

Attachment D – Draft of Federal Contract Agreement

CONSTRUCTION CONTRACT
BETWEEN CITY OF MILTON, FLORIDA
AND
(Contractor Name Here)

THIS AGREEMENT is dated as of the [redacted] day of [redacted] in the year 2022 by and between City of Milton, a political subdivision of the state of Florida (hereinafter called Owner) and [redacted] (hereinafter-called Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK.

Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

NAME OF PROJECT – CARPENTER’S PARK - BOARDWALK

ARTICLE 2. THE PROJECT

The Project for which the Work under the Contract Documents may be in whole or in part is generally described as follows: **Insert general description of work activities to perform or detailed SOW.**

ARTICLE 3. ENGINEER

The Project has been designed by [redacted], which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights, and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4. INDEPENDENT CONTRACTOR.

Contractor enters into this Agreement as, and shall continue to be, an independent contractor. All services shall be performed only by Contractor and Contractor’s employees. Under no circumstances shall Contractor or any of Contractor’s employees look to the City as his/her employer, or as partner, agent or principal. Neither Contractor, nor any of Contractor’s employees, shall be entitled to any benefits accorded to the City’s employees, including without limitation worker’s compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at Contractor’s expense, and in Contractor’s name, unemployment, disability, worker’s compensation, and other insurance as well as licenses and permits usual and necessary for conducting the services to be provided under this Agreement.

ARTICLE 5. THIRD PARTY BENEFICIARIES.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

ARTICLE 6. CONTRACT TIMES.

6.1 The Work will be substantially completed within _____ calendar days after the date when the Contract Times commence to run and completed and ready for final payment within _____ calendar days after the date when the Contract Time commence to run.

6.2 *Liquidated Damages*

Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in paragraph 6.1 above, plus any extensions thereof allowed by the Owner. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring of such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner the amount specified in Paragraph 6.3. for each day that expires after the time specified in paragraph 6.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in paragraph 6.1 for completion and readiness for final payment or any proper extension thereof granted by Owner, Contractor shall pay Owner the amount specified in Paragraph 6.3. for each day that expires after the time specified in paragraph 6.1 for completion and readiness for final payment. The Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the Owner's actual damages at the time of contracting if the Contractor fails to substantially complete the Work in a timely manner.

6.3 Liquidated Damages are based upon the original contract amount, as established by City of Milton. Liquidated damages, based upon the original contract amount of \$ _____, will be _____ Dollars (\$ _____) per calendar day.

ARTICLE 7. CONTRACT PRICE.

Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the Bid Schedule submitted in the Bid Form. The total cost to complete project work will not exceed \$ _____ as per the attached Contractor bid.

Estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by Engineer.

ARTICLE 8. PAYMENT PROCEDURES

Contractor shall submit Application for Payment in accordance with Contract. Applications for Payment will be processed by Engineer as provided in the contract.

8.1 *Progress Payments; Retainage.* Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the fifteenth (15th) day of each month during construction as provided in paragraphs 8.1.1 and 8.1.2 below. All such payments will be measured based on the number of units completed. Payments to the Contractor shall in no way imply approval or acceptance of Contractor's work

8.1.1 Prior to Substantial completion, payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or Owner may withhold.

95 % of Work completed (with the balance being retainage). Once the Contractor completes at least 50% of the Work based on approved pay applications, the retainage will be reduced from 10% to 5% for the remainder of the project. Therefore, following completion of at least 50% of the Work, the Contractor may be paid 95 % of Work completed (with the balance being retainage).

90 % (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner). Once the Contractor completes at least 50% of the Work based on approved pay applications, the retainage will be reduced from 10% to 5% for the remainder of the project. Therefore, following completion of at least 50% of the Work, the Contractor may be paid 95 % of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner).

8.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to Contractor to 95 % of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or Owner may withhold.

8.1.3 Retainage requirements may be changed to reflect a proposed change to state regulatory statutes.

8.2 *Final Payment.* Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price as recommended by Engineer.

Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against the City arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by the City shall be deemed to be a waiver of the City's right to enforce any obligations of the Contractor hereunder or to the recovery of damages for defective Work not discovered by the Engineer or the City at the time of final inspection.

8.3 *Payments Withheld.*

8.3.1 The Engineer or the City may decline to approve any Applications for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections. The Engineer or the City may nullify the whole or any part of any inspections. The Engineer or the City may nullify the whole or any part of any approval for payment previously issued and the City may withhold any payments otherwise due Contractor under this Agreement or any other agreement between the City and the Contractor, to such extent as may be necessary in the City's opinion to protect it from loss because of:

8.3.1.1 Defective Work not remedied;

8.3.1.2 Third party claims filed or reasonable evidence indicating probable filing of such claims;

8.3.1.3 Failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment;

8.3.1.4 Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount;

8.3.1.5 Reasonable indication that the Work will not be completed within the Contract Time;

8.3.1.6 Unsatisfactory prosecution of the Work by the Contractor;

8.3.1.7 Failure to provide accurate and current "As-Builts"; or

8.3.1.8 Any other material breach of the Contract Documents.

8.3.2 If these conditions in Subsection 8.3.1 are not remedied or removed, the City may after three (3) days written notice, rectify the same at Contractor's expense. The City also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to the City, whether relating to or arising out of his Agreement or any other agreement between Contractor and the City.

ARTICLE 9. MATERIAL PURCHASES BY CONTRACTOR.

No materials, supplies, or equipment for the work shall be purchased by the Contractor or by any subcontractor that is subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants and guarantees that he/she has good title to all work, materials, and equipment used by him/her in the Work, free and clear of all liens, claims, or encumbrances.

All materials and equipment used in the completion of the Work shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. Materials of construction, particularly those upon which the strength and durability of any structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended uses.

Whenever a material, article, or piece of equipment is identified in the Contract Documents by reference to manufacturers', or vendors' names, trade names, catalogue numbers, etcetera, it is intended merely to establish a standard. Any material, article, or equipment of other manufacturers and vendors that will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Engineer, of equal substance and function. However, such substitution material, article, or equipment shall not be purchased or installed by the Contractor without the Engineer's written approval.

ARTICLE 10. TAXES AND ASSESSMENTS.

Contractor agrees to pay all sales, use, or other taxes, assessments, and other similar charges when due now or in the future, required by any local, state, or Federal law, including but not limited to such taxes and assessments as may from time to time be imposed by the City in accordance with this Agreement. Contractor further agrees that it shall protect, reimburse, and indemnify City from and assume all liability for its tax and assessment obligations under the terms of the Agreement.

The City is exempt from payment of Florida state sales and use taxes. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Contractor authorized to use the City's tax exemption number in securing such materials.

The Contractor shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

ARTICLE 11. PATENT FEES AND ROYALTIES

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject

to patent rights and copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by the Owner in the Contract Documents.

- B. To the fullest extent permitted by Laws and Regulations, the Contractor shall indemnify and hold harmless the Owner and the Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professions and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights in or to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

ARTICLE 12. CLAIMS FOR EXTRA COSTS

No claims for extra work or cost shall be allowed unless the same was done in pursuance of a written order from the Engineer approved by the Owner.

ARTICLE 13. SUSPENSION OF WORK AND TERMINATION

Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience.

Upon receipt of notice from Owner to termination for convenience, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by Owner; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against owner for any additional compensation or damages in the event of such termination and payment.

ARTICLE 14. CONTRACTOR'S REPRESENTATIONS.

In order to induce Owner to enter into this Agreement Contractor makes the following representations:

14.1 Contractor has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Project Documents including "technical data."

14.2 Contractor has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance or furnishing of the Work.

14.3 Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

14.4 Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Bid documents. Contractor acknowledges that such reports and drawings are not Contract Documents and may

not be complete for Contractor's purposes. Contractor acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown, indicated in the Contract Documents with respect to Underground Facilities at, or contiguous to the site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions, and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

14.5 Contractor is aware of the general nature of work to be performed by Owner and others at the site that relates to the Work as indicated in the Contract Documents.

14.6 Contractor has correlated the information known to Contractor, information and observation obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

14.7 Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 15. CONTRACT DOCUMENTS

The Contract Documents that comprise the entire agreement between Owner and Contractor concerning the Work consist of the following:

- 15.1 This Agreement (pages 1 to ____, inclusive).
- 15.2 Performance Bond (pages 1 to 3, inclusive).
- 15.3 Payment Bond (pages 1 to 3, inclusive).
- 15.4 Other Bonds (pages _____ to _____, inclusive).
- 15.5 General Conditions (pages 1 to ____, inclusive).
- 15.6 Supplementary Conditions (pages 1 to 9, inclusive).
- 15.7 Specifications as listed in the table of contents of the Project Manual.
- 15.8 Drawings consisting of _____ sheets with each sheet bearing the following general title: _____ (or) the Drawings listed on attached sheet index.
- 15.9 Addenda (numbers _____ to _____, inclusive).
- 15.10 Exhibits to this Agreement (enumerated as follows):

- A. Contractor's Bid (pages _____ to _____, inclusive).
- B. Documentation submitted by Contractor prior to Notice of Award (pages ____ to _____ inclusive). To include the following signed documents:
 - 1. Conflict of Interest Disclosure,
 - 2. Debarment and Suspension Certification
 - 3. Drug-Free Workplace Confirmation,
 - 4. Employee Equal Opportunity Bidder's Certification,
 - 5. Lobbying CD-512 Form,
 - 6. Non-Collusion Affidavit,
 - 7. Notices of Requirements for Affirmative Action,
 - 8. Public Entity Crime Sworn Statement,
 - 9. Scrutinized Contractors Certificate
 - 10. Small, Minority, Women's Businesses Certification
- C. Insurance Requirements
- D. Civil Rights Clauses
- E. Special Conditions – State and Federal Assurances
- F. Documentation submitted by Contractor after Notice of Award (pages ____ to _____ inclusive). To include the following signed documents:
 - 1. E-Verify Statement of Compliance
 - 2. Prompt Payment Affidavit
 - 3. Work Hours and Safety Standards

ARTICLE 16. PUBLIC RECORDS

Any record created by either party in accordance with this Contract shall be retained and maintained in accordance with the public records law, Florida Statutes, Chapter 119.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 983-5402, CityClerk@MiltonFL.org , City Hall, P.O. Box 909, Milton, FL 32572.

Contractor must comply with the public records laws, Florida Statute chapter 119, specifically Contractor must:

- 16.1 Keep and maintain public records required by the Owner to perform the service.
- 16.2 Upon request from the City's custodian of public records, provide the Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- 16.3 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 consultant does not transfer the records to the Owner.

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

ARTICLE 17. VIOLATIONS OF CHAPTER 119 FLORIDA STATUTES

The Owner reserves the right to terminate this agreement immediately for failure of Contractor to adhere to the requirements of Florida Statutes Chapter 119 Public Records.

ARTICLE 18. AUDIT

The Owner and/or its designee shall have the right from time to time at its sole expense to audit the compliance by the Contractor with the terms, conditions, obligations, limitations, restrictions, and requirements of this Contract and such right shall extend for a period of **three (3) years** after termination of this Contract.

ARTICLE 19. CIVIL RIGHTS.

The Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

ARTICLE 20. COMPLIANCE WITH LAWS.

Contractor shall secure any and all permits, licenses and approvals that may be required in order to perform the Services, shall exercise full and complete authority over Contractor's personnel, shall comply with all workers' compensation, employer's liability and all other Federal, state, City, and municipal laws, ordinances, rules and regulations required of an employer performing services such as the Services, and shall make all reports and remit all withholdings or other deductions from the compensation paid to Contractor's personnel as may be required by any Federal, state, City, or municipal law, ordinance, rule, or regulation.

ARTICLE 21. CONFLICT OF INTEREST.

The Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly which could conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by the Contractor. The Contractor guarantees that he/she has not offered or given to any member of, delegate to the Congress of the United States, any or part of this contract or to any benefit arising therefrom.

- 21.1 No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof.
- 21.2 No officer, employee, architect, attorney, engineer, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the Project.
- 21.3 The Contractor may not knowingly contract with a supplier or manufacturer if the individual or entity who prepared the Contract Documents has a corporate or financial affiliation with the supplier or manufacturer.
- 21.4 The Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, may be involved. Such a conflict may arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest in the Contractor. The Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from the Contractor or subcontractors.
- 21.5 If the Owner finds after a notice and hearing that the Contractor, or any of the Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of the Owner or Federal agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, the Owner may, by written notice to the Contractor, terminate this Contract. The Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which the Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.
- 21.6 In the event this Contract is terminated as provided in paragraph (e) of this section, the Owner may pursue the same remedies against the Contractor as it could pursue in the event of a breach of this Contract by the Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, the Owner may pursue exemplary damages in an amount (as determined by the Owner) which shall not be less than three nor more than ten times the costs the Contractor incurs in providing any such gratuities to any such officer or employee.

ARTICLE 22. DEBARMENT AND SUSPENSION

Contractor as part of the procurement response, Attachment "B" has submitted to the City a certification that Contractor and its principals, if applicable, are not presently debarred or suspended by any Federal department or agency from participating in this transaction. Contractor now agrees to verify, to the extent applicable, that for each lower tier subcontractor that exceeds \$25,000 as a "covered transaction" under the Services to be provided is not presently disbarred or otherwise disqualified from participating in the federally assisted services. The Contractor agrees to accomplish this verification by:

ARTICLE 23. PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES

Pursuant to Florida Statutes Section 215.4725, contracting with any entity that is listed on the Scrutinized Companies that Boycott Israel List or that is engaged in the boycott of Israel is prohibited. Contractors must certify that the company is not participating in a boycott of Israel. Any contract for goods or services of One Million Dollars (\$1,000,000) or more shall be terminated at the City's option if it is discovered that the entity submitted false documents of certification, is listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has been engaged in business operations in Cuba or Syria after July 1, 2018.

Any contract entered into or renewed after July 1, 2018, shall be terminated at the City's option if the company is listed on the Scrutinized Companies that Boycott Israel List or engaged in the boycott of Israel. Contractors must submit the certification that is attached to this agreement as Exhibit "C". Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination was in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error, then the City shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute Section 215.4725.

ARTICLE 24. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest, agrees as follows:

- a. Compliance with Regulations: The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated and attached hereto as Attachment "B".
- b. Nondiscrimination: The Contractor, regarding the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- d. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or other governmental entity to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the other governmental entity, as appropriate, and will set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of Contractor's noncompliance with the non-discrimination provisions of this contract, the City will impose such contract sanctions as it or another applicable state or Federal governmental entity may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the Agreement until the Contractor complies; and/or
- b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

f. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the City to enter into any litigation to protect the interests of the City. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

ARTICLE 25. MINORITY/WOMEN'S BUSINESS ENTERPRISES

Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible, in accordance with 2 CFR 200.321. If subcontracts are to be let, prime contractor will require compliance by all sub-contractors. Information regarding certified M/WBE firms can be obtained from (the following list is not exhaustive):

- Florida Department of Management Services (Office of Supplier Diversity),
- Florida Department of Transportation,
- Minority Business Development Center in most large cities, and
- Local Government M/DBE programs in many large counties and cities.

ARTICLE 26. SPECIAL CONDITIONS – ADDITIONAL FEDERAL REQUIREMENTS.

As some or all Services to be provided under this Agreement may be funded with Federal funds. Contractor agrees to adhere to the required additional Federal requirements set forth in Attachment "E" and incorporated herein by reference.

Contractor also understands that this agreement is subject to the Standard Terms and Conditions and Program Specific Terms and Conditions of all State or Federal grant award(s) that are funding the project. The project is being funded in part by the following State and/or Federal grant award(s):

- State of Florida, Department of Environmental Protection, Land and Water Conservation Fund Program (LWCF), Project LW704.

A copy of grant agreements listed above are available upon request.

ARTICLE 27. GRANT OR AGREEMENT REQUIREMENTS

Through the course of this Agreement, the Owner may be awarded additional state or Federal grants that may fund some or all Services to be provided under this agreement. Contractor will be provided a copy of the executed grant agreement and agrees to comply with all the requirements of the grant agreement.

ARTICLE 28. INSPECTION BY FEDERAL AGENCY REPRESENTATIVES

The Federal and state grant administrators, the Comptroller General of the United States, or any of their authorized representatives and agents shall have the right during normal business hours to conduct announced and unannounced onsite and offsite physical visits of contractors corresponding to the duration of their records retention obligation.

ARTICLE 29. EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

- a) The contractor must retain all records in compliance with 2 C.F.R. 200.334. While electronic storage of records (backed up as appropriate) is preferable, the contractor has the option to store records in hardcopy (paper) format.
- b) The City, Federal and state grant administrators, or the Comptroller General of the United States, or any of their duly authorized representatives shall, generally until **three years** after final payment under this agreement, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions. This right also includes timely and reasonable access to the contractor's personnel for the purpose of interview and discussion related to such documents.
- c) The Contractor agrees to include in first-tier subcontracts under this agreement a clause substantially the same as paragraph (a and b) above. "Subcontract," as used in this clause, excludes purchase orders that do not exceed \$10,000.
- d) The periods of access and examination in paragraphs (a), (b), and (c) above for records relating to (1) appeals under the disputes clause of this agreement, (2) litigation or settlement of claims arising from the performance of this agreement, or (3) costs and expenses of this agreement to which the City, Federal and state grant administrators, or the Comptroller General of the United States or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

ARTICLE 30. INCONSISTENCIES AND ENTIRE AGREEMENT.

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any attachment attached hereto, any document or events referred to herein, or any document incorporated into this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given superior effect and priority over any conflicting or inconsistent term, statement, requirement or provision contained in any other document or attachment, including but not limited to Attachments listed in Section 1.

ARTICLE 31. SEVERABILITY.

Any provisions or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

ARTICLE 32. ENTIRE AGREEMENT.

This Agreement and Exhibits A through I contains the entire agreement of the parties, and may be amended, waived, changed, modified, extended, or rescinded only by in writing signed by the party against whom any such amendment, waiver, change, modification, extension and/or rescission is sought.

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

ARTICLE 33. MISCELLANEOUS

33.1 *Terms*

Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

33.2 *Assignment of Contract*

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

33.3 *Successors and Assigns*

Owner and Contractor each bind itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

33.4 *Contractor's Certifications*

Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 12.5:

- A. "Corrupt Practice" means the offer, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
- B. "Fraudulent Practice" means an intentional misrepresentation of facts made:
 - (1) To influence the bidding process or the execution of the Contract to the detriment of Owner,
 - (2) To establish Bid or Contract prices at artificial non-competitive levels, or
 - (3) To deprive Owner of the benefits of free and open competition;
- C. "Collusive Practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

- D. "Coercive Practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

The contractor shall not use any Federal or state seal(s), logos, crests, or reproductions of flags or likenesses of Federal or state agency officials without specific pre- approval from the agency.

This is an acknowledgement that Federal financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, Federal and state policies, procedures, and directives

"The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

"The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

ARTICLE 34. GOVERNING LAW, VENUE AND WAIVER OF JURY TRIAL.

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in the 1st Judicial Circuit in and for City of Milton, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. In the event it becomes necessary for the City to file a lawsuit to enforce any term or provision under this Agreement, then the City shall be entitled to its costs and attorney's fees at the pretrial, trial and appellate levels. BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28, Florida Statutes.

ARTICLE 35. INDEMNIFICATION AND WAIVER OF LIABILITY.

The Contractor agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against claims, damages, losses and expenses (including but not limited to attorney's fees, court costs and costs of appellate proceedings) relating to, arising out of or resulting from the Contractor's negligent acts, errors, mistakes or omissions relating to professional Services performed under this Agreement. The Contractor's duty to defend, hold harmless and indemnify the City its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury; sickness; disease; death; or injury to impairment, or destruction of tangible property including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes or omissions related to Services in the performance of this Agreement including any person for whose acts, errors, mistakes or omissions the Contractor may be legally liable. The parties agree that TEN DOLLARS (\$10.00) represents specific consideration to the Contractor for the indemnification set forth herein.

The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the City to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the City thereafter to enforce such provisions.

ARTICLE 36. REPRESENTATION OF AUTHORITY TO CONTRACTOR/SIGNATORY.

The individual signing this Agreement on behalf of Contractor represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. The signatory represents and warrants to the City that the execution and delivery of this Agreement and the performance of the Services and obligations hereunder have been duly authorized, and that the Agreement is a valid and legal agreement binding on the Contractor and enforceable in accordance with its terms.

IN WITNESS WHEREOF, Owner, and Contractor have signed this Agreement in triplicate. One counterpart each has been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed, initialed, or identified by Owner, and Contractor, or identified by Engineer on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

License No.: _____
(Where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

Agent for service of process:

Exhibit A – Contractor’s Bid

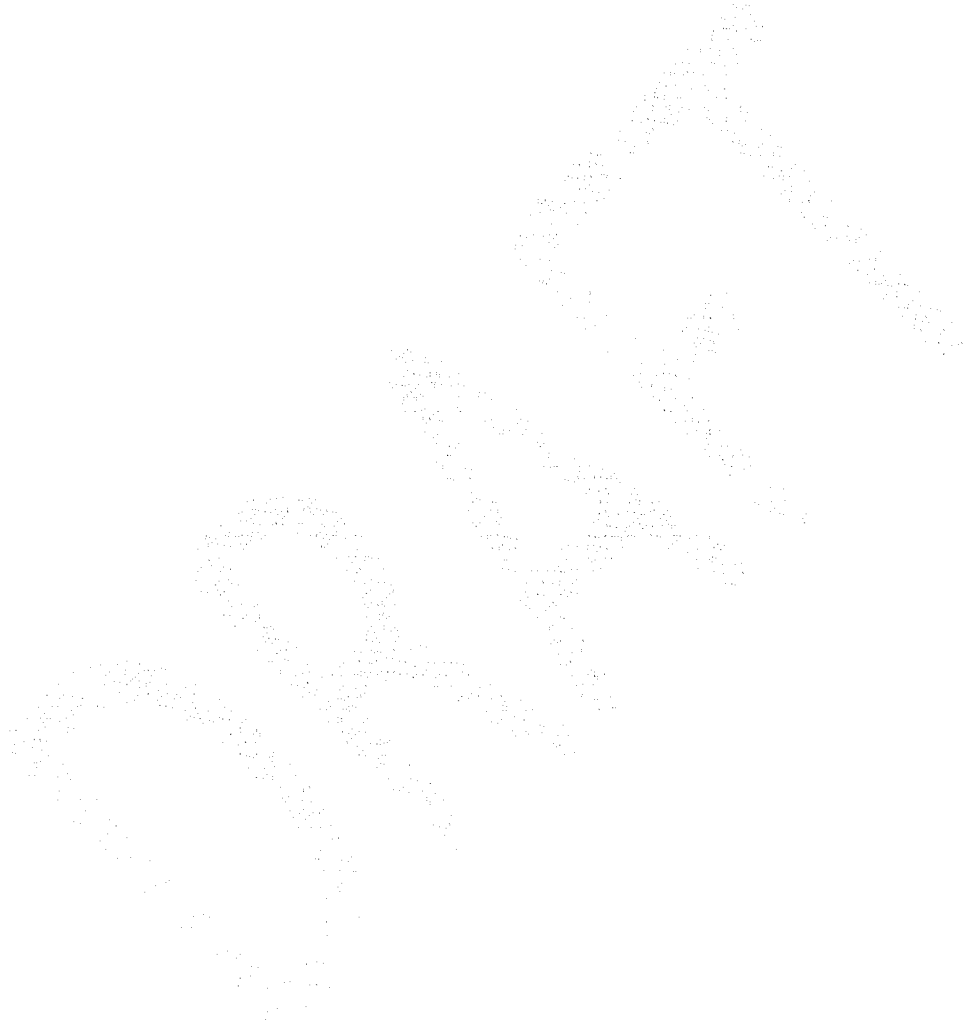


Exhibit B – Documentation Submitted by Contractor Prior to Award

To Include the Following Signed Documents:

Conflict of Interest Disclosure
Debarment and Suspension Certification
Drug-Free Workplace Confirmation
Employee Equal Opportunity Bidder's Certification
Lobbying CD-512 Form
Non-Collusion Affidavit
Notices of Requirements for Affirmative Action
Public Entity Crime Sworn Statement
Scrutinized Contractors Certificate
Small, Minority, Women's Businesses Certification

Exhibit C – Insurance Requirements

The Contractor shall not commence work under this Contract until the Contractor has obtained all insurance reasonably required by the Owner, nor shall the Contractor allow any subcontractor to commence work on his/her subcontract until the insurance required of the subcontractor has been so obtained and approved.

The Contractor shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Commercial General Liability - ISO CG 001 Form or equivalent.

General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000
Each Occurrence Limit	\$1,000,000
Personal/advertising Injury	\$1,000,000
Fire Damage (Any One Fire)	\$50,000
Medical Payments (Any One Person)	\$5,000

2. Automobile Liability

Bodily Injury/Property Damage	\$1,000,000 each accident
Personal Injury Protection (PIP)	Statutory

3. Workers' Compensation

Coverage A (Workers' Compensation)	Statutory – F.S. chapter 440
Coverage B (Employers Liability):	
❖ Each Accident	\$100,000
❖ Disease-Each Employee	\$500,000
❖ Disease-Policy Limit	\$100,000

4. Other Insurance:

None

Scope of Insurance and Special Hazards: The insurance obtained, which is described above, shall provide adequate protection for the Contractor and his/her subcontractors, respectively, against damage claims that may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by him/her and against any of the special hazards that may be encountered in the performance of this Contract.

Proof of Carriage of Insurance: The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates, and dates of expiration of applicable insurance policies.

Exhibit D- Civil Rights Clauses

Title VI List of Pertinent Nondiscrimination Acts and Authorities

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The contractor is required to comply with all non-discrimination requirements summarized in this section, and to ensure that all sub-contracts contain these nondiscrimination requirements.

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), as applicable, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*) which prohibits discrimination on the basis of race, color, national origin as implemented by Department of Treasury at 31 CFR part 22 and Department of Defense at 32 CFR part 195;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability), as implemented by Department of Justice regulations at 28 CFR part 41 and Department of Defense regulations at 32 CFR part 56;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age), as implemented by Department of Health and Human Services regulations at 45 CFR part 90 and Department of Treasury at 31 CFR Part 23;
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of gender, blindness, or visual impairment (20 USC § 1681 *et seq.*), as implemented by Department of Defense regulations at 32 CFR part 196 and Department of Treasury at 31 CFR part 28.
- Architectural Barriers Act of 1968 (42 USC § 4151 *et seq.*) prohibits on basis of disability and relates to physically handicapped persons' ready access to, and use of, buildings and facilities for which Federal funds are used in design, construction, or alternation.
- Americans with Disability Act of 1990, as amended (42 U.S.C. § 12101 *et seq.*) ("ADA"), including the ADA Amendments Act of 2008 (Public Law 110-325, ("ADAAA"), prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
- Any other applicable non-discrimination law(s).

Exhibit E

Special Conditions State and Federal Certifications and Assurances

The following special conditions apply to the Agreement and are incorporated herein by reference:

CLEAN AIR AND WATER

Clean Air Act (42 U.S.C. 7401-7671q.) and Federal Water Pollution Control Act (33 U.S.C. 1251-1387) Applicable to Contracts in Excess of \$150,000. The Contractor agrees to report any violation to City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA).

"Facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by the Contractor or any subcontractor, used in the performance of the Contract or any subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the United States Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.

In compliance with regulations issued by the EPA, **(2 C.F.R. part 1532), pursuant to the Clean Air Act, as amended (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.); and Executive Order 11738,** the Contractor agrees to:

- 1) Not utilize any facility in the performance of this contract or any subcontract which is listed on the Excluded Parties List System, part of the System for Award Management (SAM), pursuant to 2 C.F.R part 1532 for the duration of time that the facility remains on the list;
- 2) Promptly notify the City if a facility the Contractor intends to use in the performance of this contract is on the Excluded Parties List System or the Contractor knows that it has been recommended to be placed on the list;
- 3) Comply with all requirements of the Clean Air Act and the Federal Water Pollution Control Act, including the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all applicable clean air and clean water standards; and
- 4) Include or cause to be included the provisions of this clause in every subcontract and take such action as the Federal agency may direct as a means of enforcing such provisions.

EQUAL EMPLOYMENT OPPORTUNITY

Equal Employment Opportunity (2 CFR Part 200, Appendix II(C); 41 CFR § 61-1.4; 41 CFR 61-4.3; Executive Order 11246).

The Contractor hereby agrees that it will incorporate or cause to be incorporated into any subcontract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Exemptions to Above Equal Opportunity Clause (41 CFR Chapter 60):

(1) Contracts and subcontracts not exceeding \$10,000 (other than Government bills of lading, and other than contracts and subcontracts with depositories of Federal funds in any amount and with financial institutions which are issuing and paying agents for U. S. savings bonds and savings notes) are exempt. The amount of the contract, rather than the amount of the Federal financial assistance, shall govern in determining the applicability of this exemption.

(2) Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.

(3) Contracts and subcontracts not exceeding \$10,000 for standard commercial supplies or raw materials are exempt.

Standard Federal Equal Employment Opportunity Construction Contract Specifications:

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally), the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to

ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. If the price of this Agreement/Contract exceeds \$10,000, the Owner shall give written notice to the Director of the Office of Federal Contract Compliance Programs within ten working days of award of this Agreement/Contract. The notice is to include the name, address, and telephone number of the Contractor; the employer identification number of the Contractor; the dollar amount of this Agreement/Contract; the estimated starting and completion dates of this Agreement/Contract; the number of this Agreement/Contract; and the geographical area in which the Work is to be performed.

17. If the price of this Agreement/Contract equals or exceeds \$50,000 and if the Contractor has 50 or more employees, the Contractor shall electronically file Standard Form 100 (EEO-1) online at <https://egov.eeoc.gov/eeo1/eeo1.jsp> within 30 calendar days after the award of this Agreement/Contract, unless the Contractor has submitted such a report within 12 months preceding the date of award of this Agreement/Contract. In addition, the Contractor shall ensure that each construction subcontractor having 50 or more employees and a lower-tier construction subcontract with a price equaling or exceeding \$50,000 also electronically files this form within 30 calendar days after the award to it of the lower-tier construction subcontract, unless the construction subcontractor has submitted such a report within 12 months preceding the date of award of the lower-tier construction subcontract.

HEALTH, SAFETY, AND ACCIDENT PREVENTION

1 In performing this contract, the Contractor shall:

- (a.) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to their health and/or safety as determined under construction safety and health standards promulgated by the secretary of Labor by regulation;
- (b.) Protect the lives, health, and safety of other persons;
- (c.) Prevent damage to property, materials, supplies, and equipment; and
- (d.) Avoid work interruptions.

2 For these purposes, the Contractor shall:

- (a.) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR part 1926. Failure to comply may result in imposition of sanctions pursuant to the **Contract Work Hour and Safety Standards (40 U.S.C. 3701-3708)**. The Certification regarding Work Hours and Safety Standards executed by Contractor and attached as part of Exhibit "G" to the Agreement is hereby acknowledged and made part of the Agreement by reference.
- (b.) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

3 The contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this Contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR part 1904.

4 The Owner shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the Work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Owner may issue an order stopping all

or part of the Work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

- 5 The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the Federal agency, or the Secretary of Labor shall direct as a means of enforcing such provisions.

HISTORICAL AND ARCHAEOLOGICAL DATA PRESERVATION

National Historic Preservation Act of 1966 (54 U.S.C. 300101 et seq., formerly at 16 U.S.C. 470 et seq.) and Executive Order No. 11593 of May 31, 1971, Contractor agrees to facilitate the preservation and enhancement of structures and objects of historical, architectural or archaeological significance and when such items are found and/or unearthed during the course of project construction. Any excavation by the Contractor that uncovers an historical or archaeological artifact shall be immediately reported to the Owner and a representative of the Federal agency. Construction shall be temporarily halted pending the notification process and further directions issued by the Federal agencies after consultation with the State Historic Preservation Officer (SHPO) for recover of the items.

IMMIGRATION REFORM AND CONTROL ACT OF 1986 (STATE OF FLORIDA EXECUTIVE ORDER 11-116)

The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. The Contractor shall only employ individuals who may legally work in the United States – either U.S. citizens or foreign citizens who are authorized to work in the U.S. The Contractor shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system (<http://www.uscis.gov/portal/site/uscis>) to verify the employment eligibility of:

- all new employees, during the term of this Agreement, to perform employment duties within Florida; and,
- all new employees (including subcontractors and subrecipients) assigned by the Contractor to perform work pursuant to this Agreement.

The Contractor shall include this provision in all subcontracts/subgrants it enters into for the performance of work under this Agreement.

LABOR STANDARDS PROVISIONS

If the Agreement is a prime construction contract greater than \$2,000 awarded by the City, and if required by the Federal Legislation, The Contractor must comply with the Davis Bacon Act.

Davis-Bacon Act (2 CFR Part 200; 29 CFR Part 5) and (40 U.S.C. 3141-3148)

In compliance with the Davis-Bacon Act, contractor agrees to:

- Pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- Pay wages not less than once a week.
- Place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation.
- The decision to award a subcontract must be conditioned upon the acceptance of the wage determination.
- The Owner shall report all suspected or reported violations to the Federal awarding agencies.

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is

attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination,
- (2) The classification is utilized in the area by the construction industry, and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-

Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside, in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding.

The Federal agency or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal agency or its' designee may, after written notice to the Contractor, City, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. The Federal agency or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due. The comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) For each week in which Contract work is performed, the Contractor shall submit a copy of all payrolls to the Owner for transmission to the Federal agencies or their designees. The payrolls submitted shall set out accurately and completely all information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Owner if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, City, or Owner, as the case may be, for transmission to the City, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the City government agency (or the applicant, City, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3; and

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the City, the Federal agencies or their designee, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, City, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a

percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented by Department of Labor regulations (29 C.F.R. Part 2, "Contractors and Subcontractors on Public Buildings or Public works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that the Contractor and any subcontractors shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which they are otherwise entitled.

In compliance with the Copeland Act, the contractor agrees to: Furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

LOBBYING RESTRICTIONS

(a) This Contract, or subcontract is subject to **Byrd Anti Lobbying Amendment (31 U.S.C. 1352)**, regarding lobbying restrictions. This section is explained in the common rule, 15 C.F.R part 28 (55FR 6736-6748, February 26, 1990). Each bidder under this Contract or subcontract is generally prohibited from using Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connect with the Federal awards.

(b) **Contract Clause Threshold:** This Contract Clause regarding lobbying must be included in each bid for a contract or subcontract exceeding \$100,000 of Federal funds at any tier under the Federal awards.

(c) **Certification and Disclosure:** Each bidder of a contract or subcontract exceeding \$100,000 of Federal funds at any tier under the Federal award must file Form CD-512, *Certification Regarding Lobbying – Lower Tier Covered Transactions*, and, if applicable, Standard Form-LLL, *Disclosure of Lobbying Activities*, regarding the use of any nonfederal funds for lobbying. Certifications shall be retained by the Contractor or subcontractor at the next higher tier. All disclosure forms, however, shall be forwarded from tier to tier until received by the Owner, who shall forward all disclosure forms to the Federal agencies.

(d) **Continuing Disclosure Requirement:** Each Contractor or subcontractor that is subject to the Certification and disclosure provision of this Contract Clause is required to file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person. Disclosure forms shall be forwarded from tier to tier until received by the Owner, who shall forward all disclosure forms to the Federal agencies.

LOCAL GOVERNMENT CONSTRUCTION PREFERENCES PROHIBITED

A. Pursuant to Section 255.0991, F.S., for a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation, a state, college, City, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

1. The contractor's maintaining an office or place of business within a particular local jurisdiction;
2. The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or
3. The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

B. For any competitive solicitation that meets the criteria in Paragraph A., a state college, City, municipality, school district, or other political subdivision of the state shall disclose in the solicitation document that any applicable local ordinance or regulation does not include any preference that is prohibited by Paragraph A.

PROCUREMENT OF RECOVERED MATERIALS

Contractor and any subcontractors agree to comply with **Section 6002 of the Solid Waste Disposal Act**, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule,
- b) Fails to meet reasonable contract performance requirements, or
- c) Is only available at an unreasonable price.

WHISTLEBLOWER PROTECTION

In accordance with **41 U.S.C. 4712**, neither the Contractors (vendors), or subcontractors may discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information to a person or entity listed below that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the completion for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- A Member of Congress or a representative of a committee of Congress;
- An Inspector General;
- The Government Accountability Office;
- A Federal agency employee responsible for contract or grant oversight or management;
- An authorized official of the Department of Justice or other law enforcement agency;
- A court or grand jury; and/or
- A management official or other employee of the Owner, contractor (vendor), or subcontractor who has the responsibility to investigate, discover, or address misconduct.

The Contractors (Vendors) and subcontractors shall inform its' employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

Exhibit F – Documentation Submitted by Contractor After Notice of Award

To Include the Following Signed Documents:

- E-Verify Statement of Compliance**
- Prompt Payment Affidavit**
- Work Hours and Safety Standards**