, including public engagement and regulatory compliance.

4.02 Description of Services. The Respondent will provide support services to assist the DEP in achieving the goals for these restoration activities. This support will include restoration planning and implementation under the Natural Resource Damage Act (NRDA) settlement; logistical and support planning of restoration activities related to the RESTORE Act; activities related to the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation (NFWF); and other associated efforts. Support services that are anticipated to be needed by include, but are not limited to:

1. public/stakeholder engagement, including facilitating and planning in-person and webinar meetings that may require renting public venues and audio/video equipment, developing and printing related materials; and stakeholder relations, and communications through traditional and social media;
2. scoping, identification, generation, development, and evaluation of project and program concepts;
3. restoration planning, including conceptual project design, spatial and environmental analysis, cost estimation, budget production, adaptive management development, and the drafting and editing of planning and proposal documents using best available science;
4. planning activities related to the design and implementation of project, program, resource, and cross-resource monitoring efforts;
5. participating in working groups or technical groups;
6. conducting gap analyses of future restoration needs or evaluations of overall project/program impacts for the development of adaptive management;
7. conducting regulatory compliance analysis, permitting, and related tracking and reporting; Converting documents to achieve compliance with Section 508 of the Rehabilitation Act of 1973; and,
8. Logistical planning and execution, including attending regular meetings and teleconferences associated with the above activities.

4.03 Deliverables.

Specific work assignments, deliverables, and performance measures will be determined by the Department for each task and described in each task assignment.

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Section 5.00 Special Conditions

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

NOTE: This section supersedes Section 6.00, General Contract Conditions (PUR-1000), Paragraph #5, Additional Quantities.

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

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

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

5.04 Permits. All permits and licenses required for the Contractor's company operations under the Contract must be obtained by the Contractor and maintained for the duration of the Contract. The Department will not pay for the cost of licenses or permits required by the selected Contractor for company operations.

5.05 RESTORE Act Funding Regulations. For task assignments partially or completely funded by the RESTORE Act, Contractor shall comply with the RESTORE Council Financial Assistance Standard Terms and Conditions (Gulf Coast Ecosystem Restoration Council August 2015), incorporated herein as an attachment to the Vendor Bid System (VBS) RFP Advertisement Detail under "Downloadable Files for Advertisement". The attachment is titled "Restore Council Financial Assistance Standard T & C (August 2015_55 pages)".

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

The Department supports diversity in its Procurement Program and requests that all subcontracting opportunities afforded by this Contract embrace diversity enthusiastically. The award of subcontracts

should reflect the full diversity of the citizens of the State of Florida. Prospective Contractors can contact the Office of Supplier Diversity at (850) 487-0915 for information on minority vendors who may be considered for subcontracting opportunities.

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Section 6.00 General Contract Conditions (PUR 1000)

Standard terms and conditions that will apply to any contract which results from the solicitation event are provided in this section. General Contract Conditions (Form PUR 1000 – incorporated herein by reference) need not be returned with the Bidder's Bid. In the event of any conflict between the PUR 1000 form and any other Special Conditions, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the Florida Statutes, in which case the statutory requirements shall take precedence.

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

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

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

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

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

- (a) Quantity Discounts. Contractors are urged to offer additional discounts for one-time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
- (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
- (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending

dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) **Trade-In.** Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

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

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

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

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

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

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

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

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

12. Installation. Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges.

All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

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

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

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

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

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

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

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

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of

payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

- 16. Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.
- 17. Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.
- 18. Lobbying and Integrity.** Customers shall ensure compliance with section 11.062, FS and section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.
- 19. Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

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

secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

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

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

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

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

23. Termination for Cause. The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the

termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

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

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

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

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

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

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt

of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

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

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

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

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

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

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

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

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

32. Employees, Subcontractors, and Agents. All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background

check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

- 33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.
- 34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.
- 35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.
- 36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
- 37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.
- 38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.
- 39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under

Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

- 41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.
- 42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.
- 43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.
- State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.
- 44. Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.
- 45. Annual Appropriations.** The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.
- 46. Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- 47. Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

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Section 7.00 Cost Response Form

Respondents shall provide hourly labor rates for the core roles and other roles identified by the Respondent as required, by completing the Cost Response Form below. The hourly labor rates must include the cost of all Respondent expenses (overhead cost) necessary to provide the services described in this Solicitation and the Respondent’s proposal, including, but not limited to, personnel and labor costs, miscellaneous expenses (i.e. postage, printing), and the application of any multipliers (i.e. overhead, fringe benefits, etc.). Only hourly labor rates for the core roles will be used for evaluation process. The Total Cost used for evaluation process will be calculated as the sum of the hourly labor rates for both the Original and Renewal terms.

The Contract will be awarded to the highest-ranked, responsible and responsive Respondent that meets all terms and conditions as set forth in this RFP. The Department reserves the right to award to the next highest-ranked Respondent should the highest-ranked Respondent be unable to meet the terms and conditions of the RFP.

Cost Response Form									
(Must be complete and included with the response to the RFP)									
Provide Hourly Rate for each position identified below.									
Labor hourly rates will include labor, fringe benefits, fees (profit) and any overhead costs.									
Note: Labor hourly rates shall not be increased by more than five percent (5%) on a year-over-year basis.									
Core Hourly Labor Roles (Positions)	Ceiling Hourly Labor Rates for each Role Identified Below								
	Original Term Years 1-2	Original Term Year 3	Original Term Year 4	Original Term Year 5	Optional Renewal Year 1	Optional Renewal Year 2	Optional Renewal Year 3	Optional Renewal Year 4	Optional Renewal Year 5
Program Manager(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Project Manager(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Senior Scientist/ Technician/Planner(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Junior Scientist/ Technician/Planner(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Administrative Support	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Stakeholder Engagement Coordinator	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Additional Proposed Roles (Positions)									
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____

Cost Response Summary		
Core Hourly Labor Roles (Positions)	(1) Original Term - Total of Core Hourly Labor Rates (Years 1-5)	(2) Renewal Term - Total of Core Hourly Labor Rates (Years 1-5)
Program Manager(s)	\$ _____	\$ _____
Project Manager(s)	\$ _____	\$ _____
Senior Scientist/Technician/Planner(s)	\$ _____	\$ _____
Junior Scientist/Technician/Planner(s)	\$ _____	\$ _____
Administrative Support	\$ _____	\$ _____
Stakeholder Engagement Coordinator	\$ _____	\$ _____
Total for Original & Renewal Term Labor Hourly Rates:	\$ _____ (1)	\$ _____ (2)
Combined Total for Original & Renewal Term Labor Hourly Rates		\$ _____

Note:

(1) Original Contract Term Price – used for awarding Cost Points

(2) Renewal Contract Term Price – used for awarding Renewal Cost Points

Signature:

Name of Respondent /Company:

Printed/Typed Name of Authorized Signatory and Title:

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

Section 8.00 Vendor Financial Attestation

Respondents shall complete and submit answers to the questions set forth below. To be eligible for Contract Award as a Responsible Vendor under section 287.012(25), F.S., Respondent must be able to respond "YES" to each statement below.

I, _____ am the _____ of
(Authorized Representative's Name) *(Title)*
_____, (the "Vendor"), and am authorized to represent and
(Vendor's Legal Name)
contractually bind Vendor. Having been duly sworn, I do hereby attest, to the best of my knowledge and belief, the following:

- 1. I have direct knowledge of the financial condition and operations of Vendor. No Yes
- 2. Vendor has sufficient financial resources to honor its short-term obligations and is current on all payments not in dispute. No Yes
- 3. Vendor has financial resources sufficient to honor its long-term obligations and remain in business over the life of the Contract. No Yes
- 4. Vendor's operations generate income which exceeds Vendor's operating expenses. No Yes
- 5. Vendor has the capacity to provide the commodities and/or contractual services as specified in the Contract document, the solicitation, and the response. No Yes

Signature

Date

Subscribed and Sworn before me, this _____ day of _____, 20__, by _____,
who is personally known to me or has produced the following form of identification:

_____.

Signature of Notary: _____
Name of Notary: _____
Date of Expiration: _____

Section 9.00 Vendor Responsibility Disclosure

Respondents shall complete and submit answers to the questions set forth below. For each affirmative answer, Respondents shall provide a detailed, written explanation (1 page) relevant to the issue and attach copies of documents relevant to the written explanation(s) provided (unlimited pages). The Department reserves the right to request additional information, as needed, to determine a Respondent’s Responsibility pursuant to section 287.012(25), F.S.

I, _____ am the _____ of
(Authorized Representative’s Name) *(Title)*
_____, (the “Vendor”), and am authorized to represent and
(Vendor’s Legal Name)
contractually bind Vendor. Having been duly sworn, I do hereby attest, to the best of my knowledge and belief, the following:

Within the past 5 years, has the vendor:

- 1. Been the subject of civil litigation or settlements? No Yes
- 2. Been subject to criminal judgments or administrative actions? No Yes
- 3. Been suspended or barred from participation in any competitive process or contract award? No Yes
- 4. Had any licenses or certifications suspended, revoked, or canceled? No Yes
- 5. Had any contracts or agreements terminated for cause? No Yes
- 6. Been the subject of bankruptcy proceedings? No Yes
- 7. Undergone a major change of organizational structure, ownership, or name? No Yes

Signature

Date

Subscribed and Sworn before me, this _____ day of _____, 20 __, by _____,
who is personally known to me or has produced the following form of identification:

_____.

Signature of Notary: _____

Name of Notary: _____

Date of Expiration: _____

Section 10.00 Vendor Conflicts of Interest Attestation

This solicitation is subject to Chapter 112, Florida Statutes. Respondents shall indicate whether or not any conflict exists regarding any Florida Department of Environmental Protection employee.

I, _____ am the _____ of
(Authorized Representative's Name) *(Title)*
 _____, (the "Vendor"), and am authorized to represent and
(Vendor's Legal Name)
 contractually bind Vendor. Having been duly sworn, I do hereby attest, to the best of my knowledge and belief, the following:

- Vendor has disclosed all officers, directors, employees, other agents that are presently an employee of the Florida Department of Environmental Protection; and
- Vendor has disclosed all employees that own, directly, or indirectly, an interest of five percent (5%) or more in the respondent, or its affiliates; and
- Vendor's officers, directors, employees, or other agents will not create a conflict in any manner or degree that will adversely impact the performance of the services required to be performed under the Contract.

Employee Disclosure:

Full Legal Name	DEP Position Title	Disclosed Position Held or % of Ownership

Signature

Date

Subscribed and Sworn before me, this _____ day of _____, 20__, by _____, who is personally known to me or has produced the following form of identification:

 Signature of Notary: _____
 Name of Notary: _____
 Date of Expiration: _____

Section 11.00 Vendor Principal Place of Business Attestation

All Respondents must complete section I. If the Respondent’s principal place of business is outside the State of Florida, the Respondent must also have an attorney who is licensed to practice law, in the state of their principal place of business, complete Section II.

Section I. Respondent’s Principal Place of Business

(Please select one)

- The Respondent’s principal place of business is in the State of Florida.
- The Respondent’s principal place of business is outside of the State of Florida.

Section II. Legal Opinion About Foreign State Preferences in Contracting

(Please select all that apply)

- The Respondent’s principal place of business is in the State of _____ and it is my legal opinion that the laws of that state **do not grant a preference** in the letting of any or all public contracts to business entities whose principal places of business are in that state.
- The Respondent’s principal place of business is in the State of _____ and it is my legal opinion that the laws of that state **grant the following preference(s)** in the letting of any or all public contracts to business entities whose principal places of business are in that state. *[Please describe applicable preference(s) and identify applicable state law(s) below]*
- The Respondent’s principal place of business is in the **political subdivision** of _____ and it is my legal opinion that the laws of that political subdivision **grant a preference** in the letting of any or all public contracts to business entities whose principal places of business are in that political subdivision. *[Please describe applicable preference(s) and identify applicable law(s) below]*

RESPONDENT’S ATTORNEY	
Signature:	Phone #: () -
Name:	Address:
State of Licensure:	
Bar Number:	Date of Admission:

If the Department discovers that any information on this form is false after the award to the Respondent is made, the Department reserves the right to terminate the Contract and the Respondent will be liable for costs associated with re-procuring the commodities and/or contractual services.

Section 12.00 Vendor Drug-Free Workplace Attestation

Per Section 287.087, Florida Statutes, whenever two or more bids, proposals, or replies that are equal with respect to price, quality, and service are received, the bid, proposal, or reply received from a business that certifies that it has a drug-free workplace in full compliance with the requirements of s. 287.087, F.S. shall be given preference in the award process.

I, _____ am the _____ of
(Authorized Representative's Name) *(Title)*

_____, (the "Vendor"), and am authorized to represent and
(Vendor's Legal Name)
contractually bind Vendor. Having been duly sworn, I do hereby attest, to the best of my knowledge and belief, the following:

- Vendor **does** have a Drug-Free Workplace in full compliance with the requirements of s. 287.087, F.S.
- Vendor **does not** have a Drug-Free Workplace in full compliance with the requirements of s. 287.087, F.S.

Signature

Date

Subscribed and Sworn before me, this _____ day of _____, 20__, by _____,
who is personally known to me or has produced the following form of identification:
_____.

Signature of Notary: _____

Name of Notary: _____

Date of Expiration: _____

Section 13.00 Certification Regarding Scrutinized Companies Lists

Respondent Name: _____

Respondent's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Respondent FEIN: _____

Email Address: _____

Pursuant to section 287.135, F.S., a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of:

(a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, F.S., or is engaged in a boycott of Israel; or

(b) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473; or
2. Is engaged in business operations in Cuba or Syria.

By signing below, the Respondent certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. If the resulting Contract is for more than one million dollars, the by signing below, the Respondent also certifies that it is not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. I understand that pursuant to section 287.135, F.S., the submission of a false certification may subject the Respondent to civil penalties, attorney's fees, and/or costs.

Certified By: _____,

who is authorized to sign on behalf of the above referenced company.

Authorized Signature: _____

Print Name and Title: _____

Section 14.00 Client Reference Form

The Respondent shall complete and submit this entire form. Using the form(s) provided in this attachment, Respondent shall identify and include three (3) current and/or past clients, either businesses or governmental agencies, to which the Respondent has provided commodities and/or contractual services of similar scope and size as those identified in the RFP within the last five (5) years.

The three (3) client references provided will be contacted between September 17 – 20, 2018.

I, _____ am the _____ of
(Authorized Representative's Name) *(Title)*

_____, (the "Vendor"), and am authorized to represent and
(Vendor's Legal Name)

contractually bind Vendor. Having been duly sworn, I do hereby:

1. Grant permission to the Florida Department of Environmental Protection (the "Department") to contact the references listed in this attachment at a time and using a method convenient to the Department.
2. Waive any claim, either contractual or otherwise, to confidentiality that exists between the listed Client(s) and Vendor regarding Vendor's performance under the listed contract(s).
3. Release the Vendor's Contact(s), or their successors, or designees, to discuss with, and provide any requested information to, the Department concerning Vendor's performance under the listed contract(s).
4. Release, forever discharge, and hold harmless the Department and the listed Client(s) from any claim or liability that Vendor may make related to the loss, either real or perceived, that may exist due, in whole or in part, to the Department's evaluation of the information disclosed regarding Vendor's performance by the listed Client(s).

I understand that the purpose of this permission and release is for the Department to evaluate and assess Vendor's eligibility for Contract Award pursuant to the indicated solicitation, and that any such information provided may be subject to disclosure under Chapter 119, F.S., the Florida Constitution, or other authority.

Signature

Date

Subscribed and Sworn before me, this _____ day of _____, 20__, by _____,
who is personally known to me or has produced the following form of identification:

_____.

Signature of Notary: _____

Name of Notary: _____

Date of Expiration: _____

Client Reference #1		
Client Name & Internet Address		
Client Name:		
Webpage Address:		
Client Contact Information		
Name:		
Title:		
Street Address:		
City, State, and ZIP:		
Email Address:		
Telephone Number:		
Commodity/Service Details		
Period of Services:	From:	To:
Contract Value:		
Commodity/Service Description*		

*If Respondent has undergone a change of name, ownership, or organization, the name under which the Respondent operated at the time of performance shall be disclosed in this section.

Client Reference #2		
Client Name & Internet Address		
Client Name:		
Webpage Address:		
Client Contact Information		
Name:		
Title:		
Street Address:		
City, State, and ZIP:		
Email Address:		
Telephone Number:		
Commodity/Service Details		
Period of Services:	From:	To:
Contract Value:		
Commodity/Service Description*		

*If Respondent has undergone a change of name, ownership, or organization, the name under which the Respondent operated at the time of performance shall be disclosed in this section.

Client Reference #3

Client Name & Internet Address

Client Name:	
Webpage Address:	

Client Contact Information

Name:	
Title:	
Street Address:	
City, State, and ZIP:	
Email Address:	
Telephone Number:	

Commodity/Service Details

Period of Services:	From:	To:
Contract Value:		

Commodity/Service Description*

*If Respondent has undergone a change of name, ownership, or organization, the name under which the Respondent operated at the time of performance shall be disclosed in this section.

Section 15.00 Past Performance Evaluation Form

The following questions will be posed to the identifies in their Proposal. Answers will be scored according to the points specified for each of the below questions.

Reference Name & Company:	
Respondent's Name:	
Date of Interview:	
Interviewer:	
Please describe the work the Respondent performed for Reference's company:	

For the next questions, please rate the Vendor's performance using the following scale:

Excellent (3)	Satisfactory (2)	Fair (1)	Poor (0)	Rating 3 - 0
1. How would you rate the Vendor's overall quality of work?				
2. How would you rate the Vendor's use of appropriate equipment and methods?				
3. How would you rate the Vendor's use of adequate personnel in quantity, experience, and professionalism?				
4. How well did the Vendor's adhere to the agreed-upon schedule?				

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Section 16.00 Respondent / Subcontractor or (Team, if not Subcontractor) Summary Form

Section A	RESPONDENT IDENTIFICATION (to be completed by the Respondent.)
------------------	---

As Respondent to this Solicitation, I / we intend to utilize the following Team in connection with this project: In the spaces provided below, list the name of the Respondent/Subcontractor and indicate the Office of Supplier Diversity business category of each one listed.

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

Section B	ACKNOWLEDGEMENT (to be completed by the Respondent(s).)
------------------	--

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

Name of Respondent #1	Name of Respondent #2
Signature Date	Signature Date
Print Name/Title	Print Name/Title

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

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

Section 17.00 Evaluation Criteria

(For DEP Use Only)

Respondent's Name:						
	Maximum Raw Score Possible	Raw Score	Weight Factor	=	Maximum Points Possible	
Part I – Technical Proposal						
Tab A. Solicitation Acknowledgement Form						
Tab B. Technical Response ^{1, 5}						
1. Introduction (Section 1.00)						
2. Background and Organizational Structure	3		X	4	= 12	
3. Respondent Qualifications and Experience						
A. Knowledge and Experience in NRDA	3		X	5	= 15	
B. Knowledge and Experience in RESTORE	3		X	5	= 15	
C. Knowledge and Experience in GEBF	3		X	2	= 6	
D. Knowledge and Experience in Restoration Planning	3		X	5	= 15	
E. Knowledge and Experience in Water Quality Restoration Planning & Projects	3		X	5	= 15	
F. Knowledge of Natural Sciences	3		X	5	= 15	
G. Knowledge and Experience in Facilitating Stakeholder Engagement & Mass Communications	3		X	3	= 9	
H. Knowledge and Experience with NEPA	3		X	5	= 15	
I. Knowledge and Experience in with OPA	3		X	5	= 15	
J. Knowledge and Experience in Environmental Permitting & Regulatory	3		X	5	= 15	
K. Knowledge and Ability in Creating Section 508 of the Rehabilitation Act of 1973 compliant documents	3		X	3	= 9	
4. Qualifications and Experience of Proposed Personnel	3		X	25	= 75	
Tab D. Respondent/Subcontractor Summary Form (Section 16.00) ²						
Tab E. Vendor Principal Place of Business Attestation Form (Section 11.00)						
Tab F. Disclosures and Attestations						
A. Vendor Financial Attestation (Section 8.00)						
B. Vendor Responsibility Disclosure (Section 9.00)						
C. Vendor Conflicts of Interest Attestation (Section 10.00)						
D. Vendor Principal Place of Business Attestation (Section 11.00)						
E. Vendor Drug-Free Workplace Attestation (Section 12.00)						
F. Certification Regarding Scrutinized Companies List (Section 13.00)						
Maximum Total Numerical Rating for Technical Proposal:					231	
Part II – Past Performance/Client References (Section 15.00)						
1. Client Reference #1 ⁴ (DEP, if applicable)	16		X	1	= 16	
2. Client Reference #2 ⁴	16		X	1	= 16	
3. Client Reference #3 ⁴	16		X	1	= 16	
Maximum Total Numerical Rating for Past Performance:					48	
Maximum Total Divided by 3 = Total Points Value for Past Performance:					16	
Part III – Price Proposal ⁵ (Section 7.00)						
1 – Price Response – Original Contract Term ^{3, 5}	12		X	1	= 12	
2 – Price Response – Renewal Contract Term ^{3, 5}	12		X	1	= 12	
Maximum Total Numerical Rating for Price Proposal:					24	

***Total Points Possible for Solicitation Response: 271**

Notes:

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

Raw Score

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

2. Failure to submit a letter of commitment from an intended subcontractor identified in the response shall result in the disallowance of the qualification and experience of that subcontractor from consideration in the evaluation process.
3. The Respondent submitting the lowest total budget (LTB) will receive the maximum points for the cost element for the applicable Contract Term of the evaluation. The other Respondents' scores (PB) will be based on a relative percentage of the dollar amount higher than the lowest cost or price submitted by the lowest priced Respondent. The Total Cost used for evaluation process will be calculated as the sum of the hourly labor rates for both the Original and Renewal terms.

The formula used to determine the points awarded is:

1 – Original Contract Term: Cost Points Awarded = (LTB) / Proposal Budget being Considered (PB) X 12

2 – Renewal Contract Term: Cost Points Awarded = (LTB) / Proposal Budget being Considered (PB) X 12

4. References: Past performance will be scored based on answers to a standard group of questions (see Section 14.00) received from the Respondent's clients. In the event that the contact person for the reference cannot be reached following the specified number of attempts, the Respondent shall receive a score of zero (0) for this element of the evaluation.
5. Failure of the Respondent to provide any of the information required in the Technical Response or the Price Response of the Proposal shall result in a score of zero (0) for that element of the evaluation.

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

– Remainder of Page Intentionally Left Blank –

Section 18.00 Proposed Contract

The proposed contract language contained below should be reviewed by all prospective Contractors. In responding to DEP Solicitation No. 2019002, a prospective Contractor has agreed to accept the terms and conditions of the contract contained in this Section. The Department reserves the right to make modifications to this Contract if it is deemed to be in the best interest of the Department or the State of Florida.

DEP Contract No. _____

CONTRACT NO. XXX
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
Contractor Name

THIS CONTRACT is entered into between the Department of Environmental Protection (Department), an agency of the State of Florida, and *Contractor Name Fill in the address of Contractor* (Contractor), to provide professional environmental consulting services to assist DEP with natural resource restoration activities related to the 2010 *Deepwater Horizon* Gulf of Mexico oil spill.

NOW, THEREFORE, the parties agree as follows:

SERVICES AND PERFORMANCE

1. SERVICES. Department does hereby retain, and Contractor agrees to provide professional environmental consulting services to assist DEP with natural resource restoration activities related to the 2010 *Deepwater Horizon* Gulf of Mexico oil spill (services), in accordance with **Attachment A, Scope of Services** (Scope); all exhibits and attachments named and incorporated herein by reference; and DEP Solicitation No. 2019002 and Contractor's Response, incorporated herein by reference. Contractor has been determined to be a vendor to the Department under this Contract.

2. WORK.

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

B. Contractor, or its subcontractors if authorized under this Contract, shall not commence Work until the Contract, and any necessary TA, TACO, Amendments, or Change Orders, have been fully executed by both Department and Contractor.

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

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

E. Department reserves the right to not authorize any Work, and may suspend or terminate for cause any Work assigned to Contractor under this or any other contract, if and in the event that the Department and Contractor (or any

of its affiliates or authorized subcontractors) are adverse in any litigation, administrative proceeding or alternative dispute resolution, until such adverse relationship is resolved either by agreement or by final non-appealable order of a court.

3. STANDARD OF CARE FOR PERFORMANCE.

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

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

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

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

4. TERM OF CONTRACT.

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

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

This Contract may be renewed, in writing, on the same terms and conditions as the original Contract, and any amendments thereto, for a period no greater than five (5) years. All renewals are contingent upon satisfactory performance by Contractor. Renewals may be for the entire period or in increments.

This Contract may not be renewed.

5. COMPENSATION.

A. **COMPENSATION.** As consideration for the services rendered by Contractor under the terms of this Contract, the Department shall pay the Contractor on a fixed cost/fee schedule/cost reimbursement/combination basis up to a maximum of the amount specified in each TA or TACO for the completion of Work as specified in each TA or TACO.

B. Contractor shall not be compensated for services performed prior to execution of this Contract, nor for services that exceed the funding amount specified in any TA, TACO, or in any amendment to this Contract.

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

7. PAYMENT METHOD.

A. Contractor shall submit invoices using the required, **Attachment E, Invoice Form**, as specified in the Scope, Task Assignment (TA), or Task Assignment Change Order (TACO). If subcontractors are used, the Contractor shall complete and submit **Attachment F, Subcontractor Utilization Report Form** (Subcontractor Report) with each invoice. Failure to provide Subcontractor Report with an invoice shall result in a delay in processing the invoice for payment.

- B. All invoices submitted must be sufficient detail for a proper pre-audit and post-audit review.
- C. Department must approve the final deliverable(s) before the Contractor may submit final invoice and any forms.
- D. Each invoice, including appropriate supporting documentation as required herein, shall be submitted via email to the Department Contract Manager as identified in Paragraph 15, Identification of Contract Managers.
- E. Contractor shall submit invoices to the Department within thirty (30) days after the date of the Department's written approval of each interim deliverable or the final deliverable specified in the Scope. Contractor's failure to submit invoices within this timeframe may result in forfeiture of retainage, if applicable, suspension or termination of remaining work, or the Contractor's forfeiture of any unpaid balance for such deliverables.

8. INVOICING REQUIREMENTS FOR COST REIMBURSEMENT CONTRACTS. The following provisions apply to any cost reimbursement payments. The State of Florida Department of Financial Services (DFS) requires detailed supporting documentation of all costs under a cost reimbursement contract. Contractor shall comply with the invoicing Requirements for cost reimbursement categories outlined in the Florida Department of Financial Services, Reference Guide to State Expenditures https://www.myfloridacfo.com/aadir/reference_guide/Reference_Guide_For_State_Expenditures.pdf

Invoices shall be accompanied by supporting documentation and other requirements as follows:

- A. Contractual (Subcontractors) - Reimbursement requests for payments to subcontractors associated with activities not included in **Attachment F, Subcontractor Utilization Report Form**, must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor. Invoices for reimbursement of fixed price subcontracts shall be documented by copies of the paid invoices.
- B. Equipment – (Capital outlay \$1,000 or more in value) – Reimbursement for the purchase of non-expendable equipment costing \$1,000 or more is not authorized.
- C. Rental/Lease of Equipment – Include copies of invoices or receipts to document charges.
- D. Handling Fee – A handling fee of not more than five percent (5%) will be allowed on subcontracted work or purchased equipment.
- E. Travel – Travel costs shall be included in fixed-price amount in accordance with section 112.061, Florida Statutes (F.S.).
- F. Other Expenses – For example, materials, supplies, non-excluded phone expenses, reproduction, mailing, and other expenses must be documented by itemizing and including copies of receipts or invoices. Additionally, independent of the Contractor's contract obligations to its subcontractor, the Department shall not reimburse any of the following types of charges: cell phone usage, attorney's fees, civil or administrative penalties, or handling fees, such as set percent overages associated with purchasing supplies or equipment.

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

- Travel is not authorized under this Contract.
- Travel costs are included in the fixed cost amounts of this Contract.
- Travel costs shall be paid on a cost-reimbursement basis in accordance with the paragraph contained herein of this Contract.

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

- A. Contractor shall pay all subcontractors and vendors under this Contract within seven (7) working days from the date of receipt of payment from the Department, excluding the final payment. If the Contractor receives less than full

payment from the Department for the services or goods of the subcontractors or vendors, the Contractor shall pay subcontractors and vendors in at least the same proportion as that paid by the Department. Penalties for non-compliance and provisions for legal assistance for subcontractors are included in Subsection 287.0585(1), F.S.

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

11. PROMPT PAYMENT.

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

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

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

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

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

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

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

PARTY REPRESENTATIVES

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

read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

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

Contractor Contract Manager Information	Department Contract Manager Information
Contractor Name	Florida Department of Environmental Protection Division of Water Restoration Assistance Deepwater Horizon Program
Contractor Address	3900 Commonwealth Blvd., MS# 240
City, State, Zip	Tallahassee, Florida 32399-2400
Attn: Contract Manager Name	Attn: Name
Contract Manager Email	xxxx.xxxx@dep.state.fl.us

16. CHANGE ORDERS AND AMENDMENTS. Department may at any time, by written order designated to be a Change Order, make any change in the Work within the general scope of this Contract (e.g., specifications, method or manner of performance, requirements, etc.). All Change Orders are subject to the mutual agreement of both parties as evidenced in writing. Any change which causes an increase or decrease in Contractor’s cost or time shall require an appropriate adjustment and modification by Amendment to this Contract. Following execution of this Contract, any future Amendments or Change Orders may be executed by the Department representative with appropriate delegated authority.

CONSEQUENCES FOR FAILURE TO PERFORM

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

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

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

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

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

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

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

18. FINANCIAL CONSEQUENCES FOR UNSATISFACTORY PERFORMANCE.

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

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

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

A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the Department. The CAP shall be sent to the Department Contract Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the Department shall notify the Contractor in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the Contractor shall have ten (10) calendar days from receipt of the Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the Department approval of a CAP as specified above shall result in the Department's termination of the Contract for cause as authorized in the Contract.

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

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

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

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

21. LIQUIDATED DAMAGES. An “X” beside the correct provision in this section signifies that the provision is applicable to the Contract.

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

22. RETAINAGE

A. Department reserves the right to establish the amount and application of retainage on the Work to a maximum of ten percent (10%). Any retainage to be applied shall be specified in the Scope. Retainage shall be withheld from each payment to the Contractor pending satisfactory completion of Work and approval of all deliverables.

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

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

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

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

LIABILITY

23. INSURANCE.

A. Required Coverage. At all times during the Contract the Contractor, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Contractor may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Contract may be required elsewhere in this Contract, however the minimum insurance requirements applicable to this Contract are:

- i. Commercial General Liability Insurance. The Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Contract. The Department of Environmental Protection, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$200,000 each individual's claim and \$300,000 each occurrence.
- ii. Workers' Compensation and Employer's Liability Coverage. The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S., and employer's liability insurance with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Contract.
- iii. Commercial Automobile Insurance. If the Contractor's duties include the use of a commercial vehicle, the Contractor shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department of Environmental Protection, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:
 - \$200,000/300,000 Automobile Liability Combined Single Limit for Company-Owned Vehicles, if applicable
 - \$200,000/300,000 Hired and Non-Owned Automobile Liability Coverage
- iv. Other Insurance. Additional insurance may be required by federal law, where applicable, if any work proceeds over or adjacent to water, including but not limited to Jones Act, Longshoreman's and Harbor Worker's, or the inclusion of any applicable rider to worker's compensation insurance, and any necessary watercraft insurance, with limits of not less than \$300,000 each. Questions concerning required coverage should be directed to the U.S. Department of Labor (<http://www.dol.gov/owcp/dlhwc/lcontact.htm>) or to the parties' insurance carrier.

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

C. Exceptions to Additional Insured Requirements. If the Contractor's insurance is provided through an insurance trust, the Contractor shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Contract requires them to be added as an additional insured. Further, notwithstanding the requirements above, if Contractor is self-insured, then the Department of Environmental Protection, its employees, and officers do not need to be listed as additional insureds.

D. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor providing such insurance.

E. Proof of Insurance. Upon execution of this Contract, the Contractor shall provide the Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Contract. Upon receipt of written request from the Department, the Contractor shall furnish the Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.

F. Failure to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, the Contractor shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) calendar days after the cancellation of coverage.

24. INDEMNIFICATION.

A. Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State of Florida, the Department, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State of Florida, the Department, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund.

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

C. The Contractor's obligations under the preceding two (2) paragraphs with respect to any legal action are contingent upon the State or the Department giving Contractor 1) written notice of any action or threatened action, 2) the opportunity to take over and settle or defend any such action at the Contractor's sole expense, and 3) assistance in defending the action at the Contractor's sole expense.

THIRD PARTIES

25. SUBCONTRACTING. AN "X" BESIDE THE CORRECT PROVISION IN THIS SECTION SIGNIFIES THAT THE PROVISION IS APPLICABLE TO THE CONTRACT.

- Contractor shall not subcontract any work under this Contract.
- A. Contractor shall not subcontract any work under this Contract without the prior written consent of the Department's Contract Manager. Department reserves the right to reject any proposed subcontractor based upon the Department's prior experience with subcontractor, subcontractor's reputation, or the Department's lack of adequate assurance of performance by subcontractor. Contractor agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract.
- B. Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether the Department has approved such subcontract or subcontractor. Contractor shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under any subcontract. Any subcontracts made under or in performance of this Contract must include the same conditions specified in this Contract, with the exception of insurance requirements (paragraph contained herein), and shall include a release of any rights, claims or liabilities against the Department. The level of insurance to be carried by subcontractors performing work under this Contract shall be at the discretion of Contractor.

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

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

SUSPENSION AND TERMINATION

28. SUSPENSION.

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

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

B. If the performance of all or any part of the Work is suspended, delayed or interrupted for an unreasonable period of time by an act of the Department in administration of the Work, or by the Department's failure to act within a reasonable time to review or approve an invoice, the Department shall provide an equitable extension of the time allowed

to complete the Work and modify the Scope accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption if and to the extent that:

- 1.) Performance would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or
 - 2.) Equitable adjustment is provided for (or excluded) under any other provision of this Contract.
- C. Contractor shall not be compensated for Work performed subsequent to a notice of suspension by Department.

29. TERMINATION.

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

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

GENERAL CONDITIONS

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

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

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

33. DISQUALIFICATION.

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

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

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

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

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

36. FORUM SELECTION, SEVERABILITY, AND CHOICE OF LAW. This Contract has been delivered in the State of Florida and shall be construed in accordance with substantive and procedural laws of Florida. Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Contract shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract. Any action in connection with this Contract shall be brought in a court of competent jurisdiction located in Leon County, Florida.

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

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

39. INTEGRATION. This Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Department and the Contractor. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Contract, unless otherwise provided herein. No oral agreements or representations shall be valid or binding upon the Department or the Contractor. No alteration or

modification of the Contract terms, including substitution of product, shall be valid or binding against the Department. Contractor may not unilaterally modify the terms of this Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. Department's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

40. INTERPRETATION OF CONTRACT.

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

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

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

42. MYFLORIDAMARKETPLACE TRANSACTION FEE.

A. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace (MFMP), a statewide e-procurement system. Pursuant to Section 287.057(22)(c), F.S., all payments shall be assessed a Transaction Fee which the Contractor shall pay the State unless exempt pursuant to Rule 60A-1.031, Florida Administrative Code (F.A.C.).

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

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

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

43. NONDISCRIMINATION.

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

B. Contractor certifies that neither it nor any affiliate is or has been placed on the discriminatory vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a Contractor, supplier, subcontractor or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services (“DMS”) is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

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

44. NON-SOLICITATION. Contractor covenants and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract.

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

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

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

For Task Assignments funded by the RESTORE Act, the following provision applies.

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

47. OWNERSHIP OF DOCUMENTS. All plans, specifications, maps, computer files, databases and/or reports prepared or obtained under this Contract, as well as data collected together with summaries and charts derived therefrom, shall be considered works made for hire and shall be and become the property of the Department upon completion or termination

of this Contract, without restriction or limitation on their use, and shall be made available upon request to the Department at any time during the performance of such services and/or upon completion or termination of this Contract. Upon delivery to the Department of said document(s), the Department shall become the custodian thereof in accordance with Chapter 119, F.S. Contractor shall not copyright any material and products or patent any invention developed under this Contract.

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

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

P.R.I.D.E.

12425 28th Street, North

St. Petersburg, Florida 33716-1826

Toll Free: 1-800-643-8459

Website: <http://www.pride-enterprises.org/>

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

50. PUBLIC RECORDS. Attachment H, **Public Records Requirements**, as attached to this Contract, are hereby incorporated into the Contract.

51. RECORD KEEPING AND AUDIT.

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

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

C. For task assignments funded by the RESTORE Act, the following provisions apply:

1.) During the term of this Contract and for five (5) years following completion, the RESTORE Council, the U.S. Department of Treasury, the Treasury Office of Inspector General, the Comptroller General of the United States (Government Accountability Office (GAO)), or their authorized representatives, shall have timely and unrestricted access to any pertinent books, documents, papers, and records, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, in order to make audits,

inspections, excerpts, transcripts, or other examinations as authorized by law. This also includes timely and reasonable access to the Grantee's personnel for the purpose of interview and discussion related to such documents. In the event any work is subcontracted, the Contractor shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

2.) The RESTORE Council, the U.S. Department of Treasury, the Treasury Office of Inspector General, the Comptroller General of the United States (GAO), or their authorized representatives shall have the right during normal business hours to conduct announced and unannounced onsite and offsite physical visits of the Contractor and their subcontractors corresponding to the duration of their records retention obligation for this Contract.

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

53. RESPECT OF FLORIDA. When possible, the Contractor agrees that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Section 413.036(1) and (2), F.S.; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealing with such qualified nonprofit agency is concerned.

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

RESPECT of Florida

2475 Apalachee Parkway, Suite 205

Tallahassee, Florida 32301-4946

(850) 487-1471

Website: www.respectofflorida.org

54. SCRUTINIZED COMPANIES.

A. Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Contract at its sole option if the Contractor is found to have submitted a false certification; or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

B. If this Contract is for more than one million dollars, the Contractor also certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Contract at its sole option if the Contractor is found to have submitted a false certification; or if the Contractor is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

C. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

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

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

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

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

Contractor Name

Florida Department of Environmental Protection

By: _____

By: _____

Date: _____

Date: _____

FEID No. «Insert FEID Number»

List of Attachments/Exhibits included as part of this Contract:

Attachment	Description	No. Pages
Attachment A	Scope of Services	1
Attachment B	Rate Schedule	TBD
Attachment C	Task Assignment Notification Form	1
Attachment D	Task Assignment Change Order Form	1
Attachment E	Invoice Form	1
Attachment F	Subcontractor Utilization Report Form	2
Attachment G	Contractor Affidavit / Release of Claim Form	1
Attachment H	Public Records Requirement	1
Attachment I	General Contract Conditions (PUR 1000)	10

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Attachment A - Scope of Services

Project Name: Deepwater Horizon (DWH) Restoration and Planning Support

Project Description: This Scope of Services details the professional environmental consulting services to assist the Florida Department of Environmental Protection (DEP) with natural resource restoration activities related to the 2010 Deepwater Horizon (DWH) Gulf of Mexico oil spill. Services may include, but are not limited to, identification, evaluation, planning, and implementation of programs and projects, including public engagement and regulatory compliance.

As a part of this scope of services, the Contractor will perform support services to assist the DEP in achieving the goals for these restoration activities. This support will include restoration planning and implementation under the Natural Resource Damage Act (NRDA) settlement; logistical and support planning of restoration activities related to the RESTORE Act; activities related to the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation (NFWF); and other associated efforts. Support services that are anticipated to be needed by include, but are not limited to:

- A. Public/Stakeholder engagement, including facilitating and planning in-person and webinar meetings that may require renting public venues and audio/video equipment, developing and printing related materials; stakeholder relations; and communications through traditional and social media;
- B. Scoping, identification, generation, development, and evaluation of project and program concepts;
- C. Restoration planning, including conceptual project design, spatial and environmental analysis, cost estimation, budget production, adaptive management development, and the drafting and editing of planning and proposal documents using best available science;
- D. Planning activities related to the design and implementation of project, program, resource, and cross-resource monitoring efforts;
- E. Participating in working groups or technical groups;
- F. Conducting gap analyses of future restoration needs or evaluations of overall project/program impacts for the development of adaptive management;
- G. Conducting regulatory compliance analysis, permitting, and related tracking and reporting; Converting documents to achieve compliance with Section 508 of the Rehabilitation Act of 1973; and
- H. Logistical planning and execution, including attending regular meetings and teleconferences associated with the above activities.

Deliverables. Specific work assignments, deliverables, and performance measures will be determined by the Department for each task and described in each task assignment.

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Attachment B - Rate Schedule

[Vendor Name] HOURLY LABOR RATES									
Core Hourly Labor Roles (Positions)	Ceiling Hourly Labor Rates								
	Original Term Years 1-2	Original Term Year 3	Original Term Year 4	Original Term Year 5	Optional Renewal Year 1	Optional Renewal Year 2	Optional Renewal Year 3	Optional Renewal Year 4	Optional Renewal Year 5
Program Manager(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Project Manager(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Senior Scientist/ Technician/Planner(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Junior Scientist/ Technician/Planner(s)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Administrative Support	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Stakeholder Engagement Coordinator	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Additional Proposed Roles (Positions)									
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____
Other (Include Title)	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____	\$_____

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Attachment C - Task Assignment Notification Form (Required)

DEP Contract No.:	Task Assignment No.:	Project No.:
Project Name:		
Consultant Name:		
Consultant Representative:	Phone:	Email:
DEP Contract Manager:	Phone:	Email:
DEP Project Manager:	Phone:	Email:
Description of Task:		

Schedule		Task Amount	
Start Date:		Fixed Price Cost:	\$ 0.00
Completion Date:		Cost Reimbursement not to exceed:	\$ 0.00
		Total Task Amount:	\$ 0.00

Approval Signatures		
DEP Budget Representative	Signature	Date
DEP Project Manager	Signature	Date
DEP Contract Manager	Signature	Date
Consultant Representative	Signature	Date
DEP Contract Authority	Signature	Date

Project #	Grant #	Org Code	Cat/Yr	Fund	Module	Object Code	EO	Amount
29-digit FLAIR Code:								\$ 0.00

Attachment D - Task Assignment Change Order Form (Required)

DEP Contract No.:	Task Assignment No.:	Change No.:	Project No.:
Project Name:			
Consultant Name:			
Consultant Representative:	Phone:	Email:	
DEP Contract Manager:	Phone:	Email:	
DEP Project Manager:	Phone:	Email:	
Description and Justification of Change:			

Change in Task Amount			
Item	Reimbursement	Fixed Fee	Total
Present Task Amount:			
Net increase/decrease in task amount for this Change Order:			
New Total Task Amount:			

Change in Task Time	
Original Task Execution Date:	
Present Task End Date:	
New Task End Date:	

Approval Signatures		
DEP Budget Representative	Signature	Date
DEP Project Manager	Signature	Date
DEP Contract Manager	Signature	Date
Consultant Representative	Signature	Date
DEP Contract Authority	Signature	Date

Project #	Grant #	Org Code	Cat/Yr	Fund	Module	Object Code	EO	Amount
29-digit FLAIR Code:								\$ 0.00

Attachment E - Invoice Form (Required)

<h1>Company Logo</h1>	<h1>Invoice</h1>			
	Date XX/XX/XXXX		Invoice No.	
	Bill to			
DEP Contract Manager Florida Department of Environmental Protection 3900 Commonwealth Blvd, MS 240 Tallahassee, FL 32399				
Terms		DEP Contract No.	Task Assignment No.	Service Dates
Due on receipt and acceptance		CNXXX	X	XX/XX/XXXX - XX/XX/XXXX
Description			Amount	
Task 1 - Title Task 2 - Title				
Company Name Company Contract Manager Company Address Company Contract Manager Phone Number Company Contract Manager Email Address			Total	\$ -

Attachment F - Subcontractor Utilization Report Form (If Applicable)

DIRECTIONS:

Contractors working for the Florida Department of Environmental Protection (DEP) **must complete and submit this attachment with each invoice submitted for payment.** Questions regarding use of this form should be directed to the Procurement Section (MS93), Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, Phone (850) 245-2361.

DEP Contract No.: _____ Invoice Number: _____ Task Assignment No. (if applicable): _____ Invoice Service Period: _____		INDICATE THE ONE OFFICE OF SUPPLIER DIVERSITY CATEGORY THAT BEST DESCRIBES EACH ORGANIZATION LISTED																						
		BUSINESS CLASSIFICATION				CERTIFIED MBE			NON-CERTIFIED MBE			NON-PROFIT ORG.												
		NON-MINORITY (A)	SMALL BUSINESS (STATE) (B)	SMALL BUSINESS (FEDERAL) (C)	GOVERNMENTAL AGENCY (D)	NON-PROFIT ORGANIZATION (F)	P.R.I.D.E. (G)	VETERAN BUSINESS ENTERPRISE (L)	AFRICAN AMERICAN (H)	HISPANIC (I)	ASIAN/HAWAIIAN (J)	NATIVE AMERICAN (K)	AMERICAN WOMAN (M)	VETERAN BUSINESS ENTERPRISE (W)	AFRICAN AMERICAN (N)	HISPANIC (O)	ASIAN/HAWAIIAN (P)	NATIVE AMERICAN (Q)	AMERICAN WOMAN (R)	VETERAN BUSINESS ENTERPRISE (Y)	BOARD IS 51% OR MORE MINORITY (S)	51% OR MORE MINORITY OFFICERS (T)	51% OR MORE MINORITY COMMUNITY SERVED (U)	OTHER NON-PROFIT (V)
LIST NAMES AND ADDRESSES OF SUBCONTRACTORS UTILIZED THIS INVOICE PERIOD	LIST AMOUNT PAID TO EACH SUBCONTRACTOR THIS INVOICE PERIOD																							

SUBCONTRACTOR UTILIZATION REPORT FORM CERTIFICATION:

I certify that the information provided in the preceding page(s) is accurate as of the last day of the payment period identified on this form.

	(Signature) (Date)
	(Business Name)
	(Street Address)
	(City, State, Zip Code)
	(Phone Number)

DEP 55-217 (08/00)

Attachment G - Contractor Affidavit / Release of Claims Form (If Applicable)

This affidavit must be completed and signed by the Contractor when requesting final payment for a Florida Department of Environmental Protection (Department) authorized Task Assignment. The signature of the Contractor shall be notarized as set forth below. Final payment for a Task Assignment will not be released until this form is accepted by the Department.

The undersigned certifies as follows:

1. I, _____ am the _____ of
(name of person appearing) (title of person appearing)
_____ with the authority to
(name of Contractor)
make this statement on behalf;
2. _____ (“the Contractor”) entered into an
(name of company or person)
Agreement with the Department to perform certain work under Task Assignment No. _____.
3. Contractor has completed the work in accordance with the aforementioned Task Assignment, including all attachments thereto.
4. All subcontractors have been paid in full.
5. Upon receipt by Contractor from Department of final payment under the aforementioned Task Assignment, Contractor releases Department from any and all claims of Contractor and any of its subcontractors and vendors that may arise under, or by virtue of, the Task Assignment, except those claims that may be specifically exempt and set forth under the terms of this Contract. Exemptions claimed must be attached to this affidavit and reference the Task Assignment number. Any exemptions not attached are waived.

(signature of authorized Contractor representative)

----- **Notarization of Signature of Contractor (required)** -----

State of _____ County of _____

Sworn to and subscribed before me by _____ this _____ day of _____, 20____.

Personally known

Produced Identification. Type of ID: _____

My Commission Expires: _____

(Notary’s Signature)

Notary Public, State of _____ Commission Number (if applicable) _____

Attachment H - Public Records Requirements

1. Public Records Access Requirements.

- a. If the Contract exceeds \$35,000.00, and if the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

If the Contractor is a "Contractor" as defined in section 119.0701(1)(a), F.S., the Contractor shall:

- (1) Keep and maintain Public Records required by the Department to perform the service.
- (2) Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- (3) A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- (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 Public Records to the Department.
- (5) Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public 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 Public Records stored electronically must be provided to the Department, upon request from the Department's custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.
- (6) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118

Email: public.services@dep.state.fl.us

Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

Attachment I - General Contract Conditions (PUR 1000)

Contents

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1. **Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:
 - (a) “Contract” means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
 - (b) “Customer” means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The “Customer” may also be the “Buyer” as defined in the PUR 1001 if it meets the definition of both terms.
 - (c) “Product” means any deliverable under the Contract, which may include commodities, services, technology or software.
 - (d) “Purchase order” means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).
2. **Purchase Orders.** In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor’s order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.
3. **Product Version.** Purchase orders shall be deemed to reference a manufacturer’s most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.
4. **Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.
 - (a) Quantity Discounts. Contractors are urged to offer additional discounts for one-time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.
 - (b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.
 - (c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.
 - (d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

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

- 5. Additional Quantities.** For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.
- 6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.
- 7. Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.
- 8. Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.
- 9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.
- 10. Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.
- 11. Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.
- 12. Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

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

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

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

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

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

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

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

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

16. Taxes. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

17. Governmental Restrictions. If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer

reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

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

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

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

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

20. Limitation of Liability. For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the

charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

- 21. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.
- 22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.
- 23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.
- 24. Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in

the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

- 25. Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.
- 26. Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties and is contingent upon satisfactory performance evaluations and subject to availability of funds.
- 27. Purchase Order Duration.** Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

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

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

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

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

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

- 28. Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.
- 29. Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.
- 30. Antitrust Assignment.** The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.
- 31. Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty-one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

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

- 32. Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.
- 33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

- 34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.
- 35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.
- 36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.
- 37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.
- 38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.
- 39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.
- 41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.
- 42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may

not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, “shrink wrap” terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor’s order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer’s acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

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

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

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

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

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

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

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Section 19.00 Solicitation Proposal Checklist

Note: This “Checklist” is provided merely for the convenience of the Respondent and may not be relied upon in lieu of the instructions or requirements of this Solicitation.

To ensure that Respondent response package can be accepted, please be sure the following items are fully completed, enclosed, and received in accordance with VBS and Schedule of Events.

Part I, Technical Proposal: (see 1.06 General Instructions for Preparation of the Proposal)

- A. _____ **Tab A** - The Solicitation Acknowledgement Form *[If Respondents submit a response as a joint venture, each member of the joint venture must complete and sign a separate Solicitation Acknowledgement Form.]*
- B. _____ **Tab B** - The Technical Response Package must include the following information:
1. Introduction
 2. Background and Organizational Structure
 3. Respondent Qualifications and Experience
 4. Qualifications and Experience of Proposed Personnel
- C. _____ **Tab C** - Past Performance/Client References (Section 14.00)
- D. _____ **Tab D** - Respondent/Subcontractor Summary Forms (Section 16.00)
- E. _____ **Tab E** - Vendor Principal Place of Business Attestation (Section 11.00)
- F. _____ **Tab F** - Disclosures and Attestations: Each Respondent must complete and include the following Disclosures and Attestations:
- ✓ Vendor Financial Attestation (Section 8.00)
 - ✓ Vendor Responsibility Disclosure (Section 9.00)
 - ✓ Vendor Conflicts of Interest Attestation (Section 10.00)
 - ✓ Vendor Drug-Free Workplace Attestation (Section 12.00)
 - ✓ Certification Regarding Scrutinized Companies List (Section 13.00)

Part II, Price Proposal: (see 1.06 General Instructions for Preparation of the Proposal)

- A. _____ The Cost Response Form (Section 7.00) must be completed and signed. **If a Respondent fails to submit a completed Response Form with their submittal, the submittal will be rejected.**

Submittal of Proposal (see Section 1.07) The separately sealed packages may be mailed together in one envelope or box.

1. Part I – Technical Proposal (one separately sealed package with “**Solicitation No. 2019002**” written on it); and
 - ✓ two (2) hard copies,
 - ✓ one (1) original, (shall bear original signatures and be marked as the “Original”)
 - ✓ one (1) duplicate copy, and
 - ✓ one (1) electronic copies (may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format)
 2. Part II – Price Proposal (one separately sealed package with “**Solicitation No. 2019002**” written on it.)
 - ✓ two (2) hard copies,
 - ✓ one (1) original, (shall bear original signatures and be marked as the “Original”)
 - ✓ one (1) duplicate copy, and
 - ✓ one (1) electronic copies (may be submitted on CD, DVD, or USB-compatible memory stick and must be in .pdf format)
- The Department will reject Proposals submitted in alternate file formats or which contain information different from that in the hard copy of the Proposal.
 - If Respondent asserts that any portion of the Proposal is exempt from disclosure under the Florida Public Records law, Respondent must submit a redacted version of the Proposal along with the un-redacted version. The redacted copy shall be clearly titled “Redacted Copy.”
 - All proposed materials must be packaged so that each box (envelope) of materials shipped to the Department does not exceed 25 pounds.
 - Respondents submitting are advised to assure the files are not corrupt prior to mailing as any material which is not readable will not be considered.
 - CAUTION: Responses received at the office designated after the exact time specified for receipt will not be considered.