



## OFFICE OF THE PURCHASING AGENT

Post Office Box 2451  
Daytona Beach, Florida 32115-2451

Phone (386) 671-8080  
Fax (386) 671-8085

### REQUEST FOR PROPOSALS

#### INVITATION

**NOTICE IS HEREBY GIVEN** that sealed proposals will be received in the office of the Purchasing Agent, Daytona Beach City Hall, Room 146, 301 South Ridgewood Avenue, Daytona Beach, Florida 32114, until **2:00 PM, February 11, 2019**, at which time they will be publicly opened for the following:

**DERBYSHIRE SIDEWALKS CEI SERVICES – Phase I  
Vine Street (Brentwood Drive to 4<sup>th</sup> Street) and 3<sup>rd</sup> Street (Vine St to Nova Rd)  
(No Local Preference)**

**AWARD OF CONTRACT** subject to the Purchasing Code of the City of Daytona Beach.

**NOTE:** This project is funded with federal funds; therefore Local Preference is ***not*** applicable to this solicitation.

**THE RFP MAY BE OBTAINED** on-line at [City of Daytona Beach Current Solicitations | Vendor Registry](#) or as a hard copy at the office of the Purchasing Agent City Hall, 301 South Ridgewood Avenue, Room 146, Daytona Beach, FL 32114.

**SCOPE OF WORK:** Construction engineering and inspection for the Derbyshire Neighborhood Sidewalk Project (Phase I). The CEI will oversee the contractor who is awarded the construction contract for 1871 LF of 6' wide concrete sidewalks on the west side of Vine St (Brentwood Dr to 4th St), and 1274 LF of 6' wide concrete sidewalk on the north side of 3rd St (Vine St to Nova Rd). The project also includes the construction of ADA compliant sidewalk ramps with detectable warnings, reconstruction of driveways for ADA compliance, curb and gutter, earthwork, clearing and grubbing, mobilization, maintenance of traffic, stormwater improvements, valve box adjustments, sodding, pedestrian signal modifications, sign relocations, and thermoplastic striping.

Work shall include construction project inspection, project administration and recordkeeping, materials acceptance testing (Verification Testing), EEO compliance oversight, and verification and Federal contract compliance.

The Consultant will provide services as necessary to administer the construction contract in a manner so as to determine that the project is constructed in reasonable conformity with the plans, specifications, and contract provisions.

There is no local preference for this RFP.

**MINIMUM QUALIFICATIONS:** Proposers must be FDOT prequalified in Construction Engineering Inspection for Roadway (10.1) and Construction Materials Inspection (10.3). Prime Consultants must hold the 10.1 prequalification, the Prime or its sub consultant may satisfy the prequalification requirement for 10.3.

**A NON-MANDATORY PRE-PROPOSAL CONFERENCE** will be held at the Daytona Beach Public Works Complex, 950 Bellevue Ave., Large Conference Room, Daytona Beach, Florida 32114, on **January 17, 2019 at 10:30 AM**. Interested Proposers are *urged* to attend.

**THE CITY RESERVES THE RIGHT** to reject any or all proposals or parts thereof, or to accept the proposal(s) or parts thereof, when considered by it to be in the best interest of the City. Any proposal received after the time and date specified will not be considered. No Proposer may withdraw their proposal for a period of sixty (60) days after the date of the opening of proposals. This time period is reserved for the purpose of reviewing proposals and investigating the qualifications of the Proposers.

**PROPOSALS SHALL BE ADDRESSED** to the City of Daytona Beach, Purchasing Agent, 301 South Ridgewood Avenue, Room 146, Daytona Beach, Florida, 32114, and all proposals shall have the following plainly marked on the outside of the envelope:

PROPOSAL FOR:           **DERBYSHIRE SIDEWALKS CEI SERVICES**

PROPOSAL NO:           **19244**

**THE CITY OF DAYTONA BEACH  
BY: JOANNE FLICK, CPPO  
PURCHASING AGENT  
ISSUED: JANUARY 10, 2019  
Daytona Beach News Journal  
[www.codb.us](http://www.codb.us)**

**REQUEST FOR PROPOSALS  
No. 19244**

**GENERAL CONDITIONS**

**THIS IS NOT AN INVITATION TO BID.** This is a Request for Proposals for professional services as defined in F.S. § 287.055, issued in accordance with the City of Daytona Beach Code Chapter 30, Article II, Division 3, "Source Selection and Contract Formation". The Request for Proposals specifies the services needed, and lists the criteria upon which the Proposal responses will be evaluated. When received, Proposals will be reviewed, evaluated, and ranked in order, beginning with the one deemed most qualified. The City Manager, or designee, shall negotiate a contract with the shortlisted firm deemed most qualified. Should the City Manager or designee be unable to negotiate a satisfactory contract with the most qualified, highest ranked shortlisted firm, the City Manager or designee, shall terminate negotiations with that firm and begin negotiations with the next most qualified shortlisted firm, and so on, until negotiations are successful or until this RFP is terminated.

**NOTE:** The project is funded with federal funds; therefore Local Preference is ***not*** applicable to this solicitation.

**GENERAL CONDITIONS**

1. **INSTRUCTIONS TO PROPOSERS:** To insure consideration of your Proposal, please follow these instructions. One original and 5 copies of all Proposal sheets must be executed and returned, unless otherwise directed. **Provide one pdf copy of the Proposal in its entirety on cd, dvd, or other electronic media.** All Proposals not in compliance with the conditions specified herein are subject to rejection.
  
2. **PROPOSAL ENVELOPE:** All Proposals must be returned in a sealed box or envelope addressed to the City of Daytona Beach and should contain on the outside the following information:
  - a. Name and address of Proposer
  - b. Proposal Number 19244
  - c. Date and time of Proposal opening

**PLEASE NOTE:** The address of the Purchasing Division is:

Daytona Beach City Hall  
301 South Ridgewood Avenue  
Room 146  
Daytona Beach, FL 32114

3. **REQUESTS FOR INTERPRETATIONS.** If the Proposer is in doubt as to the meaning of any of the RFP Documents or other Contract Documents included in this solicitation, the Proposer may submit a written request to the City for an interpretation, care of the Purchasing Agent at the address set forth in the Invitation for delivery of the completed Proposal. Such requests must be received 10 days

prior to Proposal opening in order to be considered. The City is not obligated to respond to such requests. Any clarification or interpretation issued by the City in the form of a written addendum will be deemed to be a part of the Proposal Documents.

No oral clarification or interpretation will be binding.

4. **EXECUTION OF PROPOSAL**: The Proposal must contain a manual signature of an individual or of an authorized representative of the firm making the Proposal, in the space provided on the Proposal Form, if provided as a part of the Proposal package, or on Proposer's own form, if a specific Proposal form is not provided. The Proposer's name shall be inserted on all other sheets requiring the Proposal's name. In order to ensure uniformity, Proposals must be submitted on the Proposal Form, if provided, and on the attached pages.
5. **PROPOSAL OPENING - LATE PROPOSALS**: Proposals will be opened publicly, the name of the Proposers read aloud and recorded, on the date and time indicated, at the location specified in this Request for Proposals. It is the Proposers' responsibility to make certain that his/her Proposal is in the hands of the Purchasing Agent prior to the opening time at the specified location. Any Proposal received thereafter will be rejected and returned to the Proposer.
6. **WITHDRAWAL OF PROPOSALS**: Proposals may be amended or withdrawn only by written notice prior to the Proposal opening. Proposal amendments must be submitted in a sealed envelope. Amendments or withdrawals received after the Proposal opening will not be effective, and the original Proposal submitted will be considered.
7. **CONSIDERATION OF PROPOSALS**: Telephonic, electronic, or faxed Proposals will not be considered. The Proposer agrees that his/her Proposal will not be withdrawn within sixty (60) calendar days following opening of the Proposals, and that during such time his Proposal will remain firm and irrevocable. The City reserves the right to reject any or all Proposals, and to waive any technical defects in Proposals.
8. **GENERAL REVIEW PROCEDURES**: The Purchasing Code, Chapter 30, Code of the City of Daytona Beach, sets forth the general review procedures for competitive sealed proposals. In addition, see Paragraph 26 below, Selection Process.

**NOTE:** The project is funded with federal funds; therefore Local Preference is **not** applicable to this solicitation.

9. **CONFLICTS OF INTEREST**. The state's Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes ("the Ethics Code"), applies to this solicitation. The Ethics Code prohibits City officers, employees, and agents from participating in the negotiation or award of any contract resulting from this solicitation, and from taking part in the administration of any contract resulting from this solicitation taking, if they have a prohibited conflict of interest (such as being an owner, officer, or employee of a Proposer). The Ethics Code may also prohibit the award of a contract resulting from this RFP to any Proposer whose ownership

interest, officers, or employees, include a City officer or employee (or certain persons related to such City officer or employee). In addition, due to the funding sources used for the services being solicited by this RFP, 23 CFR §§ 1.33 and 172.7 apply. These CFR provisions contain prohibitions on conflicts of interest in addition to those found in the Ethics Code. The City will comply with these conflicts of interest provisions in implementing this RFP and in implementing any contract awarded pursuant to this RFP. In order to assist the City in preventing, identifying, and mitigating any conflicts of interest prohibited by these conflicts of interest provisions, the Proposer will be required to complete the Conflict of Interest form and submit it with the Proposal; and to update the Conflict of Interest form as when necessary as conditions change, including during contract administration if the Proposer is awarded a contract.

10. **AWARD:** Award will be made by the City to the firm deemed most qualified, which will be determined by evaluation of Proposals using the evaluation criteria contained in the RFP, that has successfully negotiated a contract, in accordance with applicable rules and regulations governing the contract and the purchase adopted and established by the City and the State of Florida.
11. **NON-COLLUSION:** By submitting a Proposal in response to the request and signing the Anti-Collusion Statement form enclosed, the Proposer represents that, should the Proposal be accepted, the resulting contract(s) would not violate any provisions of federal law or regulations, or any ordinances or regulations established by the City. The Proposer warrants as an integral and essential part of his/her Proposal: (a) that he/she has not participated in nor is he/she obligated or bound by any agreement, arrangement or other understanding with any person, firm or corporation with respect to the allocation of the business afforded by or resulting from the acceptance of his/her Proposal; (b) that his/her Proposal is or is intended to be competitive and free from any collusion with any person, firm or corporation; and (c) that he/she is not a party to nor has participated in nor is he/she obligated or otherwise bound by any agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning Proposals, prices, terms or conditions upon which the contract(s) resulting from this acceptance is to be performed.
12. **PERMITS, ETC.:** All Proposals submitted shall include in the price the cost of any business or professional licenses, permits or fees required by the City and any agency having jurisdiction over the services solicited through this Request for Proposal.
13. **PATENT INFRINGEMENT, ETC:** By submission of a Proposal the Proposer certifies that the services to be furnished will not infringe any valid patent, copyright, or trademark and the successful Proposer shall, at his/her own expense, defend any and all actions or suits charging such infringement and hold the City harmless in case of any such infringements.
14. **PERFORMANCE:** During the performance of the contract, the Proposer agrees as follows:

- a. The Proposer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age, disability, religion, income or family status.
  - b. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirement of this section.
15. **FLORIDA PUBLIC RECORDS LAW:** Sealed Proposals received by the City pursuant to the Request for Proposals will be temporarily exempt from disclosure in accordance with Florida's Public Records Laws. Thereafter, all Proposals will be open for a personal inspection by any person pursuant to Public Records Law.

If the Proposer believes that the Proposal or any portion thereof is permanently exempt from disclosure under the public records laws, the Proposer must state the grounds for this position in CAPITAL LETTERS on a cover sheet accompanying the sealed Proposal. The Proposer will be contacted prior to the opening of the Proposal and a determination will be made as to whether or not it is exempt prior to opening. If a determination is made that it is not exempt from disclosure, the Proposer may request the return of the sealed Proposal in writing.

16. **EVALUATION CRITERIA:** The following weighted evaluation criteria will be used to evaluate Proposals and develop a recommendation for award for subsequent City Manager approval. Each criterion will be scored between 1 and 5; 1=poor, 2=below average, 3=average, 4=above average, 5=excellent. Scores will be multiplied by the criterion weight for a weighted score; weighted scores will be totaled for the weighted total score.

**Minimum Qualifications:** Proposers must be FDOT prequalified in Construction Engineering Inspection for Roadway (10.1) and Construction Materials Inspection (10.3) per Rule 14-75 Administrative Code. Prime Consultants must hold the 10.1 prequalification, the Prime or its sub consultant may satisfy the prequalification requirement for 10.3.

Provide proof of pre-qualification with the Proposal.

Failure to demonstrate that the Minimum Qualifications are met will result in the Proposal being declared non-responsive and ineligible for consideration for award.

a. Project Understanding and Firm's Experience

Demonstrate familiarity with project requirements and project location. Proposers shall provide 5 similar projects successfully completed by the firm in the 10 years prior to the due date of this RFP. Each project will be eligible for a full point based upon the similarity of the project submitted and the outcome of the Proposer's efforts based upon the Owner's evaluation of the Proposer's performance on the project as provided by the project reference. References must be provided, with contact information for individuals directly associated with the Proposer's similar projects, see Section 19. Failure of the project reference to respond to the City's inquiries may negatively impact the Proposer's score for this criterion. (10 single sided page)

Weight = 15

b. Experience and Qualifications of the Proposed Project Team

The Proposer shall identify all individuals that will be assigned to provide services as outlined in the RFP and briefly explain why those individuals were selected. The Proposer must show adequacy and availability of key personnel, including administrative and inspection personnel, both in numbers and technical capability, to complete the contract with a construction duration of 210 days (180 day to Substantial Completion and an additional 30 days to Final Completion), an additional 30 days to contract close out.

Reference Scope of Work, Section 4, for a list of required certifications; specify which key personnel are so certified, provide documentation of certification. Provide resumes for all key personnel. An organizational chart must be provided. The Proposer must identify the team leader and primary contact for the CITY'S Contract. (10 single sided pages max; exclusive of certifications and organizational chart)

Weight = 30

c. Project Approach

Proposers must include a description of the Proposer's Quality Assurance (QA) Plan detailing the firm's approach and procedures to implementing a quality assurance program on the project. Proposers shall describe similar approaches implemented and managed adhering to both the federal and state requirements necessary for the use of LAP funds. Describe what assistance might be required from the CITY. (10 pages single sided max)

Weight = 20

d. Key Personnel's Experience with FDOT LAP Projects:

Demonstrate key personnel's experience with managing and implementation of FDOT LAP projects. (10 single sided pages max.)

Weight = 35

17. **REQUIRED FORMS:** Proposers will complete and submit the following forms included in this RFP as Attachment A.

375-030-32 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions for Federal Aid Contracts

375-030-33 Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts

375-030-34 Disclosure of Lobbying Activities

375-030-50 Conflict of Interest/Confidentiality Certification

375-040-62 Bid Opportunity List for Commodities & Contractual Services

18. **REFERENCES**: The contact person(s) listed as a reference shall be someone who has personal knowledge of the Proposer's performance during the referenced project. Contact persons must have been informed that they are being used as a reference and that the City may be calling them. More than one person can be listed but all must have knowledge of the project. DO NOT list principals or officers who will not be able to answer specific questions regarding the project.
19. **REJECTION OF PROPOSALS**: The City reserves the right to reject any or all Proposals in whole or in part and to award by items, parts of items, or by any aggregate group of items specified. The City also reserves the right to waive technical defect when in its judgment the best interests of the City thereby will be served.
20. **QUALIFYING PROPOSERS**: Prior to awarding of Proposal, the City may require submission by Proposer of complete financial statement and questionnaire describing Proposer's financial ability and experience in performance of similar work.
21. **RULES AND REGULATIONS**: All work performed under this agreement shall be in strict compliance with local, State and Federal laws, rules and regulations. Proposer shall assume all liability for fines and penalties assessed by the authorities for any infractions.
22. **NO COSTS**: The City of Daytona Beach bears no responsibility for any costs incurred in the preparation of the Proposal.
23. **DRUG FREE WORKPLACE**: The selected firm must provide the Drug Free Workplace Form in accordance with Florida Statute 287.087, prior to Contract award.
24. **PROHIBITION OF LOBBYING**: Except for negotiations authorized by the City Purchasing Code, the Consultants Competitive Negotiations Act, or other state or federal law, lobbying by the Proposer, or the Proposer's principals, officers, employees, attorneys, or other agents, is strictly prohibited during the Blackout Period. Lobbying in violation of this section may cause the proposal to be rejected. NOTE: The project is funded with federal funds; therefore Local Preference is ***not*** applicable to this solicitation.

"Lobbying" means influencing or attempting to influence action or non-action in connection with this RFP or the proposal, through direct or indirect oral or written communication with the Mayor, any member of the City Commission, the City Manager, or any other City employee. The following activities are not within the definition of "lobbying," and are permitted: requests for clarification submitted to the Purchasing Agent in accordance with this RFP, discussions with the Selection Committee as part of the selection process, the submission of additional information in response to a request by the City, and addressing the City Commission during the City Commission meeting at which the contract is awarded or all proposals are rejected.

The Blackout Period begins on the date that this RFP is issued and ends when the contract is awarded or all proposals are rejected.

25. **SELECTION PROCESS:**

For the purpose of selecting the most qualified firm, the City will use a competitive selection process as set forth in pertinent City, State and Federal procurement requirements. The procedure will involve the following steps:

- a. The City will advertise and mail formal Requests For Proposals to interested Proposers.
- b. The City's Selection Committee will review all written Proposals that have been received by the established deadline for submission. The Selection Committee will evaluate responsive written Proposals in accordance with the weighted scoring criteria contained in this RFP.
- c. Tie Proposals: When evaluation of Proposals results in identical ranking with regards to the responses from two or more Proposers, the City shall determine the order of ranking using the method outlined below:

The individual, initial raw scores of each Selection Committee member will be totaled, one criterion at a time, beginning with the highest weighted criterion. The Proposer with the higher/highest total raw score for the highest weighed criterion will be ranked ahead of the remaining tied Proposers. If the total raw scores for the highest weighed criterion results in a tie, then the next highest weighted criterion's raw scores will be added, continuing with the remaining criteria in order of descending weights, until the tie is broken.

- d. The Selection Committee will submit a ranked recommendation for approval to the City Manager, consistent with the Selection Committee's rankings. The Committee's recommendation will include a recommended ranked shortlist of a minimum of 3 proposals. If fewer than 3 proposals have been received, the City will request an exception to proceed from the State LAP administrator and FHWA.
- e. The City Manager has the sole authority, by City Ordinance, Chapter 30, to evaluate, rank, and short list Proposals and to negotiate with Proposers. The Selection Committee has been established to assist the City Manager in this effort, and makes recommendations to the City Manager regarding ranking and short listing. The City Manager may review and approve the Selection Committee's recommendations, or may reject all Proposals, cancel the RFP, and direct re-solicitation. The City Manager will shortlist a minimum of the three most qualified firms, as referenced in Section 30-84 of the City Code. Unless this RFP is terminated as referenced in Section 30-84 of the City Code, the City Manager, or designee, shall negotiate a contract with the most qualified, highest ranked shortlisted firm. Should the City Manager or designee be unable to negotiate a satisfactory proposed contract with the highest ranked, most qualified shortlisted firm, the City Manager or designee, shall terminate negotiations with that firm and begin negotiations with the next most qualified firm, and so on, until negotiations are successful or until this RFP is terminated.

**NOTE:** Local preference is not applicable to this solicitation.

- f. If the City Manager or designee is able to negotiate a satisfactory contract, the proposed budget of the CEI contract, pursuant to this RFP, shall be placed on agenda for City Commission review during a scheduled City Commission meeting. At least 7 days before the date of the meeting at which the City Commission is scheduled to review the proposed award, notice of the proposed action, including the date and time of the City Commission meeting to consider the action, will be posted on the City Purchasing Department's web page. No other form of notice will be provided.
- g. In accordance with § 286.0114, Florida Statutes, every Proposer will have the right to address the City Commission regarding the proposed action of the City Commission's formal delegation of the matter, prior to the City Commission's formal decision on the matter, by appearing at the City Commission meeting at which the City Commission reaches a decision on the Proposal. Proposers must comply with the City's general policy that applies to members of the public who wish to speak on matters before the City Commission, which is summarized on Attachment B. In addition the City Clerk, or designee, summarizes this policy at the beginning of every City Commission meeting. **THE CITY HAS NO FORMAL POLICY OR PROCEDURE FOR THE SPECIFIC PURPOSE OF PROTESTING CONTRACT AWARDS.** Addressing the City Commission as referenced in this Paragraph will be the sole manner in which a Proposer whose Proposal is not recommended for award by the City Manager or designee, may protest a proposed award of contract pursuant to this RFP.
- h. **The City Commission has the sole authority to bind the City to a contract as well as the authority to grant the City Manager authorization to execute the agreement pursuant to this RFP.** The City Commission, or the City Manager, if so authorized, reserves the right to reject the contract negotiated with the most qualified, highest ranked Proposer recommended or selected by the City Manager or designee, to require commencement of contract negotiations with the next ranked Proposer for the City Commission's review at a subsequent Commission meeting, or the City Manager's review, if so authorized, or to reject all Proposers recommended by the City Manager or designee and to require the City Manager or designee to cancel the RFP and re-solicit the services. The City Commission, or the City Manager if so authorized, has the right to modify or reject any proposed contract negotiated pursuant to this RFP submitted to the City Commission or the City Manager.
- i. The City Commission's award of a contract; or the City Manager's award of a contract, if so authorized; or the City Commission's or City Manger's rejection of all proposals received constitutes final action by the City.

26. **FEDERAL COST PRINCIPLES APPLY.** A determination of allowable costs in accordance with Federal cost principles will be performed for services rendered under this contract.

27. **CITY'S PROFESSIONAL CONSULTANT SERVICES CONTRACT FORM.** The City's contract form for professional consultant services, which is included in this RFP, contains additional terms and conditions, including indemnification and insurance requirements, completion deadlines, and liquidated damages, that the Proposer should review prior to submitting the Proposer. The City reserves the right to make changes to the form contract prior to execution to reflect the negotiated agreement between the successful Proposer and the City; and to make additional changes to the contract form for formatting, ensuring compliance with law, and providing for legal sufficiency. The City will provide the successful Proposer the final contract for execution.
28. **LOCAL GOVERNMENT PROMPT PAYMENT ACT.** To the extent required, the City intends to comply with the provisions of the Local Government Prompt Payment Act, Fla. Stat. Section 218.70 et seq., in administering any contract that may be awarded pursuant to this RFP.

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29. **PROCUREMENT SCHEDULE**

Proposal Advertised and Issued	January 10, 2019
Non-Mandatory Pre-Proposal Meeting	January 17, 2019
Deadline for Questions	January 31, 2019
Proposal Due Date	February 11, 2019
Selection Committee Meeting	February 18, 2019
Submit Selection Committee Documentation to FDOT	February 25, 2019
FDOT Review of short listing and concurrence to negotiate with top ranked firm	March 4, 2019
Top ranked firm to submit draft scope and fee to City for review	March 11, 2019
Contract Negotiations by the City Manager as authorized by the City Code of Ordinances Chapter 30, the Purchasing Code.	March 18, 2019
FDOT Concurrence to award CEI Contract and LAP agreement	March 25, 2019
Item to City Commission to request CM have authority to execute LAP agreement and authority to award the CEI Contract up to an established budget amount for CEI services	April 3, 2019
FDOT encumbers funds, authorizes LAP Agreement, and issues a Notice to Proceed	May 1, 2019
City Manager Executes CEI Contract	May 3, 2019

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**ANTI-COLLUSION STATEMENT**

By signing this form, the Proposer agrees that this Proposal is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a Proposal for the same purpose and that the Proposal is in all respects fair and without collusion or fraud.

Sign in ink in the space provided below. Unsigned Proposals will be considered incomplete, and will be disqualified and rejected.

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FORGOING TERMS AND CONDITIONS AND SCOPE OF SERVICES, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PARTIES.

NAME OF FIRM: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

NAME TYPED: \_\_\_\_\_ TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY AND STATE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

**DRUG FREE WORKPLACE FORM**

The undersigned, in accordance with the Florida Statute 287.087 hereby certifies that  
\_\_\_\_\_ does:

(Proposer)

1. Publish a statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, any Available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under solicitation a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug free workplace through implementation of Paragraph 1, through Paragraph 5.

As the person authorized to sign this statement, I certify that this firm fully complies with the above requirements.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature & Title

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to \_\_\_\_\_  
*(print name of the public entity)*  
by \_\_\_\_\_  
*(print individual's name and title)*  
for \_\_\_\_\_  
*(print name of entity submitting sworn statement)*  
whose business address is

\_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is  
\_\_\_\_\_

(If the entity has no FEIN, insert the Social Security Number of the individual signing this sworn statement above:

2. I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined In Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes means:
- (a) A predecessor or successor of a person convicted of a public entity crime, or

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES, cont.**

- (b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, will be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months will be considered an affiliate.
5. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (*Indicate which statement applies.*)

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

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

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer does not specifically place the entity submitting this sworn statement on the convicted vendor list (*attach a copy of the final order.*)

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES, cont.**

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

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_ [Signature]  
Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
(Type of identification)

Notary Public - State of \_\_\_\_\_

By: \_\_\_\_\_

My commission expires \_\_\_\_\_

\_\_\_\_\_  
(Printed typed or stamped commissioned name of Notary Public)

## **SCOPE OF SERVICES Construction**

### **Engineering Inspection Services**

#### **Derbyshire Neighborhood Sidewalk Project (PH I) Daytona Beach, Florida**

##### **Scope of Services:**

The professional services generally consist of construction engineering and inspection for the Derbyshire Neighborhood Sidewalk Project (PH I). Additional project tasks include materials acceptance testing (Verification Testing), DBE and EEO compliance oversight, and all required LAP construction contract administration requirements.

The Consultant will provide services as necessary to administer the construction contract in a manner so as to determine that the project is constructed in reasonable conformity with the plans, specifications, and contract provisions. These services include but are not limited to:

1. Preconstruction Conference: Prepare for and facilitate the Preconstruction Conference with City of Daytona Beach staff. Address and resolve any issues that arise at the meeting.

2. Progress Meetings: Prepare the agenda, attend, and facilitate meetings with City of Daytona Beach staff, contractor, sub-contractors, utility agency representatives and other agencies affected by the project. The Consultant shall prepare meeting minutes of all meetings. It is anticipated that these progress meetings will be conducted on a weekly or as needed basis.

3. Project Administration: Provide project administration and coordinate with City staff. Notify City staff of the necessity of any construction change orders. Assist City staff with responses to Requests for Information (RFIs) during construction phase.

4. Construction Inspection: Provide effective and qualified inspection services. All field technicians shall be certified in the applicable FDOT certifications listed below:

CTQP Class 1 Concrete Technician  
CTQP Asphalt Roadway Level 1  
CTQP Soils and Aggregate Technician  
CTQP Earthwork Technician  
FDOT Intermediate MOT  
CTQP SWPPP Certified

5. Field Surveys: Verify that horizontal and vertical control has been accurately established by the contractor on the project for construction layout.

6. Shop Drawings: Review and approve all shop drawings submitted by the contractor in accordance with the shop drawing submittal process contained in the contract.

7. Reporting: The Consultant will ensure that any and all reporting required by FDOT, Federal Highway Administration (FHWA) and the Owner for this project are met, including all reporting required for 100% reimbursement to the City according to FDOT and FHWA guidelines. Additionally, the Consultant shall maintain all correspondence related to this project.

8. Quality Assurance, Testing for Acceptance, and Training: The Consultant will provide all verification testing during construction per the FDOT Standard Specifications for Road and Bridge Construction, January 2019 with personnel certified to perform the tests. Copies of all certifications shall be filed in the project records for review at any time. Monitor the quality control (QC) testing provided by the Contractor as defined in the Specifications and Contract Documents. Certifications of material submitted by the contractor will be reviewed by the Consultant for conformity to the project specifications.

9. Progress Payments: The Consultant will document, verify, and report accurate quantities for Monthly Progress Payments to the contractor from actual project field records.

10. Revisions to the Contract Plans: Any revisions to the plans shall be submitted by the Consultant to City staff for processing.

11. Certified Payrolls, Employee Interviews and Contract Compliance: Verify the contractor's payrolls for conformance to federal wage rates as defined in the contract. Conduct employee interviews on the approved FDOT forms and compare to the submitted certified payrolls for accuracy. Notify City staff of issues pertaining to certified payrolls, employee interviews, and contract compliance such as EEO compliance, Job Site Bulletin Board inspections, Commercially Useful Function (CUF) observations, and on-the-job training.

12. Project Close-Out: Conduct pre-final inspections and prepare the punch-list of items to be addressed by the contractor. Upon satisfactory completion of the project and in compliance with the required submittals, testing and documentation, submit written certification of compliance to the City and FDOT.

**CONSULTANT CONTRACT PERFORMANCE EVALUATION:** The City will provide the Consultant, via USPS or by email, with an assessment form describing their overall performance on the contract based upon their demonstrated ability to meet the following criteria:

- Adequacy of staffing and suitably equipped to undertake the construction project inspection.
- Materials testing compliance per the terms of the construction documents
- Successful documentation and reporting of the EEO, DBE, Davis Bacon and applicable wage rate reporting per Federal contract compliance.
- Timely preparation of project reimbursements and project close out documentation to the CITY.

This evaluation will become public record.

**PROJECT SCHEDULE**

<b>DERBYSHIRE SIDEWALK CEI SERVICES</b>	
<b>TENTATIVE PROJECT SCHEDULE</b>	
Construction Kick-off Meeting	June 3, 2019
Construction End Date - substantial	180 days, November 30, 2019
Construction End Date - final	210 days, December 30, 2019
CEI Contract Close Out	January 29, 2020

**PROFESSIONAL SERVICES CONTRACT  
CONTRACT NO. 19244**

**THE PARTIES TO THIS CONTRACT** are the City of Daytona Beach (the "CITY"), and >, a > ("CONSULTANT").

In consideration of the mutual covenants herein contained, the Parties agree as follows:

**Section 1. Scope of Services.** CONSULTANT will provide professional DERBYSHIRE SIDEWALKS – Phase I - CEI SERVICES to the CITY as further described in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A includes deadlines for tasks and if applicable, sub-tasks, and lists any deliverables required.

**Section 2. Reserved.**

**Section 3. Fees and Other Payments; Limitations.**

(a) Unless the Exhibits specifically provides for reimbursement of expenses, the Fee(s) described herein will be CONSULTANT's sole compensation for the services to be provided.

(b) The CITY will pay CONSULTANT a not to exceed amount of \$\_\_\_\_\_ based on hourly rates provided in Exhibit B, attached hereto, which includes an agreed-upon estimate of the time needed by CONSULTANT to complete the work.

(c) Payment for expenses such as reimbursables will only be made if expressly provided for in Exhibit B, and will not exceed the reimbursable amount in Exhibit B without contract modifications. In addition:

(1) If Exhibit B specifically provides for reimbursement of travel-related expenses per diem, mileage will be paid in accordance with then-current IRS business related mileage rate and in such cases, only for travel in excess of 50 miles round trip.

(2) If Exhibit B specifically provide for reimbursement of CONSULTANT's cost of using one or more subconsultants, such costs will be paid at the rates set forth in the Exhibits, and CONSULTANT certifies that such rates do not include a mark-up for the benefit of CONSULTANT.

(d) Except for any expenses specifically provided for in Exhibit B, CONSULTANT will be solely responsible for all of costs CONSULTANT incurs in meeting its obligations herein.

**Section 4. Billing; Manner of Payment.** In addition to requirements for payment established by applicable federal, state, or local law including the City Code, payment terms are as follows:

(a) No payment will be due for services performed until CONSULTANT submits a proper invoice. CONSULTANT may invoice the CITY no more frequently than monthly, and no sooner than 30 days after the date of the purchase order.

(b) As to the not to exceed amount, the CITY will pay based on the number of hours performed on the project during that billing period.

(c) In order to be considered proper, the invoice must include all information and documentation that the CITY may need to verify the accuracy of the invoice and the amount of payment due based on the specific requirements of this Contract. Where payment is for the cost incurred for certain reimbursables (such as for subconsultants or air travel), the invoice must include proof that CONSULTANT has paid such costs.

(d) The CITY will within 30 days after receipt of an invoice notify the CONSULTANT that the invoice is improper, or pay CONSULTANT the amount due.

**Section 5. Standard of Performance.** CONSULTANT's services will at a minimum meet the level of care and skill ordinarily used by qualified members of CONSULTANT's profession performing the type of services provided referenced herein within the State of Florida.

CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in the plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature

**Section 6. Relationship between Parties.** This Contract does not create an employee-employer relationship between the CITY and CONSULTANT. CONSULTANT is an independent contractor of the CITY and will be in control of the means and the method in which the requested work is performed. As an independent contractor, CONSULTANT will be solely responsible for payment of all federal, state, and local income tax, and self-employment taxes, arising from this Contract; and CONSULTANT agrees to indemnify and hold harmless the CITY from any obligations relating to such taxes. The CITY will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes. CONSULTANT will also responsible for the performance of CONSULTANT's sub-consultants.

**Section 7. Books, Records, and Documents.**

(a) CONSULTANT will keep and maintain books and records, in accordance with generally accepted accounting principles, relating to the services performed under this Contract. CONSULTANT will retain such books and records for the duration of this Contract and for a period of five years after final payment. The CITY, and any federal or state agency that has provided grant funds used by CITY to provide funding for CITY to pay CONSULTANT under this Contract, will have the right to access and audit such books and records upon reasonable notice and without charge. In addition, to the extent such books and records constitute public records, CONSULTANT will comply with additional obligations records referenced in Section 8.

(b) All plans, specifications, construction drawings, reports, estimates, logs, original drawings, and other materials furnished, prepared or executed by CONSULTANT during the term of and in accordance with the provisions of this Contract are the property of the CITY. CONSULTANT will immediately deliver all such materials to the CITY upon demand or upon completion of the particular task for which such materials were prepared, executed, or otherwise required; or, where no demand has been made at the time that this Contract expires or is terminated, upon such expiration or termination. CONSULTANT understands and agrees that CITY will have the right to reuse any plans and specifications, including construction drawings, that CONSULTANT is required to provide to CITY pursuant to this Contract without having to obtain further approvals from or providing additional compensation to CONSULTANT. CITY understands and agrees that CONSULTANT will not be liable for CITY's use of such plans and specifications other than for the purposes intended by this Contract.

**Section 8. Public Records.**

(a) To the extent applicable, CONSULTANT will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

(1) Keeping and maintaining public records that the CITY requires for performance of the service provided herein.

(2) Upon the request of the City Clerk of the CITY, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

(3) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, and following such completion if CONSULTANT fails to transfer such records to the CITY if CONSULTANT does not transfer such records to the CITY.

(4) Upon completion of this Contract, keep and maintain public records required by the CITY to perform the service. CONSULTANT will meet all applicable requirements for retaining public records. All records stored electronically must be provide to the CITY upon request from the City Clerk, in a format that is compatible with the CITY's information technology systems.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONSULTANT MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:**

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

(b) Nothing herein will be deemed to waive CONSULTANT's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

**Section 9. Effective Date and Term.** The Effective Date of this Contract is the last signature date set forth below (the "Effective Date"). This Contract will begin on the Effective Date. The work will be completed within 240 days of the effective date, unless terminated sooner pursuant to the provisions below.

**Section 10. Termination of Contract.**

(a) The CITY may terminate this Contract, in whole or in part, at any time, for the CITY's convenience or upon CONSULTANT's material breach, by providing written notice as follows:

(1) Before terminating for convenience, the CITY must provide CONSULTANT 30 days' notice. Termination will be automatic upon the expiration of the 30-day period.

(2) Before terminating due to CONSULTANT's material breach of its contractual obligations, CITY must provide CONSULTANT prior written notice, specifying the breach and demanding that CONSULTANT remedy the breach within 10 days of the notice. This Contract will terminate automatically and without need for additional notice if CONSULTANT fails to remedy the material breach within this 10 day period.

In either instance upon termination CONSULTANT will immediately discontinue all services affected, unless the notice directs otherwise, and deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and services of whatever type or nature as may have been accumulated by CONSULTANT in performing this Contract, whether completed or in process.

(b) If the termination is for the CITY's convenience, CONSULTANT will be paid compensation for services performed to the date of termination.

(c) If the termination is due to the CONSULTANT's material breach, the CITY reserves all rights and remedies it may have under law due to such breach.

(d) If after notice of termination for the CONSULTANT's material breach it is determined by the CITY or by a court of law that the CONSULTANT had not materially breached this Contract, or that the CITY's notice for termination upon such breach was insufficient, the termination will be conclusively deemed to have been effected for the CITY's convenience. In such event, adjustment in payment to CONSULTANT will be made as provided in Subsection (b) of this Section.

(e) The rights and remedies of CITY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

**Section 11. Suspension of Services.** If a notice of material breach issued by the CITY so directs, CONSULTANT will suspend services immediately upon receipt thereof, other than the work required to remedy the material breach.

**Section 12. Indemnification and Insurance:**

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the CITY, the State of Florida, Department of Transportation, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT and persons employed or utilized by the CONSULTANT in the performance of this Contract.

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Recipient's sovereign immunity." This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

**Section 13. Insurance.** CONSULTANT will provide and maintain at CONSULTANT's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section. Policies that include Self Insured Retention will not be acceptable. All such insurance will be primary and non-contributory with the CITY's own insurance. In the event any request for the performance of services presents exposures to the CITY not covered by the requirements set forth below, the CITY reserves the right to add insurance requirements that will cover such an exposure. All such insurance required shall be placed with a company or companies authorized to do business in Florida.

**(a) Coverage and Amounts.**

**(1) Workers Compensation Insurance** if required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of CONSULTANT, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage. If CONSULTANT wishes to claim an exemption from worker's compensation insurance requirements, CONSULTANT will notify the Risk Manager in writing on CONSULTANT's official letterhead.

**(2) Liability Insurance**, including **(i) Commercial General Liability coverage** for operations, independent CONSULTANTS, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring CONSULTANT and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and **(ii) Automobile Liability Insurance**, which will insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the CONSULTANT in the performance of this Contract.

The limit of liability for each policy will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then

the aggregate will be in an amount of no less than \$2,000,000. The Risk Manager for the CITY may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY WILL NAME THE CITY and FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AS AN ADDITIONAL INSURED. CONSULTANT's Commercial General Liability insurance policy shall provide coverage to CONSULTANT, FDOT and City when required to be named as an additional insured either by endorsement or pursuant to a blanket additional insured endorsement, for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) without the attachment of any endorsements excluding or limiting coverage for Products/Completed Operations, Independent Contractors, Property of City in Contractor's Care, Custody or Control or Property of City on which contracted operations are being performed, Explosion, Collapse or Underground hazards (XCU Coverage, Contractual Liability or Separation of Insureds. When City and FDOT are added as additional insured by endorsement, ISO Endorsements CG 20 10 and CG 20 37 or their equivalent shall be used to provide such Additional Insured status.

**(3) Professional Liability Insurance,** insuring CONSULTANT and other interests, including, but not limited to, any associated or subsidiary companies involved in the work, for errors or omissions in the performance of professional services to be rendered pursuant to this Contract. The limit of liability will be no less than \$1,000,000.

Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date no later than the Effective Date and with a two year reporting tail beyond the annual expiration date of the policy.

Unless specifically waived hereafter in writing by the Risk Manager, Contractor agrees that the insurer shall waive its rights of subrogation, if any, against the City on each of the above types of required insurance coverage.

**(b) Proof of Insurance.** CONSULTANT will furnish proof of insurance acceptable to the CITY prior to or at the time of execution of this Contract. CONSULTANT will not commence work until proof of all required insurance has been filed with and approved by the CITY. CONSULTANT will furnish such proof in the form of certificates of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, and the expiration dates.

If requested by the CITY or FDOT, CONSULTANT will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the CITY.

**(c) Cancellation; Replacement Required.** CONSULTANT will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the work by the CITY. If a required policy is canceled without CONSULTANT's prior knowledge CONSULTANT will immediately notify the CITY immediately upon becoming aware that a required insurance coverage has been canceled for any reason, and promptly replace the canceled policy. The CITY expressly reserves the right or replace the canceled policy at CONSULTANT'S expense if CONSULTANT fails to do so.

**(d) Termination of Insurance.** CONSULTANT may not cancel the insurance required by this Contract until the work is completed, accepted by the CITY and CONSULTANT has received written notification from the Risk Management Division of the CITY that CONSULTANT may cancel the insurance required by this Contract and the date upon which the insurance may be canceled. The Risk Management Division of the CITY will provide such written notification at the request of CONSULTANT if the request is made no earlier than two weeks before the work is to be completed.

**(e) Liabilities Unaffected.** CONSULTANT's liabilities under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Similarly, CONSULTANT's liabilities under this Contract will not be limited by the existence of any

exclusions or limitations in insurance coverages, or by CONSULTANT'S failure to obtain insurance coverage.

CONSULTANT will not be relieved from responsibility to provide required insurance by any failure of the CITY to demand such coverage, or by CITY's approval of a policy submitted by CONSULTANT that does not meet the requirements of this Contract.

**Section 14. Notices.** Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the Parties' addresses. The Parties' contact information is as follows:

**If to the CITY**

Andrew Holmes, Public Works Director  
Daytona Beach Public Works Dept.  
950 Bellevue Ave.  
Daytona Beach, FL 32114  
Fax: 386-671-8620

**If to the CONSULTANT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_

Either Party may change the name or address for receipt of that Party's notices, by providing the other Party written notice in the manner described above.

**Section 15. Personnel.** In order to induce the CITY into entering this Contract, CONSULTANT represents that **[insert name and title]** will generally perform or directly supervise the tasks assigned to CONSULTANT herein, and that CONSULTANT will not replace **[insert name and title]** without the CITY's prior written approval. CONSULTANT represents that CONSULTANT has or will secure at CONSULTANT's own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of or have any contractual relationship with the CITY.

All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such services.

The CITY will have the right to approve or reject any subconsultants that CONSULTANT proposes to use for work assigned.

**Section 16. CITY's Responsibilities.** The CITY agrees to make available for review and use by the CONSULTANT, reports, studies, and data relating to the services required. The CITY will establish a project manager to meet periodically with the CONSULTANT to facilitate coordination and ensure expeditious review of work product.

**Section 17. Limitation on Waivers.** Neither the CITY's review, approval, or acceptance of, or payment for, any of the services provided by CONSULTANT, will be construed to operate as a waiver of the CITY's rights under this Contract. CONSULTANT will be and always remain liable to the CITY in accordance with applicable law for any and all damages to the CITY caused by the CONSULTANT's negligent or wrongful provision of any of the services furnished under this Contract.

Failure of the CITY to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the CITY at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the CITY's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

**Section 18. Dispute Resolution.** If a dispute exists concerning this Contract, the Parties agree to use the following procedure prior to pursuing any judicial remedies.

**(a) Negotiations.** A Party will request in writing that a meeting be held between representatives of each Party within 14 calendar days of the request or such later date that the Parties may agree to. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. The purpose of this meeting is to negotiate in the matters constituting the dispute in good faith. The Parties may mutually agree in writing to waive this step and proceed directly to mediation as described below.

**(b) Non-Binding Mediation.** Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. Within 30 days after the procedure described in Subsection (a) proves unsuccessful or the Parties mutually waive the Subsection (a) procedure, the Parties will submit to a non-binding mediation. The mediation, at a minimum, will provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all Parties for the exchange of points of view and (iii) separate meetings between the mediator and each Party to the dispute for the formulation of resolution alternatives. The Parties will select a mediator trained in mediation skills and certified to mediate by the Florida Bar, to assist with resolution of the dispute. The Parties will act in good faith in the selection of the mediator and give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who also is trained in the subject matter of the dispute or a contract interpretation expert. Each Party will attend will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization.

If the Parties fail to reach a resolution of the dispute through mediation, then the Parties are released to pursue any judicial remedies available to them.

#### **Section 19. General Terms and Conditions.**

**(a) Amendments.** Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

**(b) Assignments and Subcontracting.**

CITY has hired CONSULTANT to personally perform the services provided herein on the basis of CONSULTANT's personal skills, and CONSULTANT's unique experience with and knowledge of the Project. Therefore, CONSULTANT will not assign or subcontract without the CITY's written approval, which may be withheld for any reason.

**(c) Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, CONSULTANT will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations will constitute a material breach of this Contract and will entitle the CITY to terminate this Contract immediately upon delivery of written notice of termination to the CONSULTANT.

**(d) Truth in Negotiations Certificate.** CONSULTANT hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

**(e) No Third Party Beneficiaries.** There are no third party beneficiaries of CONSULTANT'S services under this Contract.

**(f) Contingency Fee.** CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

**(g) Nondiscrimination.** CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age, disability, religion, income or family status. CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, national origin, sex, age, disability, religion, income or family status. Further, CONSULTANT agrees to comply with all local, state and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, national origin, sex, age, disability, religion, income or family status, physical or mental impairment, or age. In particular, CONSULTANT agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

**(h) Principles in Construing Contract.** This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate. If any word, phrase, clause, sentence or provision of the Contract, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding will only effect such word, phrase, clause, sentence or provision, and such finding will not affect the remaining portions of this Contract; this being the intent of the Parties in entering into the Contract; and all provisions of the Contract are declared to be severable for this purpose.

**(i) Venue.** The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

**(j) Litigation Costs.** Except where specifically provided herein, in case of litigation between the Parties concerning this Contract, each party will bear all of its litigation costs, including attorney's fees.

**(k) Force Majeure.** A force majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, freight embargo, or unusually severe weather; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event will promptly notify the other Party of the Event and will use its best efforts to minimize any resulting delay.

**(l) Jury Trial Waived.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

**(m) Authority to Bind CONSULTANT.** The undersigned representative of CONSULTANT represents and warrants the he or she is fully authorized to bind CONSULTANT to the terms and conditions of this Contract.

**(n) Incorporation of RFP and Proposal.** The CITY's Request for Proposals 19244, and the CONSULTANT's responsive proposal are incorporated herein as Composite Exhibit C. In case of conflicts between the RFP and Proposal, the RFP will govern. In case of conflicts between Composite Exhibit C and other provisions of this Contract, including Exhibits A and B, this Contract will govern.

**(o) Integration.** This Contract represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

**THE CITY**

**CONSULTANT**

By: \_\_\_\_\_  
Derrick L. Henry, Mayor

By: \_\_\_\_\_  
Name Typed: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Letitia LaMagna, City Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to legal form:

By: \_\_\_\_\_  
Robert Jagger, City Attorney

Exhibit A: Scope of Services

DRAFT

Exhibit B: Fee Schedule

DRAFT

Composite Exhibit C  
Request for Proposals and Consultant's Responsive Proposal

DRAFT

## **TERMS FOR FEDERAL AID CONTRACTS (APPENDIX I):**

The following terms apply to all contracts in which it is indicated that the services involve the expenditure of federal funds:

- A. It is understood and agreed that all rights of the Local Agency relating to inspection, review, approval, patents, copyrights, and audit of the work, tracings, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. All tracings, plans, specifications, maps, computer files and/or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, will be considered works made for hire and will become the property of the Agency upon completion or termination without restriction or limitation on their use and will be made available, upon request, to the Agency at any time during the performance of such services and/or completion or termination of this Agreement. Upon delivery to the Agency of said document(s), the Agency will become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Consultant will not copyright any material and products or patent any invention developed under this agreement. The Agency will have the right to visit the site for inspection of the work and the products of the Consultant at any time.
- C. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of the U.S. Department of Transportation, anything to the contrary in this Agreement notwithstanding.
- D. The consultant shall provide access by the Florida Department of Transportation (recipient), the Agency (subrecipient), the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- E. Compliance with Regulations: The Consultant shall comply with the Regulations: relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- F. Nondiscrimination: The Consultant, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of material and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- G. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations made by the Consultant, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- H. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- I. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Local Agency shall impose such contract sanctions as it or the Florida Department of Transportation, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to,
  - 1. withholding of payments to the Consultant under the contract until the Consultant complies and/or
  - 2. cancellation, termination or suspension of the contract, in whole or in part.
- J. Incorporation or Provisions: The Consultant will include the provisions of Paragraph C through K in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions

issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the Consultant may request the Local Agency to enter into such litigation to protect the interests of the Local Agency, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

- K. Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); 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); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination 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 sex in education programs or activities (20 U.S.C. 1681 et seq).
- L. Interest of Members of Congress: No member of or delegate to the Congress of the United States will be admitted to any share or part of this contract or to any benefit arising therefrom.
- M. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.
- N. Participation by Disadvantaged Business Enterprises: The Consultant shall agree to abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the Consultant and any subconsultant or contractor.
  - 1. The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in termination of this contract or other such remedy as the recipient deems appropriate.
- O. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.
- P. It is understood and agreed that if the Consultant at any time learns that the certification it provided the Local Agency in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Local Agency. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned federal regulation.
- Q. The Local Agency hereby certifies that neither the consultant nor the consultant's representative has been required by the Local Agency, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to

1. employ or retain, or agree to employ or retain, any firm or person, or
2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Local Agency further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

R. The Consultant hereby certifies that it has not:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above contractor) to solicit or secure this contract;
2. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

The consultant further acknowledges that this agreement will be furnished to the Local Agency, the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

S. The Consultant shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

# ATTACHMENT A

It is certified that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name of Consultant/Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

#### Instructions for Certification

**Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES  
ON FEDERAL-AID CONTRACTS  
(Compliance with 49CFR, Section 20.100 (b))**

The prospective participant certifies, by signing this certification, that to the best of his or her knowledge and belief:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. (Standard Form-LLL can be obtained from the Florida Department of Transportation's Professional Services Administrator or Procurement Office.)

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Name of Consultant:

By: \_\_\_\_\_ Date: \_\_\_\_\_ Authorized Signature

Title: \_\_\_\_\_

Is this form applicable to your firm?

YES  NO

If *no*, then please complete section 4 below for "Prime"

<b>1. Type of Federal Action:</b> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change <b>For Material Change Only:</b> Year: _____ Quarter: _____ Date of last report: _____ (mm/dd/yyyy)
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : _____ _____ _____  Congressional District, <i>if known</i> : 4c _____	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b> _____ _____ _____  Congressional District, <i>if known</i> : _____	
<b>6. Federal Department/Agency:</b> _____ _____	<b>7. Federal Program Name/Description:</b> _____ _____  CFDA Number, <i>if applicable</i> : _____	
<b>8. Federal Action Number, if known:</b> _____	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i> _____ _____ _____	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i> _____ _____ _____	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date (mm/dd/yyyy): _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the fullname, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**CONFLICT OF INTEREST/CONFIDENTIALITY CERTIFICATION  
FOR CONSULTANT/CONTRACTOR/TECHNICAL ADVISORS**

I certify that I have no present conflict of interest, that I have no knowledge of any conflict of interest that my firm may have, and that I will recuse myself from any capacity of decision making, approval, disapproval, or recommendation on any contract if I have a conflict of interest or a potential conflict of interest.

Consultants/Contractors are expected to safeguard their ability to make objective, fair, and impartial decisions when performing work for the Department, and therefore may not accept benefits of any sort under circumstances in which it could be inferred by a reasonable observer that the benefit was intended to influence a pending or future decision of theirs, or to reward a past decision. Consultants performing work for the Department should avoid any conduct (whether in the context of business, financial, or social relationships) which might undermine the public trust, whether or not that conduct is unethical or lends itself to the appearance of ethical impropriety.

I will maintain the confidentiality of all information not made public by the Florida Department of Transportation (“Department”) related to the procurement of the above-referenced (“Project”) that I gain access to as a result of my involvement with the Project (“Procurement Information”). I understand that Procurement Information includes, but is not limited to, documents prepared by or for the Department related to procurement of the Project. I also understand that Procurement Information includes, but is not limited to, documents submitted to the Department by entities seeking an award of the Project (“Proposers”). I understand that Procurement Information may include documents submitted by Proposers related to letters of response/letters of interest, technical proposals, price proposals, financial proposals, and information shared during exempt meetings. I also understand that Procurement Information may also include documents that evaluate or review documents submitted by Proposers, and information regarding Project cost estimates. I also agree not to discuss the Project with anyone who is a member of or acting on behalf of a Proposer.

Unless so ordered by a court of competent jurisdiction or an opinion of the Office of the Florida Attorney General, I will not divulge any Procurement Information except to individuals who have executed a Conflict of Interest/Confidentiality Certification which has been approved by the Department (“Project Personnel”). I understand that a list of Project Personnel will be maintained by Department. If I am contacted by any member of the public or the media with a request for Procurement Information, I will promptly forward such request to the Department’s Procurement Office. I will also maintain security and control over all documents containing Procurement Information which are in my custody.

I agree not to solicit or accept gratuities, unwarranted privileges or exemptions, favors, or anything of value from any firm under consideration for an agreement associated with the Project, and I recognize that doing so may be contrary to statutes, ordinances, and rules governing or applicable to the Department or may otherwise be a violation of the law.

I agree not to engage in bid tampering, pursuant to Section 838.22, Florida Statutes.

I realize that violation of the above mentioned standards could result in the termination of my work for the Department. I further realize that violation of the above mentioned statute would be punishable in accordance with Section 838.22, Florida Statutes..

Advertisement No./ Solicitation No	Description	Financial Project Number(s)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Each undersigned individual agrees to the terms of this Conflict of Interest/Confidentiality Certification.

Printed Names	Signatures	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



Prime Contractor: \_\_\_\_\_

Address/Phone Number: \_\_\_\_\_

Procurement Number: \_\_\_\_\_

49 CFR Part 26.11 The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and supplies materials on DOT-assisted projects, including both DBEs and non-DBEs. This list must include all subcontractors contacting you and expressing an interest in teaming with you on a specific DOT-assisted project. Prime contractors must provide information for Numbers 1, 2, 3 and 4, and should provide any information they have available on Numbers 5, 6, and 7 for themselves, and their subcontractors.

1. Federal Tax ID Number: \_\_\_\_\_  
2. Firm Name: \_\_\_\_\_  
3. Phone: \_\_\_\_\_  
4. Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
5. Year Firm Established: \_\_\_\_\_

6.  DBE  
 Non-DBE

7. Annual Gross Receipts  
 Less than \$1 million  
 Between \$1 - \$5 million  
 Between \$5 - \$10 million  
 Between \$10 - \$15 million  
 More than \$15 million

1. Federal Tax ID Number: \_\_\_\_\_  
2. Firm Name: \_\_\_\_\_  
3. Phone: \_\_\_\_\_  
4. Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
5. Year Firm Established: \_\_\_\_\_

6.  DBE  
 Non-DBE

7. Annual Gross Receipts  
 Less than \$1 million  
 Between \$1 - \$5 million  
 Between \$5 - \$10 million  
 Between \$10 - \$15 million  
 More than \$15 million

1. Federal Tax ID Number: \_\_\_\_\_  
2. Firm Name: \_\_\_\_\_  
3. Phone: \_\_\_\_\_  
4. Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
5. Year Firm Established: \_\_\_\_\_

6.  DBE  
 Non-DBE

7. Annual Gross Receipts  
 Less than \$1 million  
 Between \$1 - \$5 million  
 Between \$5 - \$10 million  
 Between \$10 - \$15 million  
 More than \$15 million

1. Federal Tax ID Number: \_\_\_\_\_  
2. Firm Name: \_\_\_\_\_  
3. Phone: \_\_\_\_\_  
4. Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
5. Year Firm Established: \_\_\_\_\_

6.  DBE  
 Non-DBE

7. Annual Gross Receipts  
 Less than \$1 million  
 Between \$1 - \$5 million  
 Between \$5 - \$10 million  
 Between \$10 - \$15 million  
 More than \$15 million

**AS APPLICABLE, PLEASE SUBMIT THIS FORM WITH YOUR:**

**BID SHEET (Invitation to Bid – ITB)  
PRICE PROPOSAL (Request for Proposal – RFP)  
REPLY (Invitation to Negotiate – ITN)**

# ATTACHMENT B

**CITIZEN PRESENTATION** — At Commission meetings, citizens may be heard at Public Hearings or on other items on the agenda when authorized by the Mayor, as presiding officer. Persons interested in a matter not on the agenda may be heard under the item entitled “PUBLIC COMMENTS FORUM.” **When recognized by the presiding officer, come forward to the microphone, give your name and address, and speak briefly on the matter.**

**PUBLIC HEARING** — (This guide will aid you in expressing your opinions **briefly** and **clearly** before the Commission and thus increase the effectiveness of your presentation.) **Public comments to Ordinances are generally made only on second reading.**

## **GENERAL RULES**

- Complete “Request to Appear” form and present it to the Clerk at the front of the Chamber (Yellow for Business Meeting Items; Green for Public Comments Forum).
- When recognized by the Mayor, proceed to the lectern in front of the Commission dais. Speak directly into the microphone.
- State your name, address, the organization which you represent or the location of your property if you have a property interest, and your position for or against.
- Make a brief statement of the pertinent facts **within your knowledge**.
- Next, briefly state the reasons for your position based upon relevant subject matter.
- It is important for you to discuss only those matters relating to your hearing and to tie into your discussion the facts directly referring to the decision you wish to Commission to reach.

**ORDER OF BUSINESS** — The major items of business include: Consent Agenda, Public Hearings, and Administrative Items.

**ACTIONS** — Business presented to the Commission is acted upon by one of the following actions:

- **Ordinances:** An ordinance or amendment thereto is a legislative act and required two readings at separate Commission meetings. **Public Hearings are advertised and usually held on the second reading of an ordinance.** Ten days after passed it automatically becomes law unless a different date is stated on the ordinance. Emergency ordinances can be passed by the Commission on first reading.
- **Resolutions:** A resolution expresses the policy of the Commission or directs certain types of administrative action. It requires only one reading unless otherwise stated.
- **Motions:** A motion is ordinarily used to indicate majority approval of a procedural action, such as to file a report. It may also be used to authorize administrative officials to take certain actions.
- **Referral:** When the Commission is not prepared to take a definite action or when further study is needed, the Commission Board may refer the matter to a committee or to the City Manager for study and subsequent action or report.

## **ORDER OF PROCEDURE**

1. Procedure in the Commission meeting, as well as the decorum of all persons participating in Commission meetings, is governed by Roberts Rules of Order, the City Charter, the City Code of Ordinances and the Rules of the Commission.
2. When an agenda item comes up for Commission consideration, the following procedure shall apply:
  - An ordinance under consideration shall be read by title only, unless otherwise requested by a member of the Commission. A motion and second may be made by a Commissioner to waive the reading of a resolution.
  - A motion and a second is required to adopt the item (whether an ordinance, resolution, continuance, motion, etc.)”
3. Discussion of the item then follows. (Unless the item is an ordinance on first reading which has no audience participation.)

The Mayor, as presiding officer of the meeting, will open the discussion which may include public comments.

**Public comments are normally limited to two and one half minutes.**
4. All questions, except by the Commission, must be directed to the Mayor who will ask the speaker or other person for any information he may need to answer the question. **Under no circumstances will members of the audience direct questions to another member of the audience or a speaker who has the floor.**
5. Once voting has started further discussion of the item or further presentations will not be permitted.

## **DISORDERLY CONDUCT AT A CITY COMMISSION MEETING**

Section 62-38 of the City Code of Ordinances reads as follows: “It shall be unlawful for any person to behave in a riotous or disorderly manner in any public meeting of the City Commission or any committee, agency, or board thereof, or to cause any unnecessary disturbances therein by force, shouting, or any other action calculated to disrupt such meeting, or to refuse to obey any ruling of the presiding officer or such meeting relative to the orderly process thereof.”

**CELLULAR PHONES ARE TO BE TURNED OFF (RINGER OFF) WHILE ATTENDING CITY COMMISSION MEETINGS.**