

PIIGYBACK TERM AGREEMENT FOR BULK GLYCERIN SOLUTION, 70%

THIS AGREEMENT is made and entered by and between The City of Daytona Beach, Florida (the "CITY"), and Environmental Operating Solutions, Inc., a foreign profit corporation, ("CONTRACTOR").

WHEREAS, CONTRACTOR is currently under written contract with the Hillsborough County Board of County Commissioners (Blanket Purchase Agreement 219214965), as amended, hereafter the "Hillsborough Contract"), to supply bulk 70% glycerin, under terms and conditions specified therein; and

WHEREAS, the CITY is in need of such bulk 70% glycerin; and

WHEREAS, the CITY desires to have CONTRACTOR supply such items to the CITY, subject to the terms and conditions of the Hillsborough Contract, with the specific exceptions noted herein; and

WHEREAS, CONTRACTOR is willing to supply such items under these terms and conditions.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

1. Incorporation of Hillsborough Contract. This Agreement incorporates by reference, the Hillsborough Contract, which is attached as Exhibit A.

2. Scope of Service. During the Term of this Agreement, CONTRACTOR will from to time to time provide the CITY as-needed deliveries of 70% glycerin as further identified in the Hillsborough Contract.

3. Pricing. The CITY will pay CONTRACTOR for goods/services at the price provided by CONTRACTOR under this Agreement, at prices provided in the Hillsborough Contract. These payments will be CONTRACTOR's sole compensation for the services provided by CONTRACTOR under this Agreement.

4. Contract Term. The Term of this Agreement begins on the date signed by both Parties hereto as indicated below, and ends on December 31, 2021.

5. Designated Representative. The CITY's Deputy Utilities Director, or his or her designee, shall be the CITY's Designated Representative in matters arising under this Agreement, including for purposes of ordering goods.

6. Modifications to Hillsborough Contract. Notwithstanding the incorporation of the Hillsborough Contract into this Agreement as referenced, the Parties hereby agree to certain modifications to the Hillsborough Contract, as follows:

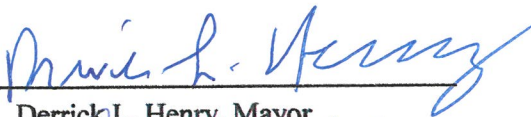
(a) All references in the Hillsborough Contract to terms such as "Hillsborough" or "City" will be deemed to refer to the CITY. In addition, all references within the Hillsborough Contract to specific officers/departments/divisions, or to specific locations (such as for delivery of goods/services, receipt of CONTRACTOR invoicing, etc.), if not specifically addressed in this Agreement, will be deemed to refer to the equivalent CITY officers/departments/divisions, and CITY locations, as hereafter designated by the Designated Representative.

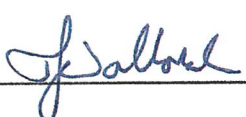
(b) The CITY's Standard Terms and Conditions for Commodities are attached hereto and incorporated herein as Exhibit B. The Standard Terms and Conditions will control in case of conflicts with the Hillsborough Contract. The Standard Terms and Conditions will also control in case of conflicts with any purchase order/work authorization issued by the City under this Agreement, including any documents (such as CONTRACTOR's written quotation) that may be incorporated into such purchase orders/work authorizations.

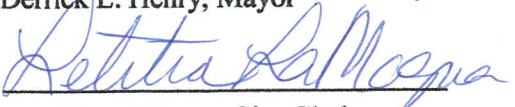
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as below.

THE CITY

CONTRACTOR

By: 
Derrick L. Henry, Mayor

By: 

Attest: 
Letitia LaMagna, City Clerk

Printed Name: Thomas J. Walkosak
Title: CEO

Date: 11-7-19

Date: 10/11/19

Approved as to legal form:

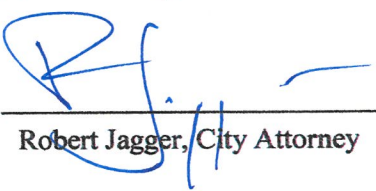
By: 
Robert Jagger, City Attorney

EXHIBIT A

Blanket Purchase Agreement 219214965,

1



Hillsborough County
Board of County Commissioners
601 E Kennedy Blvd
Tampa, FL 33601
United States

Type	Blanket Purchase Agreement
Order	219214965
Revision	1
Order Date	06-SEP-2019
Created By	Robinson, Matthew
Revision Date	09-SEP-2019
Current Buyer	Robinson, Matthew

Supplier: **ENVIRONMENTAL OPERATING SOLUTIONS INC**
SALES
160 MACARTHUR BLVD, SUITE 6
BOURNE, MA 02532-3919
United States

Ship To: **See Below**
Tampa, FL 33601
United States

Bill To: **PO BOX 1110**
Tampa, FL 33601-1110
United States

Customer Account No.	Supplier No.	Payment Terms	Freight Terms	FOB	Transportation	Ship Via
	1086077	NET 30 DAYS	Freight Included	FOB - Destination		Best Way
Effective Start Date	Effective End Date					Amount Agreed (USD)
01-JAN-2020	31-DEC-2021					412,191.50
Supplier Contact			Requester			
SAUNDERS, MIKE (508) 743-8440						

Notes: In accordance with ITB 18624 Bulk Glycerin Solution, 70%

Awarded by the BOCC on September 5, 2019

Department: Water Resources

Department Contact: Deborah Andrews, 813-209-3021, Ext. 43215, AndrewsDM@HCFLGov.net

Summary of Changes

Changed effective date on contract from September 6, 2019, to January 1, 2020, since the current contract (BPA No. 218201994) does not expire until December 31, 2019.

All prices and amounts on this order are expressed in USD

Line	Part Number / Description	Effective Date	Expires On	Quantity	UOM	Unit Price (USD)	Amount (USD)
1	Glycerin 70%, 55 Gallon Drum				Drum (s)	277.75	
2	Glycerin 70%, Totes				Gallon (s)	4.17	
3	Glycerin 70%, Bulk				Gallon (s)	1.48	
4	Split Delivery Charge				Each	300	

HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS
Standard Purchase Order Terms and Conditions

The vendor, in accepting this purchase order, agrees to and shall be bound by all of the following terms and conditions:

1. The content and conditions of this purchase order may not be verbally modified. Any changes must be in writing and approved by the Director of Procurement. If these conditions are not acceptable, please notify the contact listed on the order before shipping the items or delivering services. If prices are higher than specified, do not ship without prior written approval from the Director of Procurement.

2. All invoices, packing lists and packages must include the order number printed on the upper right corner of the purchase order. The vendor must provide a proper invoice by which payment will be processed. In accordance with 218.76(1), Florida Statutes, if an invoice is subsequently determined to be improper, it shall be returned to the vendor. Proper invoices must include:

- Original invoice.
- Vendor's name and address.
- Vendor's tax identification number.
- Vendor's "remit to" address.
- Invoice date.
- Invoice number.
- Invoice must be billed to "BOCC Hillsborough County Florida."
- Correct purchase order number.
- Description of goods/services purchases, to include quantity and/or hours of work performed.
- Correct unit price (not to exceed four [4] decimal places), extended price, and total amount due.
- Shipping date.
- County department name and/or delivery contact named on the purchase order.
- Conformance to all other requirements specified in the corresponding contract/agreement.

3. All original invoices for goods and services must be emailed to countyfinanceinvoices@hillsclerk.com or mailed to: County Finance Department, Hillsborough County Clerk of the Circuit Court, P.O. Box 1110, Tampa, Florida 33601. Invoices for construction services may be mailed directly to the requesting department or assigned project manager for review and sign off.

4. Payments will be made upon receipt of a proper invoice in accordance with Florida's Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. The following payment options are available:

Method - ACH (Direct Deposit) *
Source - Electronic (Bank)
Fee - None
Remittance/Notice - Email (Invoice # & Amount)

Method - Check
Fee - None
Remittance/Notice - Stub (Invoice # & Amount)

Method - ePayables
Source - Electronic (Credit Card)
Fee - Merchant Services Fee **
Remittance/Notice - Email or Fax (Invoice # & Amount)

* Vendor's bank account information will remain confidential to the extent provided by law and necessary to make ACH payments via direct deposit. Please visit <http://hcf.gov.net/en/businesses/doing-business-with-hillsborough/vendors/vendor-forms-and-documents> for the ACH enrollment form.

** Merchant services fees are determined by the vendor's agreement with their Merchant Bank. Fees are generally up to 3%. Please visit <http://hcf.gov.net/en/businesses/doing-business-with-hillsborough/vendors/vendor-forms-and-documents> for

the ePayables enrollment form.

5. Materials rejected by the County will be returned to the vendor at the vendor's risk and expense. The County shall not be liable or otherwise responsible for any re-stocking charges unless prior written approval has been provided by the Director of Procurement.

6. Cash discounts will be deducted as provided for on the face of this purchase order or in accordance with the terms of the vendor's quotation or bid.

7. Acceptance by the vendor of this order includes acceptance of all items, conditions, prices, delivery instructions and specifications as shown on the order or attached to or referred to, and which are made a part hereof by reference, as fully and to the same extent as if copied at length herein. In the event of a conflict or discrepancy between this purchase order and any referenced contract document, if one exists, the contract document shall govern. The vendor may not unilaterally modify the terms of this purchase order by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the vendor's order or fiscal forms or other documents forwarded by the vendor for payment. The County's acceptance of product or processing of documentation on forms furnished by the vendor for approval or payment shall not constitute acceptance of the proposed modification to the terms and conditions of this purchase order.

8. If this purchase order is a call or release order against a Blanket Purchase Agreement (BPA) or Contract Purchase Agreement (CPA), all terms and conditions of the subject purchase agreement and this purchase order shall apply to the order. The purchase order number, not the purchase agreement number, must be on the invoice.

9. All shipments by the vendor must be F.O.B Destination, unless otherwise authorized in writing by the Director of Procurement. Any F.O.B. Shipping Point freight charges shall be prepaid and added to the invoice and with a copy of the freight bill attached. The County will not accept collect shipments. All stated delivery times are of the essence.

10. In accordance with law, the County reserves the right to cancel all or part of this purchase order prior to acceptance of the goods or services.

11. Vendors are expected to satisfy all purchase orders in one shipment unless otherwise stipulated in the subject solicitation, award, or authorized by the Director of Procurement in writing. Excessive and unauthorized partial shipments may result in vendor debarment or prohibition from doing business with the County.

12. Vendors are not authorized to deliver any goods or services which are not covered by this purchase order. The County accepts no responsibility and is not obligated to render payment for purchases that are not covered by a duly-issued purchase order or specifically authorized by the Director of Procurement or County Administrator. Vendors violating this condition may be subject to debarment or prohibition from doing business with the County in accordance with the County's Procurement Policies and such vendors may forfeit their right to compensation for such deliveries.

13. INDEMNIFICATION (PATENT OR COPYRIGHT): The vendor shall indemnify and hold harmless, and defend the County and the Board of County Commissioners, their agents and employees, and anyone directly or indirectly employed by either of them, from and against all liabilities, damages, claims, demands or actions at law or in equity, including court costs and attorney's fees that may hereafter at any time be made or be brought by anyone arising out of any infringement of patent rights or copyrights held by others or for the disclosure or improper utilization of any trade secrets by vendor during or after completion of the Work. These obligations shall survive acceptance of any goods and/or services and payment therefore by the County.

14. INDEMNIFICATION (GENERAL LIABILITY): The vendor shall indemnify, hold harmless, and defend the County and the Board of County Commissioners, their agents and employees, and anyone directly or indirectly employed by either of them, from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees, that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any action of fraud or defalcation by the vendor, or anyone performing any act required of vendor in connection with performance of the Contract awarded pursuant to this order. These obligations shall survive acceptance of any goods and/or services and payment therefore by the County.

15. INDEMNIFICATION (GENERAL LIABILITY-GOVERNMENTAL AGENCY-VENDORS ONLY): The County and

governmental agency-vendor shall each be liable to the extent permitted by 768.28, Florida Statutes, for the negligent acts, or omissions of their respective officers, employees and agents. Nothing in the foregoing shall be construed as a waiver of sovereign immunity or as consent to be sued by either the County or the governmental agency-vendor.

16. Any dispute or contractual right regarding this purchase order shall be governed by Florida Law. In the event of a lawsuit by the vendor the venue of such lawsuit shall be in Hillsborough County, Florida and the vendor waives whatever rights it has in the selection of venue.

17. The vendor shall have in its possession any applicable permits, licenses, etc. that may be required by Federal, State, County, or local law to furnish products or services under the scope of this purchase order. The vendor shall be in compliance with all zoning and other ordinances in the performance of the awarded contract.

18. **EQUAL EMPLOYMENT OPPORTUNITY; NON-DISCRIMINATION:** The vendor shall comply with Hillsborough County, Florida - Code of Ordinances and Laws, Part A, Chapter 30, Article II (Hillsborough County Human Rights Ordinance) as amended, which prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, in employment, public accommodations, real estate transactions and practices, County contracting and procurement activities, and credit extension practices. The vendor shall also comply with the requirements of all applicable federal, state and local laws, rules, regulations, ordinances and executive orders prohibiting and/or relating to discrimination, as amended and supplemented. All of the aforementioned laws, rules, regulations, ordinances and executive orders are incorporated herein by reference. Furthermore, Hillsborough County hereby notifies all vendors that Minority Business Enterprises (MBE), Disadvantaged Minority Business Enterprises (DMBE), and Disadvantaged Women Business Enterprises (DWBE) will be afforded a full opportunity to participate in any award made by Hillsborough County and will not be subjected to discrimination on the basis of race, color, sex or national origin.

19. The vendor shall keep adequate records and supporting documentation applicable to this contractual matter. Said records and documentation will be retained by the vendor for a minimum of six (6) years from the date of termination of this contract. The County and its authorized agents shall have the right to audit, inspect and copy all such records and documentation as often as the County deems necessary during the period of this contract and during the period of six (6) years thereafter. This six (6) year time period will be extended until audit findings are issued if an audit is initiated during the six (6) year period. Such activity shall be conducted only during normal business hours. The County, during the period of time expressed by the preceding sentence, shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of the vendor as concerns the aforesaid records and documentation.

20. **TAXES:** Counties are exempt from Federal Taxes on transportation charges and any Federal Excise Tax (No. 59-6000661). If you are to prepay charges, do not pay tax as County will not reimburse you for taxes paid. The County's Consumers Certificate of Exemption Number is #85-8012622015C-2, effective 11/30/14.

21. Questions concerning delivery of this order should be directed to the department contact shown on the order. For other questions regarding this order, please contact the Procurement Services Department at P.O. Box 1110, 601 E. Kennedy Blvd., 25th Floor, Tampa, FL 33601, procurementservices@Hcflgov.net, or (813) 272-5790. Please visit <http://hcflgov.net/en/businesses/doing-business-with-hillsborough/vendors/vendor-forms-and-documents> to view or download the County's Procurement Policy and Procedures Manual.

22. **RISK OF LOSS:** Until acceptance, risk of loss or damage shall remain with the vendor. The vendor shall be responsible for filing, processing, and collecting all damage claims. When the County rejects a product, the vendor shall remove it from the premises within ten (10) days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the vendor. Rejected product not removed by the vendor within ten (10) days shall be deemed abandoned by the vendor, and the County shall have the right to dispose of it as its own property. The vendor shall reimburse the County for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

23. **WARRANTY:** The vendor shall provide to the County a one (1) year written warranty: (a) against poor workmanship, for all services rendered by the vendor, (b) for all products, materials or equipment provided by the vendor in the course of providing service to the County, and (c) for all commodities sold to the County. The warranty period shall begin on the date of final completion and/or acceptance by the County.

24. **FISCAL NON-FUNDING CLAUSE:** This purchase order is subject to funding availability. In the event sufficient budget funds to fund this purchase order become reduced or unavailable, the County shall notify the vendor of such occurrence, and

the County may terminate this purchase order, without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the vendor. The County shall be the final authority as to the availability of funds and how available funds will be allotted. If this purchase order is funded in whole or in part by federal or state dollars which are reduced or become unavailable, the County shall notify the vendor of such occurrence and the County may terminate this purchase order, without penalty or expense to the County, upon no less than twenty-four (24) hours written notice to the vendor.

25. ACCESS TO RECORDS: If applicable, vendor shall comply with the requirements of Chapter 119, Florida Statutes, with respect to any documents, papers, and records made or received by vendor in connection with this purchase order.

26. REIMBURSEMENT OF TRAVEL EXPENSES: Travel expenses, if applicable, shall be paid pursuant to the provision of 112.061, Florida Statutes.

Hillsborough County Standard Purchase Order Terms and Conditions - Revised 01/09/2017



Agenda Item Cover Sheet

Agenda Item N^o. A-20

Meeting Date 9/5/2019

Consent Section

Regular Section

Public Hearing

Subject: Award a two (2) year contract for ongoing and as needed bulk purchases of glycerin 70% (18624) for the Water Resources Department at a total cost of \$412,191.50.			
Department Name: Procurement Services			
Contact Person: Scott Stromer/Linda Wheat		Contact Phone: 301-7095	
Sign-Off Approvals:			
Bonnie Wise	8/23/2019	Scott Stromer	8/22/2019
Assistant County Administrator	Date	Department Director	Date
Kevin Brickey	8/23/2019	Sacha Brown-Taylor	8/23/2019
Management and Budget – Approved as to Financial Impact Accuracy	Date	County Attorney – Approved as to Legal Sufficiency	Date

Staff's Recommended Board Motion:
Award a two (2) year contract to the overall lowest, responsive, and responsible bidder, Environmental Operating Solutions, Inc., in the amount of \$412,191.50, for bulk purchases of glycerin 70% (18624) for the Water Resources Department. Bids were received from two (2) different bidders. In this case, there were no Certified Disadvantaged Minority/Disadvantaged Women Business Enterprise (DM/DWBE) firms and no Registered Small Business Enterprise (SBE) firms for components of the specified goods; therefore, no participation goal or set-aside was established for this procurement. Funding for this procurement is available in the requesting department's approved budget, and purchase orders will only be issued against approved budgets.

Financial Impact Statement:
Funding for this procurement is available in the requesting department's approved budget, and purchase orders will only be issued against approved budgets.

Background:
Glycerin is used in the municipal wastewater treatment process to remove excess nitrogen from the effluent before it is released into surrounding waterways. The recommended award amount is approximately 29.51% (\$172,589.50) less than the requesting department's estimate. Competition and transparency were achieved through the use of competitive sealed bidding for this procurement, and the resulting pricing is deemed fair and reasonable. This contract is available to the Hillsborough County Governmental Purchasing Council.

DELEGATIONS TO DIRECTOR OF PROCUREMENT:
 [N] Unilateral Change Orders up to \$25,000 for additions within the scope of the contract
 [Y] Unilateral Extensions
 [N] Unilateral Renewals
 [N] Additional Purchase Option(s)

List Attachments: Department Recommendation, Bid Tabulation



Hillsborough County Florida

BOARD OF COUNTY COMMISSIONERS

Ken Hagan
Pat Kemp
Lesley "Les" Miller, Jr.
Sandra L. Murman
Kimberly Overman
Mariella Smith
Stacy R. White

COUNTY ADMINISTRATOR

Michael S. Merrill

COUNTY ATTORNEY

Christine M. Beck

INTERNAL AUDITOR

Peggy Caskey

DEPUTY COUNTY ADMINISTRATOR/ CHIEF FINANCIAL ADMINISTRATOR

Bonnie M. Wise

PROCUREMENT SERVICES

PO Box 1110 Tampa, FL 33601-1110
(813) 272-5790 | Fax: (813) 272-6290

DATE: August 12, 2019
TO: Deborah Andrews, Project Manager
Water Resources Department
FROM: Mark Kriz, Senior Procurement Analyst,
813-301-7069
SUBJECT: Recommendation for Award, 18624
Bulk Glycerin, 70%, Estimated Cost: \$584,781.25

The attached bid was received from Environmental Operating Solutions, Inc. for the above referenced solicitation and submitted for your review, evaluation, and award recommendation. In accordance with the Procurement Manual, Chapter 3, Item 3.4.2 (E), provide an award recommendation approved by your department director August 16, 2019.

- Total Bid Price is: \$412,191.50
- Reference checks are satisfactory: YES NO
Reference checks deemed unnecessary; EOS is the current successful supplier to Department
- Recommend award as responsive and responsible bidder YES NO
- Request Next Bidder? YES NO
- Provide a statement that addresses the reason(s) for your recommendation or rejection).
The bid price is considered reasonable reflecting a reduction in the bulk cost from what the Department currently pays. Supplier has supplied excellent product and service to date.
- Provide any other information regarding the purpose and/or outcome of this procurement that you would like communicated to the approver(s) (e.g. County Administrator, Board of County Commissioners, etc.)
The Department will continue its successful processing and treatment of wastewater under Federal, State and local regulations utilizing this bulk glycerin, 70% as a carbon source.
- Funding:
 Operating Grant: Grant Title Capital Project No(s):

Fiscal Approved By: Kenetra Rivera Date: 8/12/19

Recommendation Approved By: Don DeBenedetto Date: 8/12/19
Department Director

RFQ 18624 Notice of Intent to Award - Bulk Glycerin Solution, 70%

RFQ 18624 Close Date 08/09/2019 14:00 RFQ Currency USD	Quotes Received 2 Active Quotes 2 Shortlisted Quotes 2	Invited Suppliers 194 Intent to Participate 2 Responded 2	Posted: August 12, 2019
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Header

		ENVIRONMENTAL OPERATING SOLUTIONS INC Quote 232904	ROBERT BECK Quote 233008
Supplier Site			
Contact		Brown, Evan	Beck, Robert
Quote Status		Active	Active
Shortlist Status		Included	Included
Quote Total		412,191.50	443,106.50
Total Award Amount		412,191.50	
Time of Quote		08/09/2019 10:31	08/08/2019 9:06
Quote Valid Until			
Supplier's Quote Number		RFQ 18624	
Note to Buyer			
Attachments		Yes	Yes
Title		ENVIRONMENTAL OPERATING SOLUTIONS INC Quote 232904	ROBERT BECK Quote 233008
Requirements			
Notes			
Notice: Pursuant to Hillsborough County Ordinance 13-24, Protest Process and Procedures and Cone of Silence the bidder(s) identified are being recommended for contract award. Interested parties with a grievance pertaining to this procurement shall provide the County written notice no later than five (5) business days from the date the County posts this notice of intent to award. See following link for specific ordinance details: http://hcfi.gov.net/library/hillsborough/media-center/documents/Procurement%20Services/Procurement%20Manual/AppendixCC			
Affirmation			
Name of person submitting the Bid.		Samuel Ledwell	Robert Beck on behalf of Momar Inc.
Title of person submitting the Bid.		President	Vice President
I represent that I am at least eighteen (18) years of age.		Yes	Yes
I represent that the printing of my name and the submittal of a Bid is intended to authenticate this writing and to have the same force and effect as my manual signature.		Yes	Yes
I represent that I am either authorized to bind the Bidder, or that I am submitting the Bid on behalf of and at the direction of the Bidder's representative authorized to contractually bind the Bidder.		Yes	Yes
I represent that the Bidder and/or its applicable representative(s) has reviewed the information contained in this Bid and that the information submitted is accurate.		Yes	Yes

<p>At this present time, we understand all requirements and state that as a serious Bidder we will comply with all the stipulations included in this Solicitation Document.</p> <p>The above-named Bidder affirms and declares:</p> <ol style="list-style-type: none"> 1. That the Bidder is of lawful age and that no other person, firm or corporation has any interest in this Bid or in the Contract proposed to be entered into. 2. That this Bid is made without any understanding, agreement, or connection with any other person, firm or corporation making a Bid for the same purpose, and is, in all respects, fair and without collusion or fraud. 3. That the Bidder is not in arrears to Hillsborough County upon debt or contract and is not a defaulter, as surety or otherwise, upon any obligation to Hillsborough County. 4. That no officer or employee or person whose salary is payable, in whole or in part, from the County Treasury is, shall be or become interested, directly or indirectly, surety or otherwise in this Bid; in the performance of this Contract; in the supplies, materials, equipment, and Services and/or Work to which they relate; or in any portion of the profits thereof. 5. That the Bidder has carefully examined the site where the Services and/or Work are to be performed and that, from the Bidder's own investigations, the Bidder is satisfied with the nature and location of the Project and/or Work to be performed; the character, quality and quantity of materials; the kind and extent of the equipment and other facilities needed for the performance of the Services and/or Work; the general and local conditions, all difficulties to be encountered; and all other items which may in any way affect the performance of the Services and/or Work. 6. That the Bidder has not altered the original Solicitation Document in any way and further understands that any such alteration of the original Solicitation Document may result in rejection of the Bidder's Bid. 7. Bidder acknowledges and understands that Section 287.135, Florida Statutes, prohibits agencies and governmental entities from contracting with a company for goods and/or services that are One Million Dollars (\$1,000,000) or more, if such company is (i) engaged in business operations in Cuba or Syria, (ii) on the Scrutinized Companies that Boycott Israel List (created pursuant to Florida Statutes, Section 215.4725), (iii) on the Scrutinized Companies with Activities in Sudan List (created pursuant to Florida Statutes, Section 215.473), or (iv) on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (created pursuant to Florida Statutes, Section 215.473). Bidder hereby certifies that Bidder (i) is not engaged in business operations in Cuba or Syria, (ii) is not on the Scrutinized Companies that Boycott Israel List, (iii) is not on the Scrutinized Companies with Activities in Sudan List, and (iv) is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Bidder acknowledges and understands that pursuant to Florida Statutes, Section 287.135, the submission of a false certification may subject Bidder to civil penalties, attorneys' fees and/or costs. 	Yes	Yes
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General Requirements			
Deviation(s): Any representation of deviation(s) may cause this Bid to be rejected by Hillsborough County. The following represents every deviation (itemized by number) to the foregoing Invitation to Bid upon which this Bid is based.			None
In the event an Agreement is executed upon the award of this Invitation to Bid to the Bidder, the County will provide Successful Bidder with a copy of the executed Agreement, if applicable. The County prefers to provide the document via electronic mail (e-mail). However, if Bidder wishes to receive an original hard copy of the executed Agreement, it can be mailed. Indicate the delivery method desired.		Send electronic version	Send hard copy via U.S. Mail
Bidder is currently set up with a merchant account to accept payment by VISA credit card and will accept payment from the County by VISA account through the ePayables electronic payment solution. Note: If Bidder is already enrolled in the County's ePayables solution for an existing contract/award, the Bidder will automatically receive payment using their enrolled solution in the event the Bidder is the Successful Bidder.		Yes	Yes
Bidder will accept payment from the County by direct deposit through the ACH electronic payment solution. Note: If Bidder is already enrolled in the County's ACH solution for an existing contract/award, the Bidder will automatically receive payment using their enrolled solution in the event the Bidder is the Successful Bidder.		Yes	Yes
Pursuant to the SPECIAL TERMS AND CONDITIONS that allows the Contract to be available to all government agencies, departments, and municipalities, does the Bidder agree to make the contract and bid prices submitted available to all government agencies, departments, and municipalities? The Bidder's choice to make the contract available (or not) will NOT be considered in the award of the Bid.		No	Yes
Submission Checklist			
The following item(s) is/are uploaded and made part of this submission as addressed in the Contract terms of this bid. (NOTE: There is a file size limit of 100MB per file.) 1. Emergency Supply Plan 2. Spill Action Plan 3. One-Year of Quality Control Sampling 4. Certification of BQ-900 5. Technical Data Sheets		Yes	Yes

File Download Time 08/12/2019 13:39

Lines - Bulk Glycerin Solution, 70%

RFQ 18624 Close Date 08/09/2019 14:00 RFQ Currency USD	Quotes Received 2 Active Quotes 2 Shortlisted Quotes 2	Invited Suppliers 194 Intent to Participate 2 Responded 2
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Lines

Number of Awarded Lines 4	Total Current Value	Total Savings Amount
Number of Awarded Suppliers 1	Total Award Amount 412,191.50	Total Savings Percent

1 Glycerin 70%, 55 Gallon Drum

Line Type Quantity	Unit Drum (s)	Quantity Agreed 275
Item, Rev / Job	Start Price	Award Amount 76,381.25
Category 190.36	Current Price	Savings Amount
		Savings Percent

	Target Value	ENVIRONMENTAL OPERATING SOLUTIONS INC Quote 232904	ROBERT BECK Quote 233008
Supplier Site			
Quote Status		Active	Active
Shortlist Status		Included	Included
Quote Price		277.75	312.00
Unit Price Savings			
Unit Price Savings Percent			
Minimum Release Amount			
Award		Yes	No
Quantity Agreed	275	275	
Award Amount		76,381.25	
Award/Reject Reason			
Note to Buyer		The per gallon price for drums is \$5.05 per gallon (55 gallons)	This is the total price for 275 (55) gallon drums
Attachments		No	No
Attributes			
General			
Total amount of gallons in container		76381.25	85,800

2 Glycerin 70%, Totes

Line Type **Quantity**
 Item, Rev / Job
 Category **190.36**

Unit **Gallon (s)**
 Start Price
 Current Price

Quantity Agreed	6625
Award Amount	27,626.25
Savings Amount	
Savings Percent	

	Target Value	ENVIRONMENTAL OPERATING SOLUTIONS INC Quote 232904	ROBERT BECK Quote 233008
Supplier Site			
Quote Status		Active	Active
Shortlist Status		Included	Included
Quote Price		4.17	4.58
Unit Price Savings			
Unit Price Savings Percent			
Minimum Release Amount			
Award		Yes	No
Quantity Agreed	6625	6625	
Award Amount		27,626.25	
Award/Reject Reason			
Note to Buyer		Totes normally carry up to 265 gallons in total per tote; Theref	Total Price for the Tote Line item
Attachments		No	No
Attributes			
General			
Total amount of gallons in container		27626.25	30342.50

Line Type **Quantity**
 Item, Rev / Job
 Category **190.36**

Unit **Gallon (s)**
 Start Price
 Current Price

Quantity Agreed	205800
Award Amount	304,584.00
Savings Amount	
Savings Percent	

Supplier Site			
Quote Status	Active	Active	
Shortlist Status	Included	Included	
Quote Price	1.48	1.58	
Unit Price Savings			
Unit Price Savings Percent			
Minimum Release Amount			
Award	Yes	No	
Quantity Agreed	205800	205800	
Award Amount	304,584.00	304,584.00	
Award/Reject Reason			
Note to Buyer	Bulk loads average around 4500 to 5000 gallons	Total Price of bulk delivery line item	
Attachments	No	No	
Attributes			
General			
Total amount of gallons in container	304584	325,164.00	

4 Split Delivery Charge

Line Type **Quantity**
 Item, Rev / Job
 Category **190.00**

Unit **Each**
 Start Price
 Current Price

Quantity Agreed	12
Award Amount	3,600.00
Savings Amount	
Savings Percent	

	Target Value	ENVIRONMENTAL OPERATING SOLUTIONS INC Quote 232904	ROBERT BECK Quote 233008
Supplier Site			
Quote Status		Active	Active
Shortlist Status		Included	Included
Quote Price		300.00	150.00
Unit Price Savings			
Unit Price Savings Percent			
Minimum Release Amount			
Award		Yes	No
Quantity Agreed	12	12	
Award Amount		3,600.00	
Award/Reject Reason			
Note to Buyer			
Attachments		No	No

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Contract Terms and Conditions

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Terms and Conditions

1. Specifications

1.1. Scope

1.1.1. Hillsborough County's Water Resources Department (WRD) seeks to award a contract to a qualified Contractor to provide bulk quantities of 70% glycerin solution, consulting services, and training.

1.1.2. 70% glycerin solution is used for the treatment of municipal wastewater at several County wastewater treatment facilities.

1.2. Minimum Qualifications *

1.2.1. At the time of bid submission and the duration of the resulting contract, the Bidder shall be a manufacturer of 70% glycerin solution.

1.2.2. At the time of bid submission, the Bidder (manufacturer) shall be BQ-9000 Producer certified from the National Biodiesel Accreditation Program (<https://www.bq-9000.org/>). Bidder shall submit said certification with bid submission or upon County request.

1.2.3. The Bidder/Proposer or principal thereof shall demonstrate recent experience in providing, delivering, and handling of bulk quantities of 70% glycerin solution for municipal wastewater treatment. The "Responsibility Survey" should be used by the Bidder/Proposer to provide such information. If the Bidder/Proposer uses its own form, the information provided must be substantially similar as requested in the Responsibility Survey.

1.3. Minimum Requirements *

1.3.1. The Contractor shall furnish all labor, tools, equipment, vehicles, supplies, incidentals, and materials necessary to deliver and off-load 70% glycerin solution in accordance with these specifications.

1.3.2. The Contractor shall deliver 55 gallon drums, totes or by bulk tanker truck (minimum 4,000 gallons).

1.3.3. Bidder shall submit technical data sheets with their bid submission or upon County request.

1.3.4. Bidder shall submit one year of quality control sampling data, within the last 18 months, that demonstrates that the supplemental carbon source being bid is consistent with these specifications.

1.4. 70% Glycerin Solution

70% glycerin solution shall be provided by the manufacturer, not by a re-seller or distributor.

70% glycerin solution shall originate from a BQ-9000 certified producer.

Methanol or any other non-70% glycerin solution based supplemental carbon source will not be considered.

70% glycerin solution shall conform to:

Parameter	Target Value	Acceptable Range	Method for Determination*
Physical State	Liquid	n/a	n/a
Specific Gravity @20C	1.22	1.210-1.230	Precision Hydrometer
Bulk Density (lbs./gal)	10.17	10.09-10.26	Calculation based on Specific Gravity @ 20C
pH	5.50	4.0-7.0	pH Meter with fitted glass electrode
Viscosity cPS @ 20C @ 15C @ 10C @ 5C @ 0C	< 50 cPs < 75 cPs < 100 cPs < 125 cPs < 150 cPs	< 50 cPs < 75 cPs < 100 cPs < 125 cPs < 150 cPs	Brookfield Viscometer
Solubility in water	≥ 99%	≥ 99%	
VOC Concentration	0%	0%	(EPA 8260B)
Freezing Point	Below Zero Fahrenheit	Below Zero Fahrenheit	Freezing point determination
Flash Point	None to Boil	None to Boil	(ASTM D93)
COD Value	1,060,000	□ 1,000,000	EPA 410.3
sCOD/Total COD	≥ 87%	≥ 87%	Closed Reflux, Colorimetric Method (HACH KIT) Filtration+colorimetric
rbCOD/Total COD	≥ 85%	≥ 85%	Closed Reflux, Colorimetric Method (HACH KIT) Filtration+flocculation+colorimetric
BOD5/Total COD	≥ 80%	≥ 80%	5-Day BOD Test

Methanol Content	≤ 0.5%	0 – 2% w/w	AOCS Cg 4-94 or equivalent. Measured on 70% Glycerin Solution*
Fatty Acid Content	0.00 – 0.75% w/w	≤ 1.0%	AOCS Ca 5b-71 or equivalent Measured on 70% Glycerin Solution*
Insoluble/Nuisance Solids	None	Material cannot contain solids greater than 1000 micron	Sieve analysis
BQ-9000 certification	Raw materials for use within products shall only come from BQ-9000 certified biodiesel manufacturers	No exceptions	Letter of certification from 70% Glycerin Solution producer

* Equivalent method for parameter may be used by certified laboratory

1.5. Applicable Publications and Terminology

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

1.5.1.1. Current version of Title III, Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.S. 11001 et seq. (SARA)
(<https://www.georgiaencyclopedia.org/articles/geography-environment/superfund-amendments-and-reauthorization-act-sara>)

1.5.1.2. Florida Hazardous materials Response and community Right-to-Know Act of 1988, Ch. 252, Part II, Florida Statutes. (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0252/ch0252.htm)

1.5.1.3. Occupational Safety and Health Administration (OSHA) Standard No. 1926.95 - Criteria for personal protective equipment.
(<https://www.osha.gov/laws-regs/regulations/standardnumber/1926/1926.95>)

1.5.1.4. OSHA, Transporting Hazardous Materials.
(https://www.osha.gov/SLTC/trucking_industry/transportinghazardousmaterials.html)

1.6. Personnel

1.6.1. Prior to beginning work under the resulting contract, the Contractor shall provide a Plant Manager (PM) with a name, telephone number, and email address of the Contractor's representative.

1.6.2. The Contractor shall provide and maintain a means by which the PM can contact the Contractor or its designated representative 24 hours a day, seven (7) days a week.

1.6.3. The Contractor shall ensure that additional representatives are available to provide coverage when their scheduled Contractor representative is not available, to avoid an interruption of services.

1.6.4. The Contractor shall have a representative, familiar with de-chlorination applications in wastewater treatment plants, available within 48 hours of notification to assist in product application recommendations, if necessary.

1.6.5. Contractor personnel are prohibited from bringing unauthorized persons, such as but not limited to, friends and/or family members onto a County work site. Should such an event take place the PM shall cause the removal of such unauthorized persons from County premises.

1.7. Attire

1.7.1. The Contractor shall ensure that each of its representative wear a shirt which plainly and prominently identifies the Contractor's/Sub-Contractor's company name and/or which contains the Contractor's imprinted, embroidered, or an applique of the company logo affixed thereto.

1.7.2. Contractor personnel are expressly prohibited from wearing short-shorts, tank tops, muscle shirts, halter tops, sandals, flip-flops, or any type of open-toed shoes. Working bare-footed is prohibited.

1.7.3. Contractor personnel may be required to stop work if not properly attired in a manner that is commensurate with the work being performed.

1.8. Safety

1.8.1 The Contractor shall comply with the Occupational Safety and Health (OSH) Act of 1970. (<https://www.osha.gov/as/opa/worker/employer-responsibility.html>)

1.8.2. The Contractor shall ensure all personnel wear appropriate personal protective equipment, as set forth by the Occupational Safety and Health Administration (OSHA) by Standard No. 1926.95 - Criteria for personal protective equipment.

1.8.3. The Contractor shall immediately report to the PM, via eMail, all injuries and all damages occurring to public or private property which are a result of the Contractor's performance hereunder.

1.8.3.1. The Contractor shall repair/replace any such property, within 48 hours, at no cost to the County. If additional time is required, the PM may approve.

1.9. Training

1.9.1. The Contractor shall provide two (2) detailed 70% glycerin solution safe handling training courses within the first three (3) months of the resulting contract, at no cost to the County. The PM will schedule both courses, one at each of the two receiving facilities.

1.9.2. The Contractor shall provide "refresher" courses or new employee training at the anniversary date of the resulting contract, at no cost to the County.

1.10. Equipment *

1.10.1. The Contractor's equipment shall clearly display their company logo while on County property.

1.10.2. The Contractor shall ensure that each of its representatives who operate a motor vehicle in performance of these specifications is properly licensed by the State of Florida for the operation of said vehicle(s).

1.10.3. All deliveries shall be made by tanks or trailers that are clean and free of residue that may contaminate the Contractor's product or impede the unloading process.

1.10.4. Upon request, wash tickets shall be provided if the tank has previously carried another product. The PM may reject a shipment if a wash ticket is not provided.

1.10.5. The PM may reject a shipment if the cleanliness of the tanker is not properly documented.

1.11. Emergency Action Plan *

1.11.1. Upon request, the Contractor shall provide the PM with an emergency plan describing the protocol that will ensure uninterrupted product supply in the event the primary manufacturing facility is unable to provide the product contained within. The plan shall include 24/7 contact information.

1.11.2. Upon request, the Contractor shall provide the PM with their emergency procedures for spills, fires, and disposals.

1.11.3. In the event of a spill or leak, the Contractor's personnel shall respond to said event, to work with local Hazardous Materials Response Team to manage and oversee cleanup efforts.

1.11.3.1. Should a spill or leak occur caused by the Contractor's personnel, equipment, or method of delivery, the Contractor shall immediately comply with federal and state rules and regulations, to include but not limited to, the current version of Title III, Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.S. 11001 et seq. (SARA), and the Florida Hazardous materials Response and community Right-to-Know Act of 1988, Ch. 252, Part II, Florida Statutes.

1.12. Service Days and Hours

1.12.1. Unless otherwise advised by the PM, the Contractor shall only provide delivery during service hours, except County holidays.

1.12.1.1. Service Days – Monday through Friday

1.12.1.2. Service Hours - 8:00 AM to 3:00 PM

1.13. Preparation for Delivery *

1.13.1. Delivery of the goods and/or performance of the Services and/or Work must be no later than **three (3)** Days after Contractor's receipt of a Purchase Order from the County. The Contractor shall be solely responsible for all freight charges. Offers that propose delivery timelines that do not fall within the aforementioned delivery time frame will be subject to rejection.

1.13.2. The Contractor shall provide a Safety Data Sheet (SDS) and a bill of lading to the PM with the following information:

1.13.2.1. Name of the chemical and date of delivery.

1.13.2.2. Net weight

1.13.2.3. Name and address of Contractor and/or manufacturer.

1.13.2.4. Lot number.

1.13.2.5. Certified weight tickets (gross and tare).

1.13.3. Facility Locations

1.13.3.1. River Oaks Plant located at 8425 Sheldon Road, Tampa, FL 33615

1.13.3.2. South County Plant located at 520 TECO Road, Ruskin, FL 33570

1.13.3.3. S.E. Landfill located at 15960 County Road 672, Lithia, FL 33547

1.14. Sampling and Testing Prior of Unloading *

1.14.1. Contractor delivery personnel may be asked to provide a sample of the product before the shipment is accepted. The PM will supply the sample container and the driver shall collect a product sample to provide to the PM. The sample will be considered representative of the lot.

1.14.2. Any sample tested by the PM that fails to comply with these specifications shall constitute grounds for shipment rejection at no cost to the County.

1.15. Transfer of Product *

1.15.1. Contractor shall transfer contents to storage tanks without any assistance from WRD.

1.15.2. Driver shall remain with the vehicle while the transfer is in progress.

1.15.3. Driver shall continuously monitor for leaking hoses, connections, or other problems.

1.15.4. Driver shall ascertain the correct storage tanks and fill point locations to prevent accidental discharge of product into wrong storage tank(s).

1.15.5. Contractor shall be responsible for the cost of cleanup, repair of facilities, and replacement of chemical product(s) in the event of an accidental discharge of product into an incorrect storage tank(s).

1.15.6. Contractor shall package and ship 70% glycerin solution in accordance with OSHA guidelines, Transporting Hazardous Materials.

2. Special Terms and Conditions

2.1. Basis for Award (Overall Low)

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

2.2. Insurance, Contractor *

a) During the life of the Agreement, the Contractor shall provide, pay for and maintain insurance of the types and in the amounts described herein. All such insurance shall be provided by responsible companies with A.M. Best ratings of A-, Class 7 or better, authorized to transact business in the State of Florida, and which are satisfactory to the County.

b) All policies of insurance required by the Agreement shall require that the Contractor give the County thirty (30) Days written notice of any cancellation, intent not to renew, or reduction in coverage and ten (10) Days written notice of any non-payment of premium. Such notice shall be delivered by U.S. Mail to: Director, Risk Management Division, Hillsborough County, 601 E. Kennedy Blvd, Tampa, Florida 33602. In the event of any reduction in the aggregate limit of any policy, the Contractor shall immediately restore such limit to the amount required herein.

c) All insurance coverages provided by the Contractor shall be primary to any insurance or self-insurance program of the County which is applicable to the Work provided for in the Agreement.

d) Receipt by the County of any Certificate of Insurance or copy of any policy evidencing the insurance coverages and limits required by the Contract Documents does not constitute approval or agreement by the County that the insurance requirements have been satisfied or that the insurance policies shown on the Certificates of Insurance are in compliance with the requirements of the Contract Documents.

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

f) The insurance coverages and limits required of the Contractor under the Contract Documents are designed to meet

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

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

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

i) All Commercial General Liability and Builder's Risk liability insurance policies obtained by the Contractor to meet the requirements of the Contract Documents shall provide that the County, its employees and agents, and the Contractor shall be "additional insureds" under the Policy and shall also incorporate a Severability of Interest provision. All insurance coverages provided under this Section shall apply to all the Contractor's activities under the Contract Documents without regard for the location of such activity. Liability policies shall only be written on the "Occurrence" form.

j) Coverage amounts and type of insurance shall conform to the following minimum requirements with the use of current Insurance Service Office form and endorsements or their equivalent.

k) Worker's Compensation and Employer's Liability Insurance. Coverage shall be maintained by the Contractor for all employees engaged in the Work, in accordance with the laws of the State of Florida.

l) The amount of such insurance shall not be less than:

i) Workers' Compensation - Florida Statutory Requirements

ii) Employer's Liability -

\$ **100,000.00** Limit Each Accident

\$ **100,000.00** Limit Disease Each Employee

\$ **500,000.00** Limit Disease Aggregate

iii) Commercial General Liability Insurance. Coverage shall include, but not be limited to: Bodily Injury and Property Damage, Damage, Damage to Rented Premises, Medical expenses, Personal and Advertising Injury, and Products and Completed Operations:

\$ **1,000,000.00** Bodily Injury and Property Damages - Each Occurrence

\$ **N/A** Damages to Rented Premises - Each Occurrence

\$ **N/A** Medical Expenses - Any One Person

\$ **1,000,000.00** Personal and Advertising Injury - Each Occurrence

\$ **1,000,000.00** Products/Completed Operations - Each Occurrence

\$ **2,000,000.00** General Aggregate

\$ **2,000,000.00** Products/Completed Operations Aggregate

iv) Business Automobile Liability Insurance. Coverage shall be maintained by the Contractor as to the ownership, maintenance, and use all of its owned, non-owned, leased or hired vehicles ("any auto") with limits of not less than:

I) Bodily Injury & Property Damage Liability: **\$1,000,000.00** Combined Single Limit Each

Accident.

v) All Risk Coverage: For Purposes of this Contract, Builder's Risk coverage **is not** required; and Installation Floater Coverage **is not** required. If either or both are required, the Contractor shall provide coverage which includes the following minimum requirements:

I) All Risk coverage shall be issued by insurance company(s) approved by the State of Florida Department of Insurance and acceptable to the County. Coverages and endorsements must be on forms acceptable to the County. The premium for this insurance shall be paid for by the Contractor, with any deductibles being the sole responsibility of the Contractor.

II) Builder's Risk limits of coverage shall be 100% of the completed value of any building(s) or structure (s), or 100% of the value of the equipment to be installed, as appropriate; Installation structure(s), or 100% of the value of the equipment to be installed, as appropriate; Installation Floater coverage shall provide for loss of the installed equipment, no labor or fees, prior to final completion of the project.

III) Waiver of Occupancy Clause or Warranty: Policy must be specifically endorsed to eliminate any "occupancy clause" or similar warranty or representation that the building(s) or structure(s) will not be occupied.

vi) Professional Liability/Errors and Omissions Insurance **is not** required.

vii) Pollution/Environmental Impairment Liability Insurance **is** required. Minimum **\$1,000,000.00**

viii) Certificates of Insurance. Certificates of Insurance evidencing the insurance coverage specified herein, when required, shall be filed with the Procurement Services Department within ten (10) Days after Notice of Award. The required Certificates of Insurance not only shall name the types of policies provided, but also shall refer specifically to the Agreement. Certificates shall have the signature of the producer or authorized Representative of the insurer(s). Certified copies of insurance policies shall be provided to the County upon request.

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

2.3. Optional Provision for Other Agencies

Unless otherwise stipulated by the Bidder/Proposer in its Offer, the Bidder/Proposer agrees to make available to all government agencies, departments, and municipalities the Offer prices submitted in accordance with the terms and conditions of this Solicitation Document, should any governmental entity desire to buy under the Contract resulting from this Solicitation Document.

2.4. Price Escalation/De-Escalation (PPI) *

If the Contractor desires to request an increase pursuant to the following escalation clause for the annual period of the Contract, the Contractor shall submit, no later than ninety (90) Days prior to the annual anniversary date of the contract, the inflationary factor and background data based upon the following formula, to the County's Project Manager:

a) New Fee = [.75 X (PPI2 – PPI1) ÷ PPI1 + 1] X Current Fee

b) "PPI": The Producer Price Index for the Series ID: Chemicals and Allied Products- WPU06, Not Seasonally

Adjusted published by the United States Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov/>).

c) "PPI1": The published PPI for the month ending twelve (12) months prior to PPI2.

d) "PPI2": The published PPI for the month ending one-hundred fifty (150) Days prior to the annual anniversary date of the Contract being adjusted.

e) As of the annual anniversary date of this Contract, the County may decrease the Contract in accordance with the above Escalation/De-Escalation clause formula. The County shall notify the Contractor in writing of any such de-escalation. In no event shall either the escalation or the de-escalation exceed six percent (6%) in any year.

2.5. Purchase Order/Contract

By submitting an Offer, the Bidder/Proposer declares that it understands and agrees that Bidder's/Proposer's Offer in addition to the Specifications, the Instructions, the General Terms and Conditions, the Special Terms and Conditions, the Insurance and Bond requirements, any Amendment(s) issued and all applicable attachments to this Solicitation Document shall become a valid contract between the County and the Contractor upon approval of the contract award by the Board of County Commissioners (if applicable), upon approval of the contract award by the County Administrator (if applicable), or upon the County's issuance of a Contract Purchase Agreement, Blanket Purchase Agreement, or Purchase Order, whichever occurs sooner.

2.6. Term Contract Clauses

2.6.1. Contract Period for Term Contract *

The Contract resulting from this Solicitation Document will be in effect for a **two** (2)-year period (ending on the last day of the final month) from the effective date of the Contract as established by the County's Blanket Purchase Agreement (BPA) or Contract Purchase Agreement (CPA).

2.6.2. Estimated Quantities

Quantities given represent the best estimate for use and shall be the basis for award. However, these quantities are not intended to represent actual requirements, which are not known at this time and may vary during the Contract Period. The County does not guarantee a minimum total purchase. Furthermore, the requirements of the County may exceed best estimates and the Successful Bidder/Proposer shall provide such requirements to the extent they are reasonable.

2.6.3. Hillsborough County Governmental Purchasing Council: Reference Laws of Florida 69-1112 and 69-1119

All Offers received by the County in response to this Solicitation Document shall be considered as Offers to members of the Hillsborough County Governmental Purchasing Council. Members, at their discretion, may utilize the Contract that results from this Solicitation Document. Members may purchase the goods, Services and/or Work under the same terms and conditions as the Contract between the Contractor and the County. Members will issue their own purchase orders, issue payments and coordinate the service locations with the Contractor, as applicable. The Hillsborough County Governmental Purchasing Council consists of the following agencies:

Children's Board of Hillsborough County

City of Plant City
City of Tampa
City of Tampa Housing Authority
City of Temple Terrace
Clerk of the Circuit Court
Expressway Authority
Hillsborough Area Regional Transit Authority
Hillsborough County Aviation Authority
Hillsborough County Board of County Commissioners
Hillsborough Community College
Hillsborough County School Board
Hillsborough County Sheriff
Property Appraiser
State Attorney's Office
Supervisor of Elections
Tampa Palms Community Development District
Tampa Port Authority
Tampa Sports Authority
Tax Collector

2.6.4. Ordering

The County shall issue a Blanket Purchase Agreement (BPA) or Contract Purchase Agreement (CPA) to cover any goods, Services and/or Work to be furnished under this Contract. The County user departments will then issue Standard Purchase Orders against the BPA/CPA on an as-needed basis. The Successful Bidder/Proposer shall deliver the applicable goods, Services and/or Work only upon receipt of a Standard Purchase Order. No goods, Services and/or Work are to be provided until a Standard Purchase Order is issued. However, any Standard Purchase Order issued PRIOR to the end of the Contract Period shall be completed, invoiced and paid after the expiration of the Contract. Orders shall be issued only during the Contract Period. The County reserves the right to modify the delivery location(s) identified throughout the Contract Period.

2.6.5. Termination for Convenience

In the event the County elects to terminate the Contract, the County shall provide the Contractor with notice of termination in writing by electronic and/or certified mail. The County shall pay the Contractor for any accepted goods, Services and/or Work provided by the Contractor to the County prior to the Contractor's receipt of said termination notice.

2.6.6. Unilateral Extension Periods

The County, through its Director of Procurement Services or designee, reserves the right to unilaterally extend the

Contract Period or the renewal period of this Contract for up to three (3) additional one (1) month periods or any portion thereof, at the same terms and conditions. Notice of the County's intent to extend the Contract Period and/or the renewal period shall be provided by the County in writing to the Successful Bidder/Proposer prior to the expiration of the Contract, or the renewal period.

3. Definitions

3.1. Definitions

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

3.2. Agreement

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

3.3. Amendment(s), Addendum, or Addenda

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

3.4. Bid(s), or Bidder's Bid

"Bid(s)", "Bidder's Bid", "Proposal(s)", or "Quote(s)" shall mean the offer, bid, proposal, or quote of the Bidder/Proposer submitted on the prescribed forms setting forth the prices for the Work to be performed, along with all other documents submitted by the Bidder/Proposer in response to this Solicitation Document.

3.5. Bidder

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

3.6. Blanket Purchase Agreement (BPA)

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

3.7. Board of County Commissioners

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

3.8. Bond

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

3.9. Business Day(s)

"Business Day(s)" shall mean Monday through Friday excluding public holidays.

3.10. Change Order

"Change Order" shall mean a written order or alteration to a Contract or Purchase Order signed by the appropriate County and Contractor authority directing an addition, deletion, or revision in the provision of the goods and/or Services or an adjustment in the Contract Price and/or Contract Time.

3.11. Close Date

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

3.12. Contract or Contract Documents

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

3.13. Contract Price

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

3.14. Contract Purchase Agreement (CPA)

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

3.15. Contract Time or Contract Period

"Contract Time" or "Contract Period" shall mean the number of calendar Days stated in the Contract Documents for the completion of the Work and/or the provision of the goods and/or Services specified therein.

3.16. Contractor

"Contractor" shall mean the Successful Offeror, whether a corporation, partnership, individual or any combination thereof, and its, their or his/her successors, personal representatives, executors, administrators, and permitted assignees.

3.17. County

"County" shall mean the Board of County Commissioners, Hillsborough County, Florida, for whom the Contract is being performed.

3.18. County Administrator

"County Administrator" shall mean the County Administrator of Hillsborough County.

3.19. Day(s)

"Day(s)" shall mean one calendar day.

3.20. Designee

"Designee" shall mean the person appointed by the Board of County Commissioners and/or the County Administrator to act on his/her behalf.

3.21. Earnest Money Deposit (EMD)

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

3.22. Invitation To Bid

"Invitation to Bid" shall mean the Solicitation Document issued by the County for the goods, Services and/or Work specified herein; and shall include the Definitions, Instructions, General Terms and Conditions, Special Terms and Conditions, Insurance and Bond requirements, Specifications, Requirements, and all Amendment(s) issued.

3.23. Minimum Specifications

"Minimum Specifications" shall mean the portion of the Specifications that address the technical requirements of the Work to be performed under this Contract including materials, equipment, and workmanship.

3.24. Modification Agreement

"Modification Agreement" shall mean the written order to the Contractor signed by the County authorizing an addition, deletion, or revision in the goods, Services and/or Work to be provided under the Contract Documents or an adjustment in the Contract Price issued after execution of the Agreement.

3.25. Notice

"Notice" shall mean a written notice for the County and the Contractor as set forth in this Solicitation Document and/or the Contract Documents.

3.26. Notice of Award

"Notice of Award" shall mean the written notice given by the County to the Successful Bidder/Proposer that said Bidder/Proposer has been selected by the County to provide the goods/Services and/or perform the Work specified in this Solicitation Document.

3.27. Notice to Proceed

"Notice to Proceed" shall mean the written notice given by the County to the Successful Bidder/Proposer and/or Contractor of the date for the Work to start and/or for the date of the Successful Bidder/Proposer and/or Contractor to provide the goods and/or Services specified in the Contract Documents.

3.28. Offer(s)

"Offer(s)" or "Bid(s)" or "Proposal(s)" or "Quote(s)" shall mean the offer, bid, proposal, or quote of the Offeror submitted on the prescribed forms setting forth the prices for the Work to be performed, along with all other documents submitted by the Offeror in response to this Solicitation Document.

3.29. Offeror

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

3.30. Project

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

3.31. Project Manager

"Project Manager" shall mean the duly authorized representative of the Board of County Commissioners during the Contract Period.

3.32. Proposal(s)

"Proposal(s)" or "Bid(s)" or "Bidder's Bid(s)" or "Quote(s)" shall mean the offer, bid, proposal, or quote of the Bidder/Proposer submitted on the prescribed forms setting forth the prices for the Work to be performed, along with all other documents submitted by the Bidder/Proposer in response to this Solicitation Document.

3.33. Proposer

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

3.34. Purchase Order

"Purchase Order" shall mean the County's written document to the Contractor authorizing Work.

3.35. Quote(s)

"Quote(s)" or "Bid(s)" or "Bidder's Bid(s)" or "Proposal(s)" shall mean the offer, bid, proposal, or quote of the Bidder/Proposer submitted on the prescribed forms setting forth the prices for the Work to be performed, along with all other documents submitted by the Bidder/Proposer in response to this Solicitation Document.

3.36. Service(s)

"Service(s)" shall mean the activity/improvement and/or the means or methods necessary for implementation and prosecution of the Project and/or Work that is the subject of the Contract Documents.

3.37. Site(s)

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

3.38. Solicitation Document

"Solicitation Document" shall mean the solicitation issued by the County for the goods, Services and/or Work specified herein; and shall include the Definitions, Instructions, General Terms and Conditions, Special Terms and Conditions, Insurance and Bond requirements, Specifications, Requirements, and all Amendment(s) issued.

3.39. Specifications

"Specifications" shall mean the detailed information set forth in the "Specifications" section of this Solicitation Document describing and/or concerning the goods, Services and/or Work being solicited by the County via this Solicitation Document, including, but not limited to, any terms and conditions contained within the "Specifications" section, any Amendment(s) issued related to the "Specifications" section, and/or any drawings or maps relating to

the "Specifications" section of this Solicitation Document.

3.40. Subcontractor

"Subcontractor" shall mean any person, firm or corporation other than employees of the Contractor who or which contracts with the Contractor to furnish, or actually furnishes labor, materials, and/or equipment for the Work and/or Project to be performed that is the subject of the Contract Documents.

3.41. Successful Bidder/Proposer

"Successful Bidder" or "Successful Proposer" shall mean the Contractor and vice versa, whether a corporation, partnership, individual or any combination thereof, and its, their or his/her successors, personal representatives, executors, administrators, and permitted assignees.

3.42. Surety

"Surety" shall mean any corporation that executes, as surety, the Bidder's/Proposer's Bid/Proposal bond, and/or any corporation that executed, as surety, the Contractor's Bid/Proposal, performance, and/or payment Bond.

3.43. Unilateral Change Order

"Unilateral Change Order" shall mean a written order or alteration to a Contract or Purchase Order signed by the appropriate County authority directing an addition, deletion, or revision in the provision of the goods and/or Services or an adjustment in the Contract Price and/or Contract Time that does not require concurrence of the Contractor.

3.44. Work

"Work" shall mean any and all obligations, duties and responsibilities necessary for the successful delivery of the goods and/or the successful completion of the Services, Project and/or tasks assigned to or undertaken by the Contractor pursuant to the Contract Documents, including, but not limited to, the furnishing of all labor, materials, equipment and other incidentals contemplated by and/or related to the Contract Documents.

4. Instructions

4.1. Manual Bid Submissions

Applicable only to Offers that are not submitted via the County's electronic bidding system.

If Bidder/Proposer is submitting its Offer by means other than through the County's electronic bidding system, then the following provisions shall apply and shall replace the provisions with the same heading/subject matter found in this "Instructions" section of this Solicitation Document; all other provisions in this "Instructions" section shall remain the same and shall apply to all Offers.

a) Important Notice Regarding Delivery of Offers: The County is currently in the process of transitioning from a manual bidding process to a fully automated electronic bidding process. Accordingly, during this period of

transition, in addition to accepting Offers via the new electronic bidding system, the County will also accept Offers submitted via traditional means (such as U.S. mail, express mail, courier service, or hand delivery) for this Solicitation Document.

i) Bidder/Proposer must have its Offer delivered to:

Hillsborough County BOCC - County Center
Procurement Services Department
PO Box 1110
601 East Kennedy Blvd
Tampa, FL 33601

ii) Bidder/Proposer is strictly responsible for the delivery of its Offer. The County and/or the Director of the Procurement Services Department shall in no way be responsible for any delays caused by the United States Postal Service and/or other courier, or for delays caused by any other occurrence.

iii) Bidder/Proposer is advised that United States Postal Service delivery is made to the County's post office box (P.O. Box). Such delivery is not made directly to the street address, even if the Bidder/Proposer specifies the street address and/or even if express mail service is utilized; therefore, Bidder's/Proposer's use of the United States Postal Service may cause a delay in the County's receipt of the Bidder's/Proposer's Offer by the Close Date. Bidder/Proposer is cautioned to plan necessary delivery time accordingly.

iv) Offers delivered by facsimile, electronic mail (e-mail) or electronic means other than through the County's electronic bidding system will not be considered.

b) Sealing and Labeling of Offers - Bidder/Proposer is directed to seal its Offer from public view and label its sealed Offer with the Bidder's/Proposer's name, this Solicitation Document's title, and the Solicitation Document number. Sealed Offers may not be amended or otherwise changed by any writing placed outside the sealed Offer. Any writing that is outside of the sealed Offer will not be considered in the County's evaluation of the Offer.

c) Signing of Offer:

i) Bidder/Proposer must sign the most recently amended Offer issued for this Solicitation Document.

ii) Bidder's/Proposer's Offer must be signed by a person that is legally authorized to contractually bind the Bidder/Proposer.

iii) If a Bidder/Proposer is a partnership, then the Offer must be signed by one or more of the company's general partners.

iv) If Bidder/Proposer is a corporation, the Offer must be signed by a current officer of the corporation.

v) A person signing the Offer as Bidder's/Proposer's agent should include with the Offer legal evidence of such person's authority to sign on behalf of the Bidder/Proposer.

d) Errors on Offer Pricing: If a Bidder's/Proposer's Offer contains erasures, corrections or mathematical errors, the Bidder/Proposer will be bound to the County's reasonable interpretation of the Bidder's/Proposer's intent. The County shall have the discretion to correct any mathematical calculation error and the unit price will control. If a unit price is left blank, the County shall have the discretion to make a reasonable interpretation of the Bidder's/Proposer's Offer, which may include, but is not limited to, assigning a zero dollar (\$0) amount to such blank unit price.

e) Bid Bond:

i) If Bidder/Proposer is required to submit a Bid Bond for this Offer, then either a certified check, a cashier's check, a treasurer's check, or bank draft drawn on any state licensed financial institution, an

irrevocable letter of credit or, in the alternative, a submission of a Bid Bond completed and signed by all required parties and submitted in the format set forth on the Bid Bond page attached to the Solicitation Document, shall be required to accompany each Offer in the dollar amount set forth within this Solicitation Document.

- ii) Any submitted certified check or irrevocable letter of credit shall be drawn on a solvent bank or trust company to the order of Hillsborough County Board of County Commissioners, and shall have all necessary documentary revenue stamps attached, if required by law.
- iii) Surety on Bid Bonds shall be authorized to do business in the State of Florida.
- iv) All Bid Bonds shall be issued or countersigned by an authorized agent, with satisfactory evidence of the authority of the person or persons executing such bonds.
- v) Personal checks, business checks and cash deposits are not acceptable.

4.2. Affirmative Action Business Enterprise Program

The County hereby notifies all Offerors that Minority Business Enterprises (MBE's), Disadvantaged Minority Business Enterprises (DMBE's), and Disadvantaged Women Business Enterprises (DWBE's) will be afforded an equal opportunity to participate in any award made by the County pursuant to this Solicitation Document and will not be subjected to discrimination on the basis of actual or perceived race, color, religion, sex, national origin, age, marital status, disability, sexual orientation, or gender identity or expression. The County prohibits any person involved in County contracting and procurement activities, to discriminate on the basis of actual or perceived race, color, religion, sex, national origin, age, marital status, disability, sexual orientation, or gender identity or expression.

A written Affirmative Action Plan or Program is required if the Offeror has fifteen (15) or more employees. If the Offeror has fewer than fifteen (15) employees, then an Affirmative Action Plan Statement is required.

A copy of the firm's Affirmative Action Plan/Program or Affirmative Action Plan Statement, signed and dated by the Chief Executive Officer will be requested as part of the Responsibility Survey.

4.3. Award of Contract and Rejection of Bids

- a) A Contract, if awarded, will be awarded to the lowest responsive and responsible Bidder in accordance with this Solicitation Document and applicable law.
- b) The County, in its sole discretion, may determine whether acceptance of the Bid/Quote is in the best interest of the County. Further, the County reserves the right to reject any and all Bids/Quotes and to waive any informality concerning a Bid/Quote whenever such rejection or waiver is in the best interest of the County and in conformance with Florida Law.
- c) The County also reserves the right to reject the Bid/Quote of any Bidder:
 - i) determined to be non-responsible due to failure to perform properly or timely on a comparable contract; and
 - ii) who is not in a position to perform the contract.
- d) Bidder must have the capacity, knowledge, skill and general ability to fully perform. Bidder must also have the integrity, reliability and other applicable qualities that will ensure good faith performance. The County reserves the right to require Bidder to submit documentation and other evidence attesting to the Bidder's responsibility. The County may reject Bidder's Bid/Quote if, at the County's sole discretion, Bidder fails to submit documents and

evidence of responsibility and/or the County has determined that the Bidder is not responsible.

4.4. Bid Documents

a) The Definitions, Instructions, General Terms and Conditions, Special Terms and Conditions, Insurance and Bond requirements, Specifications, Requirements, any Amendment(s) issued, together with all the attached documents herein identified constitute the entire Solicitation Document, and must be the basis of all Offers.

b) Bidder's/Proposer's Offer pricing, in addition to all Amendment(s) issued, and any other documentation required by this Solicitation Document that is submitted by the Bidder/Proposer in response to this procurement shall constitute the Offer. The Bidder/Proposer is only required to submit its Offer in addition to any Amendment(s) issued and any other documentation required by this Solicitation Document.

c) The Definitions, Instructions, General Terms and Conditions, Special Terms and Conditions, Requirements, Insurance and Bond requirements, Specifications, Equal Employment Opportunity and Affirmative Action requirements, all Amendment(s) issued, the Bidder's/Proposer's Offer, the Agreement, if applicable, together with all other attached documents herein identified and all supplementary drawings issued after award of the Contract shall constitute the "Contract Documents" upon the award of this Solicitation Document.

4.5. Bid/Proposal/Quote Pricing

Pricing must be quoted only in the space(s) provided within this Solicitation Document; no other form(s) will be accepted. When applicable, all prices quoted are to be free-on-board (F.O.B.) to the job site or specified delivery location in Hillsborough County, Florida.

4.6. Bid/Proposal/Quote Results

Preliminary results are generally available within two (2) Business Days to Bidders/Proposers in the iSupplier System via Online Discussions.

4.7. Bidder/Proposer Request for Interpretation of Solicitation Document

No interpretation of the meaning of the Specifications contained in this Solicitation Document or other Contract Documents will be made to any Offeror orally. Every request for such interpretation must be in writing, addressed to the Director of Procurement Services. To be given consideration, such requests must be received at least ten (10) Days prior to the Close Date. Any and all such interpretations and any supplemental instructions will be in the form of a written Amendment which, if issued, will be communicated to all Offerors who have acknowledged participation within the electronic bidding system and opened the respective solicitation at least five (5) Business Days prior to the Close Date. Failure of an Offeror to receive any such Amendment or interpretation shall not relieve said Offeror from an obligation under its Offer as submitted. All Amendment(s) so issued shall become part of the Contract Documents.

4.8. Bidder/Proposer Responsible for Examining/Investigating Work Site(s)

If applicable to this Solicitation Document, Bidder/Proposer is solely responsible for examining all Sites of the proposed Work and conducting any investigations necessary to inform itself of any difficulties that may be involved

in the completion of the Work. Bidder's/Proposer's failure to conduct such examinations and investigations shall not:

- a) excuse the Successful Bidder's/Proposer's failure to complete the Work in accordance with the Specifications and requirements set forth in this Solicitation Document based on the Successful Bidder's/Proposer's ignorance of conditions or difficulties that may exist prior to the Close Date or of conditions or difficulties that may be encountered during the execution of the Work; and/or
- b) be a basis for any claims for additional compensation and/or for any extensions of time.

4.9. Procurement Policy and Procedures and Hillsborough County Ordinance - Protest Process and Procedures

Offeror is advised that by submitting an Offer, Offeror hereby agrees to comply with the County's Procurement Policy and Procedures, including, but not limited to, the County's policy and procedures regarding Bid protests and Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3. The County's Procurement Policy and Procedures can be found on the County's website at:

www.hcflgov.net/en/businesses/doing-business-with-hillsborough/vendors/vendor-forms-and-documents

Offeror is further advised that pursuant to Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3, Sec. 2-567(b)(i), any protest of the Specifications and/or terms and conditions contained within this Solicitation Document must be received by the County no later than five (5) Business Days before the Close Date/Bid Submittal Deadline set forth in this Solicitation Document.

4.10. Bidder's/Proposer's Understanding of the Solicitation Document

Bidder/Proposer is solely responsible for reading and completely understanding this Solicitation Document in its entirety.

4.11. Brand Names, Etc. (Pre)

a) In instances where the Specifications make this subject applicable, any use therein of brand names, manufacturers' names, trade names, information and/or catalog numbers are used solely for the purpose of providing descriptions and for establishing acceptable quality levels. Such references are not intended to place restriction on the Bidders/Proposers (other than as to quality) and Bidders/Proposers may submit items for approval up to ten (10) Days prior to the Close Date in writing. If the items are approved, an Amendment will be issued and the approved products shall become part of the Specifications.

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

4.12. Cancellation of Solicitation Document

The County reserves the right to cancel, in whole, or in part, this Solicitation Document when deemed to be in the best interest of the County.

4.13. Compliance With Occupational Safety And Health Act (O.S.H.A.)

In instances where such is applicable due to the nature of a Solicitation Document, all material, equipment, etc., as proposed and offered by the Bidder/ Proposer must meet and conform to all O.S.H.A. requirements.

4.14. Condition of Goods, Shipping Costs, and Claims Against Carrier

Unless otherwise specified, all goods supplied will be new, not used or re-manufactured. Bid/Proposal/Quote prices shall include costs of delivery, shipping and handling. Any claims against the carrier will be the responsibility of the Contractor.

4.15. Cone of Silence

Pursuant to Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3, there shall be a Cone of Silence for all procurement solicitations issued by the County that are at or over the County's formal bid limit in order to safeguard the integrity of the County's procurement and protest process. The Cone of Silence shall go into effect on the date a procurement solicitation is issued by the County and shall end on the date the Contract is awarded by the County or the date the procurement solicitation is canceled by the County. Unless otherwise provided for in Hillsborough County Code of Ordinances and Laws, Part A, Chapter 2, Article VI, Division 3, during the time period the Cone of Silence is in effect, no Offeror, interested party and/or their principals, officers, employees, attorneys or agents shall communicate with County employees, the Hearing Master assigned to hear the applicable protest appeal and/or members of the Board of County Commissioners, including their aides and employees regarding a procurement solicitation and/or its related protest. The Cone of Silence does not prohibit an Offeror from communicating with the Director of the County Department issuing the procurement solicitation, County staff listed as contacts in the procurement solicitation, or the attorney in the County Attorney's office that is directly responsible for the applicable procurement solicitation (this information can be obtained by contacting the County staff person listed as the contact in the applicable procurement solicitation). A violation of the Cone of Silence will result in the disqualification of the Offeror from consideration in the award of the procurement solicitation unless it is determined that the violation is unintentional and/or not material.

4.16. Deviations

Bidder's/Proposer's Offer must state all deviations to the exact requirements imposed upon the Bidder/Proposer. Such deviations must be stated upon the Bidder's/Proposer's Offer form; otherwise, the County may consider Bidder's/Proposer's Offer as being made in strict compliance with the requirements of this Solicitation Document. The County reserves the right to accept or reject any and all Offers, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if doing so will serve the County's best interest. Only Offers which conform in all material respects to this Solicitation Document will be accepted. The County may reject any Offer not submitted in the manner specified by this Solicitation Document.

4.17. Drug Free Workplace Program

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

available from the Procurement Services Department website at:

<http://www.hillsboroughcounty.org/procurement>

4.18. Electronic Payment Solutions

a) ePayables. The County has an ePayables electronic payment solution where the Offeror may choose to be paid by a VISA credit card account. If the Offeror requests to participate in the County's ePayables electronic payment solution, the Offeror should indicate its acceptance in its Offer. If the Offeror has indicated that it will accept the County's VISA credit card for payment, then the Offeror will be required to sign an ePayables Enrollment Form after the Contract has been awarded. The Offeror must have the capacity to accommodate/accept VISA credit card payments in order to participate in the County's ePayables electronic payment solution. ePayables payments will be processed via a credit card and merchant services fees will apply. Merchant services fees are determined by the vendor's agreement with their Merchant Bank. Fees are generally up to three percent (3%).

b) Automated Clearing House (ACH). The County has an ACH payment solution where the Offeror may choose to be paid with direct deposit. If the Offeror requests to participate in the County's ACH electronic payment solution, the Offeror should indicate its acceptance in its Offer. If the Offeror has indicated that it will accept the County's ACH for payment, then the Offeror will be required to sign a Direct Deposit Authorization Form after the Contract has been awarded.

c) For more information on both Electronic Payment Solutions, go to:

www.hcflgov.net/en/businesses/doing-business-with-hillsborough/vendors/vendor-forms-and-documents

4.19. Equipment Demonstration

Prior to the Award of this Solicitation Document, the County reserves the right to require a demonstration of equipment as proposed in Bidder's/Proposer's Offer. Each Bidder/Proposer shall be prepared to schedule a demonstration of the type of equipment proposed at a time and location mutually agreeable to the Bidder/Proposer and the County. The location should be within reasonable traveling distance from the County, and the County shall be responsible for the travel expenses of its County staff members attending such demonstration. Equipment demonstration may be of Bidder/Proposer-owned equipment or third-party-owned equipment. Failure on the Bidder's/Proposer's part to provide the equipment demonstration as described may result in the rejection of its Offer and/or suspension from consideration for award of bids, proposals, or contracts with the County for a period of up to twenty-four (24) months.

4.20. Execution of Written Agreement

Within ten (10) Days of the Notice of Award, the Successful Bidder/Proposer will be required to sign a written Agreement if one has been made a part of this Solicitation Document and identified as the "Agreement".

4.21. Facilities Inspection

Prior to the award of this Solicitation Document, the County reserves the right to inspect the Bidder's/Proposer's facility and place of business to determine that the Bidder/Proposer has a regular, bona fide established business that is presently an on-going concern and is likely to continue as such, and is capable of providing the products and/or services, including any later warranty service, or replacement parts support as may be required.

4.22. Hillsborough County Business Tax

All Offerors are required to comply with Hillsborough County Code of Ordinances and Laws, Part A, Chapter 46, Article III, as may be amended in the future. Failure of an Offeror to comply with such regulation shall not be a basis to protest the County's award of the Contract; instead, any reported failure of an Offeror to comply with these regulations will be referred to the Hillsborough County Tax Collector.

4.23. Inspection of Samples

After the Bid Submittal Deadline/Close Date, the County reserves the right to review and inspect representative samples of the products/goods being proposed by the apparent lowest responsive Bidder/Proposer. Within ten (10) Business Days of receiving a request from the County, Bidder/Proposer shall provide the County with samples of each item requested for the purpose of the County conducting a quality test or comparison without cost to the County. At the County's option, this inspection may take place locally, at the Bidder's/Proposer's place of business or at a location selected by the County. The County will not be responsible for shipping or other expenses incurred by the Bidder/Proposer in the qualification of its products or company. The County makes no guarantee that samples will be returned; however, samples not destroyed in testing may be available for return upon request (at the Bidder's/Proposer's expense) after testing is completed and after award of the Contract. Failure to provide the samples described above may result in the rejection of Bidder's/Proposer's Offer and/or suspension of Bidder/Proposer from bidding/proposing on County procurements.

4.24. Licensing

Bidder/Proposer shall be properly licensed for the appropriate category of Work specified in this Solicitation Document. All Bidders/Proposers are requested to submit any required license(s) with their Offers. License(s) must be effective as of the Bid Submittal Deadline/Close Date and must be maintained throughout the Contract Period. Failure to be properly licensed as stated above will result in the rejection of the Offer as non-responsive.

4.25. Modification and/or Withdrawal of Offer Prior to Close Date

Prior to the Bid Submittal Deadline/Close Date, Offers may be withdrawn upon written request signed by the Bidder/Proposer and submitted and/or postmarked to the County prior to the Bid Submittal Deadline/Close Date. Withdrawn Offers will not be returned to the Bidder/Proposer. Except as specifically provided for herein, Bidders/Proposers may not modify their Offers after the specified Bid Submittal Deadline/Close Date. Negligence on the part of the Bidder/Proposer in preparing its Offer confers no right of withdrawal or modification of its Offer after such Offer has been opened by County staff at the specified time and place. Bidders/Proposers may not withdraw or modify their Offers after the Bid Submittal Deadline/Close Date.

4.26. No Assignment of Offers

Bidder/Proposer may not assign or otherwise transfer its Offer prior to or after the Bid Submittal Deadline/Close Date.

4.27. Obtaining Clarification and/or Additional Information

Bidders/Proposers are instructed not to contact County employees regarding this Solicitation Document with the exception of employees of the Procurement Services Department. Potential Bidders/Proposers requesting clarification or additional information should contact the Procurement Services Department at the address/telephone/fax numbers or e-mail address listed in this Solicitation Document.

4.28. Public Entity Crimes Statement

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit an offer, or reply on a contract to provide any goods or services to a public entity; may not submit an offer, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit offers, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. Additionally, pursuant to County policy, a conviction of a public entity crime may cause the rejection of an Offer. The County may make inquiries regarding alleged convictions of public entity crimes. The unreasonable failure of a Bidder/Proposer to promptly supply information in connection with an inquiry may be grounds for rejection of an Offer.

4.29. Requested Information and Descriptive Literature

Bidder/Proposer must furnish all requested information in the spaces provided within this Solicitation Document. Additionally, where required, Bidders/Proposers must attach cuts, sketches, descriptive literature and/or complete specifications relating to the items proposed in the Bidder's/Proposer's Offer.

4.30. Responsibility Survey

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

4.31. Submittal Deadline

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

4.32. Taxes

State sales and Federal Excise taxes shall not be included in the Bidder's/Proposer's Offer, as Hillsborough County is tax exempt. The Director of Procurement Services will sign exemption certificates submitted by the Bidder/Proposer.

4.33. Time Period Offer is Valid

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

4.34. Unbalanced Offers and/or Excessive Line Item Prices

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

5. General Terms and Conditions

5.1. Applicable Law

Unless otherwise specified, this Contract, including, but not limited to, the interpretation, bidding, award, execution and implementation thereof, shall be governed by the laws, rules, and regulations of the State of Florida.

5.2. Changes in the Work/Unilateral Change Orders/Modifications

a) Without invalidating the Contract, the County may, at any time or from time to time, through its Director of Procurement Services or designee, order additions, deletions or revisions in the Work, the same being authorized by Change Order, Unilateral Change Order or Modification Agreement. The cumulative total of Unilateral Change Orders shall not exceed \$25,000.00. Once the \$25,000.00 cap is reached, all other additions, deletions, or revisions shall be valid and enforceable only when authorized by a written Modification Agreement executed by the Contractor and the County, and may be subject to approval by the Board of County Commissioners. Only upon receipt of a Change Order, Unilateral Change Order or Modification Agreement shall the Contractor be authorized to proceed with the Work involved. All such Work shall be executed under the applicable terms and conditions contained in the Contract Documents.

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

c) The County will execute an appropriate Modification Agreement if such Modification Agreement is approved by the County's Board of County Commissioners. Such Modification Agreement will be prepared by the Project Manager and shall cover changes in the Work to be performed, Work performed in an emergency, and/or any other claim of the Contractor for a change in the Contract Time or the Contract Price.

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

5.3. Contractor Must Have Legally Authorized Workforce

a) Contractor is advised that the County has entered into an agreement (the IMAGE Agreement) with U.S. Immigration and Customs Enforcement (ICE) wherein the County will, in part, seek to promote the principles of ethical business conduct, prevent knowingly hiring unauthorized workers through self-governance, and encourage voluntary reporting of the discovery of unauthorized workers to ICE. Accordingly, by submitting its Offer, Contractor represents and warrants:

- i) that Contractor is in compliance with all applicable Federal, State and local laws, including, but not limited to, the laws related to the requirement of an employer to verify an employee's eligibility to work in the United States,
- ii) that all of Contractor's employees are legally eligible to work in the United States, and
- iii) that the Contractor has actively and affirmatively verified such eligibility utilizing the Federal Government's Employment Eligibility Verification Form (the Form I-9).

b) A mere allegation of Contractor's intent to use and/or current use of unauthorized workers may not be a basis to delay the County's award of a Contract to the Contractor unless such an allegation has been determined to be factual by ICE prior to the date the Contract is scheduled to be awarded by the County.

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

d) In the event it is discovered that the Contractor's employees are not legally eligible to work in the United States, then the County may, in its sole discretion, demand that the Contractor cure this deficiency within a specified time frame, and/or immediately terminate the Contract without any cost or penalty to the County, and/or debar the Contractor from bidding on all County contracts for a period of up to 24 months, and/or take any and all legal action deemed necessary and appropriate.

e) Contractor is required to incorporate the following IMAGE Best Practices into its business and, when practicable, incorporate verification requirements into its agreements with Subcontractors:

- i) Use the Department of Homeland Security employment eligibility verification program (E-Verify) to verify the employment eligibility of all new hires.
- ii) Use the Social Security Number Verification Service and make a good faith effort to correct and verify the names and Social Security numbers of the current workforce. Establish a written hiring and employment eligibility verification policy.
- iii) Establish an internal compliance and training program related to the hiring and employment verification process, to include, but not be limited to, completion of Form I-9, how to detect fraudulent use of documents in the verification process, and how to use E-Verify and the Social Security Number Verification Service.
- iv) Require the Form I-9 and E-Verify process to be conducted only by individuals who have received appropriate training and include a secondary review as part of each employee's verification to minimize the potential for a single individual to subvert the process.
- v) Arrange for annual Form I-9 audits by an external auditing firm or a trained employee not otherwise involved in the Form I-9 process.
- vi) Establish a procedure to report to ICE credible information of suspected criminal misconduct in the employment eligibility verification process.
- vii) Establish a program to assess subcontractors' compliance with employment eligibility verification requirements. Encourage contractors to incorporate the IMAGE Best Practices contained in this paragraph

and, when practicable, incorporate the verification requirements in Subcontractor agreements.

viii) Establish a protocol for responding to letters received from Federal and State government agencies indicating that there is a discrepancy between the agency's information and the information provided by the employer or employee; for example, "no match" letters received from the Social Security Administration.

ix) Establish a tip line mechanism (inbox, e-mail, etc.) for employees to report activity relating to the employment of unauthorized workers, and a protocol for responding to employee tips.

x) Establish and maintain appropriate policies, practices, and safeguards against use of the verification process for unlawful discrimination, and to ensure that U.S. citizens and authorized workers do not face discrimination with respect to hiring, firing, recruitment or referral for a fee because of citizenship status or national origin.

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

5.4. Contractor Use of Hillsborough County For Marketing Prohibited

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

5.5. Contractor's Responsibilities

The Contractor will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work and/or Project. If the Contractor observes that the Specifications are at variance with such laws, ordinances, rules or regulations, then the Contractor will give the County prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Change Order, Unilateral Change Order or Modification Agreement to the Contract. If the Contractor performs any Work knowing that such Work is contrary to such laws, ordinances, rules and regulations and without giving such notice to the County, the Contractor will bear all costs arising therefrom; however, it shall not be the Contractor's primary responsibility to ensure that the Specifications are in accordance with such laws, ordinances, rules and regulations.

5.6. County as Intended Beneficiary of Subcontracts

The County shall be an intended substantial beneficiary of the written agreements between the Contractor and its subcontractors.

5.7. Emergencies

In emergencies affecting the safety of persons, the Work/Project or property at the site of such Work/Project or adjacent thereto, the Contractor, without special instruction or authorization from the County, is obligated to act at the Contractor's discretion to prevent threatened damage, injury or loss. The Contractor shall give the County

prompt written notice of any significant changes in the Work/Project or deviations from the Contract Documents caused thereby, and a Change Order, Unilateral Change Order or Modification Agreement shall be issued covering the changes and deviations involved. If the Contractor believes that additional work done by it in an emergency which arose from causes beyond the Contractor's control entitles the Contractor to an increase in the Contract Price or an extension of the Contract Time, the Contractor may make a claim for the same. Such increase in Contract Price and/or extension of the Contract Time will be included in the Change Order, Unilateral Change Order or Modification Agreement if such claim is approved by the County.

5.8. Failure to Perform

If, during the Contract Period, the Contractor should refuse or otherwise fail to perform any of its obligations under the Contract, the County reserves the right to:

- a) Obtain the goods, Services and/or Work from another contractor; and/or
- b) Terminate the Contract; and/or
- c) Suspend/debar the Contractor from bidding on County solicitation documents for a period of up to twenty-four (24) months; and/or
- d) Pursue any and all other remedies available to the County.

5.9. Fiscal Non-Funding/Availability of Funding

The award of this Solicitation Document is contingent upon the availability of funding. Furthermore, if funding during the Contract Period becomes unavailable, the County reserves the right to terminate the Contract after providing the Contractor no less than twenty-four (24) hours written notice, provided that, the County will pay the Contractor for any authorized goods and/or Services provided prior to the Contractor's receipt of said termination notice. The County shall be the final authority as to the availability of funds.

5.10. Force Majeure

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

5.11. Hand Sanitizer Ordinance

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

5.12. Equal Employment Opportunity; Non-Discrimination Clause

a) Hillsborough County, FL

- i) Hillsborough County Human Rights Ordinance, Hillsborough County Code of Ordinances and Laws, Part A, Chapter 30, Article II, as amended, prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, in employment, public accommodations, real estate transactions and practices, County contracting and procurement activities, and credit extension practices.
- ii) Hillsborough County Home Rule Charter, Article IX, Section 9.11, as amended, provides that no person shall be deprived of any right because of race, sex, age, national origin, religion, disability or political affiliation. Printed in Hillsborough County Code of Ordinances and Laws, Part A.

b) State

- i) Florida Constitution, Preamble and Article I, section 2 protect citizens from being deprived of inalienable rights because of race, religion, national origin, or physical disability.
- ii) Florida Statutes section 112.042, requires nondiscrimination in employment by counties and municipalities, on the basis of race, color, national origin, sex, handicap, or religion.
- iii) Florida Statutes section 112.043, prohibits age discrimination in employment.
- iv) Florida Statutes section 413.08, provides for rights of an individual with a disability and prohibits discrimination against persons with disabilities in employment and housing accommodations.
- v) Florida Statutes section 448.07, prohibits wage rate discrimination on the basis of sex.
- vi) Florida Civil Rights Act of 1992, Florida Statutes sections 760.01 - 760.11, as amended.
- vii) Florida Statutes section 509.092, prohibits refusing access to public lodging on the basis of race, creed, color, sex, physical disability, or national origin.
- viii) Florida Statutes section 725.07, prohibits discrimination on the basis of sex, marital status or race in loaning money, granting credit or providing equal pay for services performed.
- ix) Florida Fair Housing Act, Florida Statutes sections 760.20 - 760.37.
- x) Florida Statutes section 760.40, provides for the confidentiality of genetic testing.
- xi) Florida Statutes section 760.50, prohibits discrimination on the basis of AIDS, AIDS-related complex, and HIV.
- xii) Florida Statutes section 760.51, provides for remedies and civil penalties for violations of civil rights.
- xiii) Florida Statutes section 760.60, prohibits discriminatory practices of certain clubs.
- xiv) Florida Statutes section 760.80, provides for minority representation on boards, commissions, council, and committees.

c) Federal

- i) Section I of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, section 1.
- ii) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.
- iii) Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., as amended by the Equal Employment Opportunity Acts of 1972 and 1975, the Civil Rights Act of 1991, P.L. 102-166, 105 Stat. 1071, and the Lilly Ledbetter Fair Pay Act of 2009, P.L. 111-2, 123 Stat. 5.
- iv) Civil Rights Acts of 1866 and the Enforcement Act of 1870, 14 Stat. 27 and 16 Stat. 140, 42 U.S.C.

section 1981.

v) Title VIII of the Civil Rights Act of 1968, Fair Housing Act, P.L. 90-284, 82 Stat. 73, 42 U.S.C. 3601 et seq.

vi) Civil Rights Restoration Act of 1987, P.L. 100-259, 102 Stat. 28.

vii) Civil Rights Act of 1991, P.L. 102-166, 105 Stat. 1071.

viii) Equal Opportunity Regulations, 41 CFR section 60-1.4, as amended.

ix) Standards for a Merit System of Personnel Administration, 5 CFR section 900.601 et seq.

x) Executive Order 11246, Equal Employment Opportunity, and its implementing regulations, including 41 CFR section 60-2 (Revised Order 4).

xi) Rehabilitation Act of 1973, P.L. 93-112, 87 Stat. 355, as amended.

xii) Interagency Agreement promulgated on March 23, 1973

xiii) Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws.

xiv) Age Discrimination in Employment Act of 1967, 29 U.S.C. section 621 et seq., P.L. 90-202, as amended.

xv) Age Discrimination Act of 1975, 42 U.S.C. section 6101 et seq., P.L. 94-135, 89 Stat. 728, as amended.

xvi) Older Americans Amendments of 1975, 42 U.S.C. section 3001 et seq., P.L. 94-135, 89 Stat 713.

xvii) Americans with Disabilities Act of 1990, 42 U.S.C. section 12101 et seq., as amended by the ADA Amendments Act of 2008, P.L. 110-325, 122 Stat. 3553.

xviii) Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. section 4212, as amended.

xix) Section 14001 of Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

xx) State and Local Assistance Act of 1972, as amended.

xxi) Office of Management and Budget Circular A-102, Grants and Cooperative Agreements with State and Local Governments, as amended.

xxii) Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 40 C.F.R. sections 5.100-5.605.

xxiii) Executive Order 13673, Fair Pay and Safe Workplaces.

d) If applicable, and required by 41 CFR 60-1.4 or other federal law or regulation, during the performance of this contract, the Contractor agrees as follows:

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

ii) The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- iii) The Contractor will send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- v) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vi) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- vii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

*** The above are not intended to be a complete list of all applicable local, state, or federal statutes, orders, rules or regulations, as they may be amended from time to time, or added to (newly promulgated) from time to time, during the term of this contract.**

5.13. Indemnification

- a) General Liability Indemnification - with respect to any Work, Services and/or goods provided pursuant to this Contract, the Contractor shall be liable for the actions of its agents, employees, partners, or subcontractors and shall indemnify, defend, and hold harmless the County, and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and/or damage to real or personal tangible property alleged to be caused, in whole or in part, by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the County.
- b) Patent and Copyright Indemnification - with respect to any Work, Services and/or goods provided pursuant to this Contract, the Contractor shall indemnify, defend, and hold harmless the County from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of trademark, copyright patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a County's misuse or modification of Contractor's products or County's

operation or use of Contractor's products in a manner not contemplated by the Contract. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may, at its sole expense, procure for the County the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure for the County the right to continue using the product, the Contractor shall remove the product and refund the County the amounts paid in excess of a reasonable rental for past use. The County shall not be liable for any royalties.

c) The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the County giving the Contractor:

- i) written notice of any action or threatened action;
- ii) the opportunity to take over and settle or defend any such action at Contractor's sole expense; and
- iii) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the County in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

5.14. Injury and/or Damage Claims

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

5.15. Interpretation and Intent of Contract Documents

The Contract Documents are complementary; what is called for by one Contract document is as binding as if called for by all of the Contract Documents. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, the Contractor must bring it to the County's attention in writing before proceeding with the Work affected thereby. In resolving such conflicts, errors and discrepancies, the Contract Documents shall be given preference in the following order: 1) Agreement, 2) Amendment(s) (if applicable to this Solicitation Document), 3) Specifications, 4) Special Terms and Conditions, 5) General Terms and Conditions, and 6) Instructions. Any Work that may reasonably be inferred from the Specifications and/or drawings/maps as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which, when applied, have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In case of conflict, the more stringent requirements shall take precedence.

5.16. Laws and Regulations

The Contractor is hereby advised that all applicable Federal and State laws, municipal and County ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the goods, Services and/or Work provided under this Contract shall be deemed to be a part of this Contract.

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

The Parties acknowledge and agree that the statement and provisions below are required by Florida Statute to be included in this contract for services. The inclusion of this statement and provisions below shall not be construed to imply that the Contractor/Service Provider has been delegated any governmental decision-making authority,

governmental responsibility or governmental function or that the Contractor/Service Provider is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, or that the statement or provisions are otherwise applicable to the Contractor/Service Provider. As stated below, the Contractor/Service Provider may contact the County's Custodian of Public Records with questions regarding the application of the Public Records Law; however, the Contractor/Service Provider is advised to seek independent legal counsel as to its legal obligations. The County cannot provide the Contractor/Service Provider advice regarding its legal rights or obligations.

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

i) 813-272-5790,

ii) StromerS@HCFLGov.net,

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

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

- i) Keep and maintain public records required by the County to perform the services.
- ii) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law.
- iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Contractor does not transfer the records to the County.
- iv) Upon completion of the Contract, transfer at no cost to the County, all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

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

5.18. Maintenance of Records/Public Records Law

a) In accordance with Chapter 119, Florida Statutes, and, except as may be provided by other applicable State and Federal laws, all Bidders/Proposers should be aware that this Solicitation Document and all Offers are in the public domain and are available for public inspection. Bidders/Proposers are requested, however, to identify specifically any information contained in their Offers which they consider confidential and/or proprietary, inclusive of trade secrets as defined in s. 812.081, Florida Statutes, and which they believe to be exempt from disclosure, citing specifically the applicable exempting law and including narrative explaining the applicable legal exemption as it relates specifically to Bidder's/Proposer's confidential and/or proprietary information.

b) All Offers received in response to this Solicitation Document will become the property of the County and will not be returned. In the event of an award, all documentation produced as part of the Contract will become the exclusive

property of the County.

c) All materials that qualify for exemption from Chapter 119, Florida Statutes, or other applicable law must be submitted in an attachment or in a separate envelope, clearly identified as "EXEMPT FROM PUBLIC DISCLOSURE" with Bidder's/Proposer's name and the Solicitation Document number marked on the outside.

d) The County will not accept Offers when the entire Offer is labeled as exempt from public disclosure.

e) Be aware that the designation of an item as exempt from public disclosure by a Bidder/Proposer may be challenged in court by any person or entity. By designation of material in the Offer as exempt from public disclosure, Bidder/Proposer agrees to defend the County (and its employees, agents and elected and appointed officials) against all claims and actions (whether or not a lawsuit is commenced) related to Bidder's/Proposer's designation of material as exempt from public disclosure and to hold harmless the County (and its employees, agents and elected and appointed officials) from any award to a plaintiff for damages, costs and attorneys' fees, incurred by the County by reason of any claim or action related to Bidder's/Proposer's designation of material as exempt from public disclosure.

5.19. No Assignment of Contract

The Contractor may not make any assignment of the resulting Contract between the County and the Contractor, in whole or in part, without the prior written authorization of the County. Failure to obtain prior written authorization of the County will result in a delay of payment(s) at a minimum and may result in termination for breach of contract.

5.20. Non-Exclusive Contract

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

5.21. Notices to Contractor

Notices to the Contractor shall be served upon the Contractor by electronic mail (e-mail), facsimile, U.S. mail, hand delivery, courier delivery, or express mail delivery of said notice to the Contractor's residence, place of business and/or with the Contractor's designated agent.

5.22. Notices to the County

Contact information (County's Project Manager) will be provided to the Contractor with the initial Blanket Purchase Agreement (BPA), Contract Purchase Agreement (CPA), and/or Standard Purchase Order (SPO).

5.23. Payment and Completion

a) The Project Manager, within fifteen (15) Days of receipt of each invoice will either approve or reject the invoice. If the Project Manager rejects the invoice, then the invoice will be returned to the Contractor and will state, in writing, the reason for rejecting the invoice. In the event the Contractor receives a rejected invoice, the Contractor may make the necessary corrections and resubmit the invoice to the Project Manager. Within thirty (30) Days of

approval of an invoice for payment, the County will pay the Contractor the amount approved.

b) The Project Manager's approval of any payment requested in an invoice shall constitute a representation by the Project Manager to the County that the conditions precedent to the Contractor being entitled to payment as set forth herein have been fulfilled.

c) The Project Manager's approval of final payment shall constitute an additional representation by him/her to the County that the conditions precedent to the Contractor's being entitled to final payment as set forth herein have been satisfied.

d) The Project Manager may refuse to approve, in whole, or in part, an invoice if, in his/her opinion, he/she is unable to make the representation to the County that all the conditions precedent to the Contractor being entitled to payment have been satisfied. The Project Manager may also refuse to approve any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any previous approval of such payment, to such extent as may be necessary in his/her opinion to protect the County from loss because:

i) The Work is defective;

ii) Claims have been filed or there is reasonable evidence indicating the probable filing thereof; or

iii) The Contract Price has been reduced because of Change Order, Unilateral Change Order or Modification Agreement.

e) As established by Florida Statute 218.74(2) payment for the purchase or lease of goods and services shall be made within forty-five (45) Days after the date a proper invoice is presented for payment to the County's Finance Department, Clerk of the Circuit Court, as Accountant to the Board of County Commissioners and as Chief Disbursement Officer.

5.24. Payment to Contractor by Electronic Payment Solution

a) ePayables: If the Contractor is enrolled in the County's ePayables electronic payment solution, all payments will be made using the ePayables electronic payment solution. The Contractor will be issued a VISA credit card account number with zero (\$0) available funds until an invoice is approved by the County for payment. Once the County has approved payment, an electronic remittance advice will be sent to the Contractor via e-mail or fax along with approval for the Contractor to charge the VISA credit card account for that amount. The Contractor will only have the ability to charge up to the monetary limit available to the account. ePayables payments will be processed via a credit card and merchant services fees will apply. Merchant services fees are determined by the vendor's agreement with their Merchant Bank. Fees are generally up to 3%.

b) Once the Contractor is enrolled in ePayables electronic payment solution and then requests to opt out, the Contractor will not be eligible to re-enroll in ePayables for a minimum of twelve (12) months.

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

5.25. Payment to Subcontractors

By submission of an invoice, the Contractor certifies that all subcontractors and suppliers have been paid for work and materials from previous progress payments received (less any retainage) by the Contractor prior to receipt of any further progress payments. During the Contract Period and upon completion of the Contract, the County may request documentation to certify payment to subcontractors and/or suppliers. This provision in no way creates any

contractual relationship between any subcontractor and the County or any liability on the County for the Contractor's failure to make timely payment to the subcontractors and/or suppliers.

5.26. Performance Standards and Product Quality

In the event the Specifications omit details concerning performance standards and/or product quality, the Contractor shall use only the best commercial practices and/or materials and workmanship of the highest quality when performing this Contract.

5.27. Project Manager's Status

a) County's Representatives: The Project Manager shall be the County's representative during the Contract Period. The duties, responsibilities and the limitations of authority of the Project Manager during the Contract Period are set forth in this section and shall not be extended without the written consent of the County's Board of County Commissioners or designee.

b) Rejecting Defective Work: The Project Manager will have the authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective and/or does not conform to the requirements of any inspection, test or approval). The Project Manager will also have the authority to require special inspection or testing of the Work.

5.28. Severability

In the event any section, sentence, clause or provision of this Contract is held to be invalid, illegal or unenforceable by a court having jurisdiction over the matter, the remainder of this Contract shall not be affected by such determination and shall remain in full force and effect.

5.29. Solid Waste Collection and Disposal

Solid Waste Collection and Disposal; Hillsborough County, Florida - Code of Ordinances and Laws, Part B, Public Utilities, Chapter 130, Article II. (This provision shall be applicable only if the Services and/or Work to be performed under this Contract will involve and/or require the Contractor to remove or dispose of solid waste.) Pursuant to Hillsborough County, Florida - Code of Ordinances and Laws, Part B, Public Utilities, Chapter 130, Article II (Solid Waste Collection and Disposal), as amended, all solid waste accumulated as a result of this Contract that the Contractor is required to remove and dispose of, and which the Contractor chooses not to self haul, shall be removed and disposed of by one of the three authorized Hillsborough County solid waste franchise collectors. For a list of the authorized franchise collectors, please contact the Public Works Department/Solid Waste Division at 813-272-5680. The use of any other company or entity for the collection and disposal of solid waste in the Hillsborough County solid waste service area may be a violation of Chapter 130, Hillsborough County, Florida Code of Ordinances and Laws, Part B, Public Utilities, as amended.

5.30. Starting The Work

The Contractor will start the Work and/or Project on the date determined by the County in its Purchase Order or Notice to Proceed.

5.31. Statement of Assurance

During the performance of this Contract, the Contractor herein assures the County, that said Contractor is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Human Rights Act of 1977 in that the Contractor does not on the grounds of race, color national origin, religion, sex, age, disability or marital status, discriminate in any form or manner against said Contractor's employees or applicants for employment. The Contractor understands and agrees that this Contract is conditioned upon the veracity of this Statement of Assurance. Furthermore, the Contractor herein assures the County that said Contractor will comply with Title VI of the Civil Rights Act of 1964 when federal grant(s) is/are involved. This Statement of Assurance shall include Vietnam-Era Veterans and Disabled Veterans within its protective range of applicability.

5.32. Suspension of Work

Upon seven (7) Days written notice to the Contractor, the County may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and/or Project and terminate this Contract. In such case the Contractor shall be paid for all Work executed and/or goods delivered to and accepted by the County.

5.33. Termination for Contractor Engaging in Business Operations in Cuba or Syria and Termination for Contractor Being on the Scrutinized Companies Lists Set Forth in Florida Statutes, Section 287.135

Contractor is advised that Section 287.135, Florida Statutes, prohibits agencies and governmental entities from contracting with a company for goods and/or services of One Million Dollars (\$1,000,000) or more if such company (i) is engaged in business operations in Cuba or Syria, (ii) is on the Scrutinized Companies that Boycott Israel List (created pursuant to Florida Statutes, Section 215.4725), (iii) is on the Scrutinized Companies with Activities in Sudan List (created pursuant to Florida Statutes, Section 215.473), or (iv) is on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (created pursuant to Florida Statutes, Section 215.473). The County reserves the right to terminate the Contract if the County discovers that the Contractor has submitted a false certification regarding the Contractor's business operations in Cuba or Syria and/or the Contractor's presence on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (hereinafter referred to collectively as the "Scrutinized Companies Lists"). In addition, the County reserves the right to terminate the Contract if, prior to the award of the Contract or during the Contract Period, the Contractor engages in business operations in Cuba or Syria and/or the Contractor has been placed on one or more of the Scrutinized Companies Lists.

EXHIBIT B
STANDARD TERMS AND CONDITIONS—COMMODITY PURCHASES

1. Definitions. Certain terms used herein will have the following meanings:

(a) “City” means the City of Daytona Beach, and unless the context dictates otherwise, includes the City’s officers, employees, and agents.

(b) “Commodities” or “Goods” means the supplies, materials, merchandise, food, equipment, or other tangible personal property that the Vendor will be obligated to sell to the City under this Contract. These Commodities are generally set forth in a bid or price schedule included in the Contract.

(c) “Contract” means either of the following:

(1) If this Contract is the result of a competitive bid solicitation procedure by the City, the term “Contract” means and includes the City’s invitation to bid and all documents attached thereto, including Addenda, Standard Terms and Conditions, and Supplemental Conditions if any (“ITB”); the bid submitted by Vendor, including all documents attached thereto (“Bid Package”); the City Resolution or Ordinance awarding the bid; the bi-lateral contract form executed by both City and Vendor, if any, and if there is no such bi-lateral contract form, the memorandum of contract executed by Vendor as a condition of award; these Standard Terms and Conditions; all documents and technical standards attached to or incorporated by reference in any of the above-listed documents; any purchase orders and/or work orders issued by the City for Goods to be provided under the Contract; and any amendments to the Contract that may hereafter be executed by the Vendor and the City.

(2) If this Contract is the result of a “piggyback procurement” as referenced in the City’s Purchasing Code contained in chapter 30 of the City’s Code of Ordinances, the term “Contract” means and includes the contract between the vendor and the governmental agency whose contract this Contract is piggybacking, and all documents attached to or incorporated therein by reference; the bi-lateral contract form executed by both City and Vendor, if any; these Standard Terms and Conditions; all documents and technical standards attached to or incorporated by reference in any of the above-listed documents; any purchase orders and/or work orders issued by the City for Goods to be provided under the Contract; and any amendments to the Contract that may hereafter be executed by the Vendor and the City.

(d) “Contract Documents” mean any of the separate documents included in the definition of “Contract” above.

(e) “Party” means the City or Vendor.

(f) “Vendor” or “Contractor” means the person or business who has entered into the Contract with the City referenced herein; and unless the context dictates otherwise, includes Vendor’s officers, employees, and agents.

(g) All other terms not defined above and not defined elsewhere within the Contract will be interpreted to further the goals of this Contract; and where application of the foregoing interpretive rule does not resolve an ambiguity in a term, in accordance with the term’s ordinary meaning.

2. Indemnification. The Contractor hereby indemnifies and holds harmless the City from and against, all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys’ fees, arising out of or resulting from the Work provided that the liabilities, damages, losses, and costs are caused in whole or in part by any negligence, recklessness, or intentional wrongful misconduct of the Contractor, any subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

3. Warranty. Vendor warrants that the Commodities supplied pursuant to this Contract are new, of good quality, and conform to any specifications and requirements of this Contract; that such Commodities are merchantable; and that they are fit for the ordinary purposes they are intended to serve. This warranty is in addition to any other warranties set forth in any Contract Document.

4. **MSDS.** Vendor will supply a Material Safety Data Sheet (MSDS) with each initial delivery of any materials defined by the State of Florida or the Federal Government as being toxic or harmful.

5. **Packaging and Shipping.** All invoices, packing lists and packages must bear the name of the Contract and the applicable City purchase order number as printed on the face of the purchase order.

6. **Discontinued.** Vendor will provide the City 30 days' advance written notice of a discontinued item, to allow the City to purchase additional quantities of such items. The City must give written approval of any replacements provided for discontinued items if they exceed the unit price for the discontinued item or fail to strictly meet quality, fit, form, or function of the discontinued item.

7. **Payment.** Payment will be made 45 days after Vendor has provided an accurate and undisputed invoice, except where the City, in accordance with the Contract Documents, accepts a prompt payment discount from the Vendor and the Commodities are not defective. All invoices must have a unique invoice number, date, and pricing by line item and unit price that are consistent with this contract and such purchase order. Improper invoices will be returned to the Vendor. Any additional terms and conditions set forth on an invoice not in compliance with this Contract or the purchase order are null and void. Nothing in this Contract will be deemed to create an obligation on the City's part to pay a sub-contractor or supplier of Vendor's for Commodities provided under this Contract.

8. **Sovereign Immunity; Limitation on Tort Liability.** The City expressly retains all rights, benefits, and immunities of sovereign immunity under Florida law, including Section 768.28, Florida Statutes. Nothing in this Contract or any purchase order or notice provided under this Contract will be deemed to be a waiver of sovereign immunity or of the limitations on liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida legislature, and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort, equity, or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract or any purchase order or notice provided pursuant to this Contract will inure to the benefit of any third Party for the purpose of allowing a claim against the City, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

9. **Books and Records.** The Vendor will maintain books, records, and documents pertinent to performance under this Contract and any purchase order issued hereunder in accordance with generally accepted accounting principles. The City will have inspection and audit rights to such records during the term of this Contract and for three years following the termination of obligations hereunder. Records which relate to any litigation, appeals or settlements of claims arising from such performance will be made available until a final disposition has been made of such litigation, appeals or claims.

10. **UCC.** In addition to any rights or remedies contained in this Contract, each Party will have the rights, duties and remedies available through the Uniform Commercial Code ("UCC").

11. **Insurance.** Contractor will provide and maintain at Contractor's sole expense, insurance of the kinds of coverage and in the amounts set forth in this Article, primary and non-contributory with the City's own insurance, in form and from companies satisfactory to the City.

(a). Coverage and Amounts. Subject to paragraph (b), below, required coverages and amounts are as follows:

(1) **Workers Compensation** Insurance as required by Florida Statutes, Chapter 440 (and any other applicable federal laws), for all employees of Contractor, employed at the site of the service or in any way connected with the services being provided under this Contract. 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, project specific. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

(2) **Commercial General Liability** insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis

insuring the Contractor and any other interests, including but not limited to any associated or subsidiary companies involved in the services being provided under this Contract.

(3) **Automobile liability** insurance which shall 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 CONTRACTOR at the site of the project or in any way connected with the services being provided under this Contract.

The limit of liability under the Commercial general liability and automobile liability policies will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence, project specific. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$2,000,000, project specific. 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 SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

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 foregoing types of required insurance coverage.

Loss Deductible Clause: The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor or sub-contractor providing such insurance.

(b) **Required Changes in Coverage and Amounts of Coverage.** The City may at any time require Contractor to increase the amount of coverage, change the terms of coverage, and provide additional or different types of coverage, as the City may deem necessary; provided that the changes or increase in coverage are consistent with such requirements for similar operations and businesses then operating within the Central Florida area or are reasonable in light of prior claims made against Contractor's policies. Contractor must comply with such requirements within 30 days after the City's demand.

(c) **Reasonable Deductible.** Any insurance policy required by or pursuant to this Section may contain a reasonable deductible provision provided advance notice of said deductible provision is given by the Contractor to the City and approval from the Risk Manager for the City is given, which approval shall not be unreasonably withheld or delayed.

(d) **Proof of Insurance.** Contractor will furnish proof of the required forms and coverages referenced above to the Risk Manager for the City prior to or at the time of execution of this Contract. Contractor will not commence work until all proof of such insurance has been filed with and approved by the Risk Manager. Contractor will furnish proof of any new or amended coverages to the Risk Manager promptly upon being directed to do so. The City may require Contractor to halt operations until Contractor has provided such insurance.

(e) **Form of Evidence of Coverage.** Contractor will furnish evidence of all required insurance in the form of certificate of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, the expiration dates.

If requested by Risk Manager, Contractor will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the Risk Manager.

Anything to the contrary notwithstanding, the liabilities of the Contractor under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration, exclusion, limitation or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by the contractor shall relieve the contractor or its sub-contractors from responsibility to provide insurance as required by the contract.

(f) **Replacement Required.** Contractor 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 such insurance will lapse, the City expressly reserves the right to renew the insurance at Contractor's expense.

(g) **Termination of Insurance.** Contractor may not cancel the insurance required by this Contract until all services are completed, accepted by the City, and Contractor has received written notification from the Risk Management Division of the City that Contractor may cancel the insurance required by this Contract and the date upon which the insurance may be cancelled.

13. Amendments and Modifications. The City may unilaterally change, at no additional cost, the quantity and receiving point within the City for items not yet shipped. The City will not be required to pay for defective items, back-orders, later deliveries, deliveries of quantities of items exceeding the quantities specified, or items shipped at a higher price than stated in this Contract or the purchase order. Except as otherwise provided herein, no change or modification of the Contract will be valid unless the same is in writing and signed by both Parties.

14. Assignments and Subcontracting. No assignment or subcontracting will be permitted without the City's written approval.

15. Compliance with Laws and Regulations. In providing all services pursuant to this Contract, Vendor 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.

16. Principles in Construing Contract.

(a) The Contract will be governed by and construed in accordance with the laws of the State of Florida.

(b) 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.

(c) 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.

(d) In case of conflicts among Contract Documents, the clause or provision most favorable to the City shall apply.

17. Litigation/Venue. In case of litigation, the laws of the State of Florida will govern Florida; the exclusive venue will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court; and each Party will bear all of its litigation costs, including attorney's fees.

18. 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.

19. Limitation on Waivers. Failure by the City to enforce any provision of this Contract shall not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of the Contract.

20. Termination of Contract.

(a) The City may terminate this Contract, in whole or in part, at any time, for the City's convenience, non-appropriation of funds, or upon Vendor's material breach, by providing written notice as follows:

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

(2) Before terminating for non-appropriation of funds, the City will provide Vendor such notice as is reasonably practical under the circumstances.

(3) Before terminating due to Vendor's material breach of its contractual obligations, City must provide Vendor written notice specifying the breach and demanding that Vendor remedy the breach within the Cure Period. The Cure Period will be 10 days; unless the nature of the material breach is such that it cannot be reasonably cured within this 10-day period despite Vendor's diligent efforts to do so, in which instance the Cure Period will be extended by one day for each day beyond the 10-day Cure Period that Vendor has continued to diligently attempt to complete the remedy. This Contract will terminate automatically and without need for additional notice if Vendor fails to remedy the material breach within the Cure Period.

In either instance upon termination Vendor 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 Vendor in performing this Contract, whether completed or in process.

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

(c) If termination is for non-appropriation, Vendor will be paid for services performed prior to the fiscal year for which the non-appropriation event has occurred.

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

(e) If after notice of termination for the Vendor's material breach it is determined by the City or by a court of law that the Vendor 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 Vendor will be made as provided in Subsection (b) of this Section.

(f) 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.

21. Suspension of Services. If the notice of default issued by the City pursuant to the preceding Section so directs, Vendor will suspend services immediately upon receipt thereof, other than the work required to remedy the material breach.

22. Severability. If one or more of the provisions contained in this Contract will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of this Contract, and this Contract will then be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

23. Public Records.

(a) To the extent applicable, Vendor 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, or, if this is a Contract for a specified Term, through the expiration of the Term; and following such completion or expiration, as applicable, if Vendor fails to transfer such records to the City.

(4) Upon completion of the work, or, if this is a Contract for a specified Term, upon expiration of the Term, keep and maintain public records required by the City to perform the service. Vendor 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 VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, VENDOR 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 Vendor's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

24. Title/Risk of Loss. Title and risk of loss will not be deemed to pass to the City unless and until the Commodities ordered have been delivered; and, where inspection is required prior to City acceptance, until the City has inspected and accepted such Commodities. In all instances shipment will be FOB destination.

25. Failure to Enforce. Failure by the City at any time to enforce the provisions of this contract will not be construed as a waiver of any such provisions. Such failure to enforce will not affect the validity of the contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

26. Purchase Orders and Work Orders. All purchase orders and work orders issued pursuant to the Contract will be deemed to incorporate all terms and conditions of the Contract regardless of whether the Contract or Contract Documents are expressly referenced therein. In case of conflicts between a purchase order, or work order, and any other with provisions of the Contract Documents, the other provisions of the Contract Documents will control.

27. Delivery. Delivery of all materials or products under this Bid shall be quoted FOB Daytona Beach or other point of use as specified. No delivery charges will be added to invoices except when express delivery is substituted on order for less expensive method specified in Contract; in such cases, difference between freight or mail and express charges may be added to the invoice.

28. Delivery Failures. Failure of the Vendor to deliver within the time specified in the Contract, or within a reasonable time as interpreted by the Purchasing Agent, or failure to make replacements of rejected articles as directed by the Purchasing Agent, will permit the Purchasing Agent to purchase on the open market articles of comparable grade to take the place of those rejected or not delivered. On all such purchases the Vendor will reimburse The City within a reasonable time specified by the Purchasing Agent, for any expenses incurred in excess of the defaulted prices.

29. Governmental Restrictions. In the event any governmental restrictions are imposed which would necessitate alteration of the material, quality, workmanship or performance of the items awarded to the Vendor prior to delivery, it shall be the responsibility of the Vendor to notify the City in writing at once, indicating the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the Contract at no expense to the City.

30. Patent Infringement, Etc. In entering into this Contract the Vendor certifies that the merchandise to be furnished will not infringe any valid patent, copyright, or trademark and the successful Vendor will, at his own expense, defend any and all sections or suites charging such infringement and hold The City harmless in case of any such infringements.

31. Disputes. If a dispute exists concerning the 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 above proves unsuccessful or the Parties mutually waive the 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 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.

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.