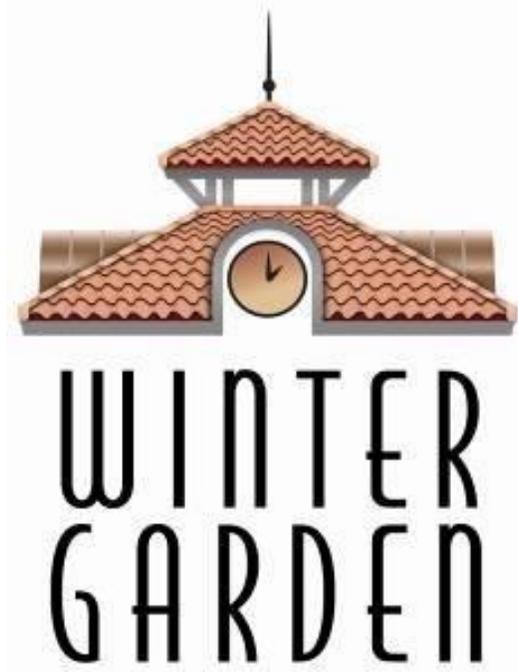


CITY OF WINTER GARDEN



RFP-24-003

Emergency Debris Monitoring Services

MANDATORY Pre-Proposal Conference

May 13, 2024 @ 1:00 p.m.

City Hall Commission Chambers
300 West Plant Street
Winter Garden, Florida 34787

PROPOSAL DUE

June 3, 2024 @ 2:00 p.m.

ATTN: Public Services

City Hall Commission Chambers
300 West Plant Street
Winter Garden, Florida 34787

Sealed proposals must be received and time stamped by the City Hall Receptionist on or before the date and time referenced above either by mail or hand delivery. Any proposals received **after 2:00 p.m.** on said date **will not be accepted under any circumstances.** Official time will be measured by the time stamp at the City Hall Reception Desk.

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SECTION I: Standard Terms & Conditions

1. Obtain Documents

Documents are available for download at: <http://www.cwgdn.com/bids.aspx>

If you experience any problems downloading the document, call 407-656-4111.

2. Mandatory Pre-Proposal Conference

A Mandatory Pre-Proposal Conference will be held in the City Hall Commission Chambers, 300 West Plant Street, Winter Garden, Florida 34787, at **1:00 p.m. on May 13, 2024**. The purpose of this Pre-Proposal Conference is to review the requirements and specifications for the above. All interested parties are required to attend this meeting.

3. Responses Due

Sealed proposals will be received at the City Hall Reception Desk, 300 West Plant Street, Winter Garden, Florida 34787, **until 2:00 p.m. on June 3, 2024**. It is the Proposer's responsibility to ensure that your proposal is delivered at the proper time to the Reception Desk. Proposals which for any reason are not so delivered will not be considered. All proposals received after the date and time specified will not be accepted.

At 2:05 p.m. on June 3, 2024, all proposals will be publicly opened and acknowledged in the City Hall Commission Chambers. Pursuant to Florida Statute Section 119.071 (1)(b)1.a., sealed bids, proposals or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

4. City is Not an Administrative Agency

To the fullest extent allowed by law, the City of Winter Garden is not an administrative agency subject to the formal solicitation or protest procedures specified in Section 120.57, Florida Statutes, or other portions of the Florida Administrative Procedures Act, as such may be amended.

5. Preparation of Proposals

Proposals shall be made on unaltered proposal forms furnished by the City, unless otherwise requested within the specification. Fill in all blank spaces and submit one (1) original clearly marked on the outside of the envelope – "**ORIGINAL**," three (3) hard copies and one (1) **electronic copy on USB** for document management purposes. All responses, and copies, are to be submitted on 8½ x 11 inch paper, bound individually. If your response contains any information deemed confidential, provide a redacted version of your response labeled REDACTED. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.

Proposals shall be signed in ink with the name of the Proposer typed below the signature. Where the Proposer is a corporation, limited partnership, limited liability company, or other entity other than an individual, proposals must be signed by an authorized representative of the entity in ink, in longhand (with the typed or printed name of the signer, as signed, below the signature) with the legal name of the entity followed by the name of the entity's state of incorporation or registration and the legal signature of an officer authorized to bind the entity to a contract. Proposer may be requested to present evidence of his, her, or its experience and qualifications and the entity's financial ability to carry out the terms of the resulting contract.

6. Proposal Submittal

Proposals shall be submitted directly to the City Hall Reception Desk in City Hall, in an opaque, sealed envelope or box. Proposers shall affix the Sealed Proposal Envelope Label located on **page 31** to the outside of their envelope or box.

Submit proposal in accordance with the instructions listed herein regarding time, place, and date required. Responses received after the time requirement will NOT be opened and will NOT be considered for award.

It is the sole responsibility of the respondent to be sure his/her response is delivered directly to the City

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Hall Reception Desk by the required time and date, and that the response is properly sealed and labeled as required. The City will not be responsible for any proposal delivered incorrectly or to the wrong address or location.

All proposals must be prepared and submitted in accordance with the instructions provided in this RFP. Each proposal received will be reviewed to determine if it is responsive to the submission requirements outlined in the RFP. A responsive proposal is one that follows the requirements of the RFP, includes all documentation, supporting exhibits, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your proposal non-responsive.

7. Basis of Bids/Proposals

The words "Bid" and "Proposal" shall be interpreted to have the same meaning for purposes of these specifications, terms, and conditions. Proposer will include all cost items; failure to comply may be cause for rejection. No segregated proposals, or assignments will be considered. It is the intent of the City to promote competition. It shall be the responsibility of the Proposer to advise Public Services of any language, requirements, etc. or any combination thereof, which the Proposer feels may inadvertently restrict or limit the requirements stated in the specifications to a single vendor or manufacturer. Such notification must be made in writing at least seven (7) working days prior to opening date and time of the proposal.

8. Bonding

Each proposal must be accompanied by a letter from a surety verifying the Proposer's bonding capacity of \$1,000,000. Upon receipt of a Notice to Proceed from the City, the awarded Contractor shall be required to furnish a Payment and Performance Bond in the amount equal to one hundred twenty percent (120%) of the estimated cost of the services to be rendered.

9. Submission of Supporting Documents

The successful Proposer shall furnish all required documents within ten (10) working days after notification of award. If the successful Proposer fails to furnish the required documents within ten (10) working days, the City may withdraw the award and award to the next lowest responsive, responsible Proposer.

10. Proposal Prices

The Proposer warrants by virtue of proposing that the prices, terms, and conditions quoted in this proposal will be firm for a period of ninety (90) days from the date of the public opening unless otherwise specified by the Proposer, and shall not be amended after the date and time of the public opening. Any attempt by a successful Proposer to amend said prices except as otherwise provided herein shall constitute a default.

Amounts specified herein are for fixed price work or products, including all prices for equipment, labor, and materials required to perform the work or deliver the product(s) specified herein. The Proposer, having familiarized itself with the local conditions, and conditions listed herein, proposes to furnish all labor, materials, equipment and other items, facilities and services, without exception, for the proper execution and completion of the contract, and if awarded the contract, to complete the required work or deliver the required product(s) as specified within the proposal package set forth by the City of Winter Garden.

11. Delivery

All prices shall be F.O.B. Destination, Winter Garden, Florida. Delivery date and warranties must be written out and submitted with proposals. We insist delivery dates, as specified, be met. There will be no additional charge for multiple delivery locations.

12. Contract Term

Unless otherwise agreed in a written document approved and signed by the City, the contract shall be in effect for sixty (60) consecutive months from the date the City Manager or other authorized signer executes the Contract on behalf of the City. There shall be the option of renewal for a possible second and third term of twenty-four (24) months each, with the total contract term not to exceed sixty (108) months, after written consent of both parties and approval by City Commission or City Manager. Approximately forty-five (45) days prior to expiration of the initial contract period, the successful Proposer will be notified by the City if it seeks an extension. To be effective and enforceable, any changes in the scope of services or prices

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intended to apply in a renewal or extension period must be presented by City staff to the City Commission for approval or rejection.

13. Invoicing & Payment

Unless otherwise agreed to by the City, payment terms will be thirty (30) days net from receipt of invoice unless an appropriate prompt payment discount is provided and accepted. Payment shall be made by the City only after the items awarded to a vendor have been received, inspected, and found to comply with award specifications, free of damage or defect and properly invoiced, and the invoices are in all respects satisfactory to the City and appropriate for payment. All invoices shall bear the purchase order number or RFP number. Payment for partial shipments may not be made unless that is specified in the RFP. Payments and disputes involving invoices and payments shall be governed in accordance with Part VII, Chapter 218, Florida Statutes (Local Government Prompt Payment Act).

14. Vendor ACH Payment

The City of Winter Garden has implemented an ACH payment option. Utilization of this payment method is preferred, but not exclusive. Successful Proposer may receive payment from the City by contacting Accounts Payable at atodd@cwgd.com.

15. Taxes

The City is exempt from Federal Excise and Sales taxes. Tax exemption number: State #85-8012621706C-4.

16. Mistakes

Proposers are expected to examine the specifications, delivery schedule, prices, extensions and all other instructions provided herein. **Failure to do so will be at the Proposer's risk.** The City is not obligated to give successful Proposer extra payments for conditions which can be determined by examining the site and documents. In case of mistake in extended price, the unit price will govern and the Proposer's total offer will be corrected accordingly.

17. Contract Award

The City reserves the right to make an award consistent with the maximum discretion afforded to the City under Florida law with regard to municipal procurement. The City shall have the right to select who in the opinion of the City will be in the best interest of and/or the most advantageous to the City after considering the criteria set forth in this RFP. The City also reserves the right to reject any Proposer who has previously failed in the proper performance of a contract or to deliver on time contracts of a similar nature with other governmental entities or who, in the City's opinion, is not in a position to perform properly under the intended contract award. The City reserves the right to waive any minor informalities or technicalities in proposals received, as may be deemed in the best interest of the City in the City's sole discretion. Additionally, the City reserves the right to reject all Proposers at any time prior to execution of a contract and to resolicit (or not) in its sole discretion. A decision to terminate the solicitation process may be made at any time before the City enters into a contract with a selected Proposer. A recommendation of contract award does not constitute a contract. The award of contract to the selected respondent is subject to City Commission approval and the execution of a contract with terms acceptable to the City. The city staff makes recommendations to the City Commission, and the City Commission ultimately has the authority to award contracts, including the right to re-rank Proposers differently than recommended by the City staff.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all proposers responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

Firms submitting a proposal along with the required information and documentation will have their proposal evaluated and scored based on the evaluation criteria set forth herein.

Further, each proposal will be evaluated for full compliance with the RFP instructions to the proposers and the terms and conditions set forth within the RFP document. The City will consider the factors set forth in

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the City of Winter Garden Purchasing Manual in making determinations on the responsibility and responsiveness of proposers and proposals. Proposals will be scored and ranked in accordance with the weighting and grade specified in Section V, Evaluation Procedure. **The City is not obligated to make an award to the Proposer with the lowest bid or price submitted.** Proposals will be evaluated and an award made to that Proposer who is determined to be responsible and responsive to this Request for Proposal and whose proposal is the most advantageous to the City in terms of price, quality of service, the Proposer's qualifications and capabilities to provide the specified services and comply with the applicable conditions of this Request for Proposal and Contract, and who in the judgment of the City will best serve the needs and interests of the City.

18. Proposal or Contract Terms at Variance with This Document and the RFP or Specifications

This formal solicitation expressly limits acceptance to the terms of this document. If the Proposer submits a proposal that contains additional terms and conditions then, at the option of the City, it may award the contract to such Proposer but without the contractual terms that were included in the proposal and which are inconsistent with or different from the language in this RFP, and the specifications and this document so long as the proposal is otherwise responsive to this document and the specifications with the inconsistent language stricken. The Proposer hereby agrees that by making a proposal based upon this RFP, that any term or condition inconsistent with this document or the specifications shall be null, void and stricken by the City. Without limitation, the following contract terms and provisions shall be deemed inconsistent and will be stricken:

- a. Any provision that changes the venue for any type of dispute resolution to a location outside of Orange County, Florida.
- b. Any provision that applies the law of any jurisdiction other than the law of Florida.
- c. Any provision that provides for a dispute resolution method other than resolution in the court of appropriate jurisdiction and venue (although non-binding mediation in Orange County, Florida using a mutually agreed mediator will not be deemed inconsistent). Dispute resolution through arbitration or through any other tribunal court of appropriate jurisdiction and venue (in Orange County, Florida).
- d. Any provision that provides for attorneys' fees to the prevailing party in any litigation between or among the parties is inconsistent and shall be stricken.
- e. Any provision that limits the remedies and warranties available to the City of Winter Garden under applicable provisions of Florida law shall be inconsistent and stricken. Although the Uniform Commercial Code and Florida law will allow for limitation of warranties and remedies, such limitations are also inconsistent with the intent of this formal solicitation and will be stricken from the contract if awarded.
It is the intent of the parties that the City of Winter Garden shall reserve all of its rights of warranty and remedies available to the fullest extent under Florida law, without limitation.
- f. Any provision that alters the risk of loss and/or FOB point of responsibility with respect to goods in transit that are inconsistent with the provisions of this document or the specification shall be inconsistent and stricken.
- g. Any provision that provides for the City of Winter Garden to hold harmless and indemnify another party shall be inconsistent with this formal solicitation and stricken.
- h. Any provision that, to any extent waives, alters or modifies (or purports to do so) the sovereign immunity rights of the City of Winter Garden, including but not limited to the limits and protections afforded under Section 768.28, Florida Statutes, shall be deemed to be inconsistent with this formal solicitation and shall be stricken.
- i. Any proposal that purports to establish a lien or security interest in any property sold by the vendor or any other property of the City shall be deemed unlawful and inconsistent with this formal solicitation and stricken.
- j. Any term that is proposed that would alter the rate of interest and terms for payment in a manner inconsistent with this formal solicitation shall be deemed to be stricken although to the extent the Florida Prompt Payment Act applies, that statute shall govern, with the City reserving all rights under such Act.

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19. Modifications & Withdrawals

Proposals cannot be modified after submission to the City. Proposers may withdraw proposals at any time before the public opening. HOWEVER – NO PROPOSAL MAY BE WITHDRAWN OR MODIFIED AFTER THE PUBLIC OPENING and shall constitute an irrevocable offer for a period of ninety (90) days to provide to the City the services set forth in this formal solicitation, or until one or more of the proposals have been awarded. If an RFP or RFQ procurement, including but not limited to a procurement under CCNA (s. 287.055), the City may negotiate a contract or purchase that deviates from the proposal submitted in the interest of the City.

20. Disqualifications

The City of Winter Garden reserves the right to disqualify proposals, before or after opening, upon evidence of collusion with intent to defraud or other illegal practice upon the part of the Proposer. (See Non-Collusion Affidavit form). Proposer also warrants that no one was paid or promised a fee, commission, gift or any other consideration contingent upon receipt of an award for the services or product(s) and/or supplies specified herein.

21. Proposal Costs

Costs related to the preparation of a response to this formal solicitation are solely those of the Proposer, and the City assumes no responsibility for any such costs incurred by the Proposer.

22. Protests & Procurement Policy

Bid protests shall be governed by the provisions of and processes set forth in the City of Winter Garden Purchasing Manual ("Purchasing Manual"). The Purchasing Manual is incorporated herein by this reference and is available for review online on the City's website. Failure to timely file a written bid protest and pay the required bid protest fee in accordance with the Purchasing Manual shall constitute a waiver and invalidation of any protest to the award of contract under this solicitation. Proposers are responsible for reviewing the City's website on a routine basis for potential notices of addenda to this solicitation, notice of award recommendations, protest documents and other matters relevant to this solicitation.

A stay of award which may be in place pending a protest shall terminate upon a final decision being rendered by the City or earlier as determined by the City in accordance with the City's Purchasing Manual. The City is not required to stay an award of contract once the City has made a final decision even if litigation is threatened or filed against the City. If a bid protest proceeding reaches a *de novo* appeal hearing before the City Commission, such City Commission hearing is considered quasi-judicial in nature.

By responding to this solicitation, all proposers agree that in the event a proposer prevails in litigation against the City arising from any procurement act, omission or decision relating to this solicitation, that in no event shall the City have monetary liability which exceeds the proposer's actual preparation costs for submitting a response to this solicitation. No other damages, including but not limited to damages for lost profits, lost business opportunity and/or compensatory or consequential damages of any type or special damages of any type shall be due to or recovered by the prevailing proposer in litigation against the City, even if the contract is awarded by the City to another Proposer, if the protester has failed to obtain an injunction from a court of proper jurisdiction prohibiting the City from making such award. This provision is not intended to create a cause of action for monetary damages or injunctive relief if one does not exist in accordance with common law.

In the event of any inconsistency or ambiguity between the terms of the Purchasing Manual as compared with the terms of this document and the formal solicitation specifications at issue, the terms of this document and the formal solicitation specification at issue shall govern and control.

23. Agreement

The resulting Agreement or Contract, which shall include these General and Special Conditions and all Amendments or Addenda issued by the City, contains all the terms and conditions agreed upon by all parties. No other agreements, oral or otherwise, regarding the subject matter of this Agreement/Contract shall be deemed to exist or to bind either party hereto. All proposed changes must be submitted to the City in writing, and approved by the City Manager, Assistant City Manager and/or City Commission in writing prior

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to taking effect.

24. Public Entity Crimes

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals 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 36 months from the date of being placed on the convicted vendor list. The Proposer shall provide a certification of compliance regarding the public crime requirements.

In submitting a proposal to the City of Winter Garden, the Proposer offers and agrees that if the proposal is acceptable, the Proposer will convey, sell, assign or transfer to the City of Winter Garden all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Winter Garden. At the City of Winter Garden's discretion, such assignment shall be made and become effective at the time the purchasing agency tenders final payment to Proposer.

25. Certificate of Insurance

The successful Proposer and any subcontractors of the vendor shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City of Winter Garden. The successful Proposer shall submit certificates or other documentary evidence to the City with the signed agreement, attesting to insurance coverage for Worker's Compensation Insurance as required by the Florida Statutes, Public Liability, Property Damage Insurance, Professional Liability Insurance in the amount of \$1,000,000.00, and other requirements, as summarized on and in the amounts specified on the attached **Summation of Insurance Requirements**. The selected Proposer shall not commence work under any agreement until obtaining all insurance coverage under this section and until the City has approved such insurance.

The City of Winter Garden shall be named as an **ADDITIONAL INSURED** on all certificates and by endorsement to the policies pertaining to this project, except for Worker's Compensation and Professional Liability Insurance policies. Insurance companies must be licensed to do business in the State of Florida with a Best's Key Rating Guide rate of no less than "A." This information will be verified in the City's discretion, and it may be grounds for disqualification if the information is not in order.

26. Termination/Cancellation of Contract

The City reserves the right to cancel the contract, at any time, without cause and without penalty with a minimum thirty (30) days written notice.

Termination or cancellation of the contract will not relieve the Proposer of any obligations for any deliveries entered into prior to the termination of the contract (i.e. reports, statements of accounts, etc., required and not received).

Termination or cancellation of the contract will not relieve the Proposer of any obligations or liabilities resulting from any acts committed by the Proposer prior to the termination of the contract.

27. Termination for Default

The City Manager or other City representative shall notify, in writing, the Proposer of deficiencies or default in the performance of its duties under the Contract, by regular mail (or otherwise) to the address provided by Proposer in its proposal.

Three separate documented instances of deficiency or failure to perform in accordance with the specifications contained herein shall constitute cause for termination for default, unless specified elsewhere in the solicitation, whether or not the Proposer has received notice of those instances of deficiency. It shall be at

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the City's discretion whether to exercise the right to terminate. Proposer shall not be found in default for events arising due to acts of God.

28. Termination for City's Convenience

The performance of work under this contract may be terminated in accordance with this clause in whole, or from the time in part, whenever a City representative shall determine that such termination is in the best interest of the City. Any such termination shall be effected by the delivery by regular mail (or otherwise) to the address provided by successful Proposer in its proposal of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. Upon such termination for convenience, successful Proposer shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date and the City shall have no other obligations to successful Proposer. Successful Proposer shall be obligated to continue performance of contract services, in accordance with this contract, until the termination date and shall have no further obligation to perform services after the termination date.

29. Drug-Free Workplace

The Proposer, his/her/its employees, subcontractors, and his/her/its employees are prohibited from unlawful drug or alcohol possession and the use, manufacture, or dispensation of controlled substances while at work and while traveling to or from work. If any employee reports to work under the influence of alcohol or drugs the employee shall be immediately removed from the City premises by the Proposer. The contractor will be held responsible for any damages, loss or extra expenses caused by delays incurred by such actions. The Proposer shall certify that the firm has a drug free workplace policy in accordance with Florida Statute 287.0878. Failure to submit this certification shall result in the rejection/disqualification of the proposal. **See attached Drug-Free Workplace Affidavit.**

30. Indemnification

The selected Contractor(s) shall be required to provide certain indemnifications in favor of the City and its employees and elected and appointed officials and officers as follows:

Contractor agrees to indemnify and hold harmless the City of Winter Garden, its employees, agents and elected and appointed officials, and officers, from all claims, judgments, damages, losses, and expense (including reasonable attorneys' fees, experts' fees and litigation costs incurred at all trial and appellate levels with attorneys and experts selected by the City) arising out of or resulting from the performance or nonperformance of the work or services provided within the scope of this Agreement to the extent caused in whole or part by any negligence, recklessness, or intentional wrongful misconduct of the Contractor or persons employed or utilized by the Contractor in the performance of any Services rendered under this Agreement. If the type of services being performed under this Agreement require a maximum monetary limit of indemnification under general law, then the maximum monetary limit under this section and other indemnifications contained within this Agreement shall be two million dollars per occurrence, which the City and Contractor agree bears a commercially reasonable relationship to this Agreement; otherwise there is no maximum limit of indemnification.

Contractor shall indemnify and hold harmless the City of Winter Garden from and against any and all claims against the City, or any of its officials, officers, employees and agents, by any employee of the successful respondent or of any subcontractor arising out of or concerning the services or work performed under the Agreement between the City and the Contractor. The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor or any subcontractor under any Worker's Compensation Act, Disability Benefit Act, or other Employee Benefit Act.

In the event these indemnification provisions or any other indemnification provision of the Agreement is deemed inconsistent with any statutory provision or common law principle, such indemnification provisions shall be severable and survive to the greatest extent possible under Florida law to protect the City and its employees and elected and appointed officials and officers.

The required indemnifications shall survive the termination, cancellation, or expiration of the Agreement,

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and shall not be limited by reason of any insurance coverage.

31. Accidents & Claims

The successful Proposer shall be held responsible for all accidents and shall indemnify, hold harmless, and protect the City of Winter Garden from all suits, claims and actions brought against the City or its officials, representatives, agents, officers, and employees, and all costs, damages, or liabilities to which the City or its officials, representatives, agents, officers, and employees may be put or exposed, for any injury or alleged injury to the person(s) or property(s) of another resulting from negligence or carelessness in the performance of the work, or in protection of the project site, or from any improper or inferior workmanship, or from inferior materials used in the work, or otherwise related to the project. See also **Summation of Insurance Requirements**.

32. Laws & Regulations

The successful Proposer at all times shall be familiar with and observe and comply with all Federal, State, Local, and Municipal laws, codes, ordinances, rules and regulations which in any manner may apply and those which may be enacted later, or bodies or tribunals having jurisdiction or authority over the work and shall indemnify and save harmless the City of Winter Garden against any claims or liability arising from, or based on, the violation of any such law, ordinance, rule, code, regulation, order, patent infringements or decrees.

The successful Proposer is assumed to have made himself/herself/itself familiar with all Federal, State, Local, and Municipal laws, codes, ordinances, rules, and regulations which in any manner affect those engaged or employed in the work, or the materials or equipment used in or upon the work, or in any way affect the work. No plea of misunderstanding will be considered an excuse for the ignorance thereof.

In the event of any litigation or claim between the Proposer/vendor on this formal solicitation and the City of Winter Garden, including but not limited to any claim or litigation related to an agreement resulting from this formal solicitation process or any other type of dispute related to this RFP, the venue shall be in Orange County, Florida, where all laws, regulations, ordinances, codes, and rules of Florida and the City of Winter Garden shall be used in the adjudication.

All responses, questions, and conversations are public information including any literature or handouts at any subsequent presentations. All submittals are subject to the Florida Public Records Act, F.S. Chapter 119. The tender of a proposal authorizes release of all of your company's information as submitted.

33. Communications

To ensure fair consideration for all prospective Proposers throughout the duration of the formal solicitation process, the City of Winter Garden prohibits communication, whether direct or indirect, regarding the subject matter of the RFP or the specifications by any means whatsoever (whether oral or written), with any City employee, elected official, selection committee member, or representative of the City of Winter Garden, from the date of first publication or issuance of the specifications until the Commission makes the award. Communications initiated by a Proposer may be grounds for disqualifying the offending Proposer from consideration for award of the RFP or any future formal solicitation.

The sole exception to the foregoing rule is that any questions relative to interpretation of specifications or the formal solicitation process may be addressed to Steve Pash, Assistant City Manager – Public Services, in writing at spash@cwqdn.com, and, the person sending the question agrees that Public Services may furnish a copy of the question to all other Proposers and other persons who have registered an interest in responding to the formal solicitation. Questions of a material nature must be received no later than seven (7) business days from the date and time of the public opening.

34. Cone of Silence

A Cone of Silence/Lobbying Blackout Period begins upon issuance of a solicitation. For awards requiring City Commission approval, the Cone of Silence/Lobbying Blackout period concludes at the meeting which the City Commission will be presented the award(s) for approval or a request to provide authorization to negotiate a contract. However, if the City Commission refers the item back to the City Manager and/or

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Procurement Division for further review or otherwise does not take action on the item, the Cone of Silence/Lobbying Blackout Period will be reinstated until such time as the City Commission meets to consider the item for action. The Cone of Silence/Lobbying Blackout Period for award requiring the City Manager approval concludes upon issuance of a Notice of Intent to Award.

35. Addenda

When questions arise that may affect the proposal, the answers will be distributed in the form of an Addendum, which will be posted on the City's website. All Proposers should check the City's website or contact Public Services at least seven (7) calendar days before the date fixed to verify information regarding Addenda. The City of Winter Garden, in its sole discretion, may delay and change the scheduled due dates indicated herein. Addenda information will be posted on the City's website at <http://www.cwgd.com/bids.aspx>. It is the sole responsibility of the Proposer to ensure he/she obtains information related to Addenda.

All addenda must be acknowledged on the Signature Sheet to be considered responsive. Failure to acknowledge all addenda may result in the disqualification of the proposal response.

36. Subcontractors

The successful Proposer shall not employ subcontractors without the advance written permission of the City Manager or designee. The successful Proposer shall be fully responsible for the services and work provided by a subcontractor under the terms of this formal solicitation. The successful Proposer agrees that any employee or agent of the Proposer and any agent/employee of a subcontractor to the Proposer shall be removed from the City jobsite or City premises upon request by the City Manager or designee. Such request will only be issued to remove a person if the City Manager or designee has a reasonable basis (as determined in his or her discretion) that the presence of such person on City property or at a City jobsite is not in the best interest of the City, or its employees, guests, visitors or citizens. Additionally, a person may be directed to be removed if the person is reasonably deemed to be under the influence of drugs or alcohol, or is behaving in any manner reasonably determined to be unacceptably disruptive or in violation of any criminal law.

37. Assignability

Assignment of the contract, or any portion of the contract, cannot be made without the advance written consent of the City's agent.

38. Waiver, Alterations, Consent & Modification

No waiver, alterations, consent or modification of any of the provisions of the contract shall be binding unless in writing and signed by the City Commission, City Manager and/or Assistant City Manager Public Services.

39. Fiscal Year Funding Appropriations

Specific Period: Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period (October 1 through September 30), at the time of contract. Payment and performance obligations for succeeding fiscal periods, and any renewals, are subject to appropriation by City Commission of funds prior to entering agreement.

40. No General City Obligation

In no event shall any obligation of the City of Winter Garden under this Agreement be or constitute a general obligation or indebtedness of the City, a pledge of the ad valorem taxing power of the City or a general obligation or indebtedness of the City within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds.

41. Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract may be cancelled by the City and the contractor will be entitled to

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reimbursement for the reasonable value of any nonrecurring costs incurred but not advertised in the price of the supplies delivered under the contract, renewal or otherwise recoverable.

42. Proprietary Information

In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State or Federal Law, all Proposers should be aware that Request for Proposals and the responses thereto are in the public domain. However, the **Proposers are requested to identify specifically** any information contained in their response which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

43. Compliance

All companies doing business with the City of Winter Garden must do so in the English language and make proposals or other money quotations in U.S. currency. There shall be no customs, duties or import fees added to the cost shown in the proposal. In the event of any legal disputes the laws of the State of Florida and, where appropriate, the United States of America shall prevail. Venue for any court proceedings arising out of or related to this RFP or any resulting contract or purchase shall be in a court of competent jurisdiction in Orange County, Florida

44. Equal Opportunity Employment

Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment without regard to race, color, religion, sex, age, disability, or national origin. This provision will include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training, including apprenticeship. Each employee of the contractor shall be a citizen of the United States or an alien who has been lawfully admitted for permanent residence as evidenced by an Alien Registration Receipt Card. Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (or most recent) (18 USC 4082)(c)(2).

45. Fair Labor Standards Act

Contractor is required to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

46. Unauthorized Aliens

The Owner shall consider the employment by Contractor of unauthorized aliens as a violation of section 274A(e) of the Immigration and Nationalization Act, as amended; and shall be considered a basis for determination by the City of a non-responsive proposal. This requirement shall be contained in any contract executed pursuant to this RFP.

47. False Claims

If the selected Contractor is unable to support any part of its claim and it is determined that such inability is attributable to misrepresentations of fact or fraud on the part of the Contractor, Contractor shall be liable to the City for an amount equal to such unsupported part of the claim in addition to all costs to the City attributable to the cost of reviewing said part of Contractor's claim.

The City and Contractor acknowledge that the "Florida False Claims Act" provides civil penalties not more than \$10,000.00 plus remedies for obtaining treble damages against contractors or persons causing or assisting in causing Florida Governments to pay claims that are false when money or property is obtained from a Florida government by reason of a false claim. Contractor agrees to be bound by the provisions of the Florida False Claims Act for purposes of this Agreement and the services performed hereunder.

48. Reductions in Work

The City shall have the sole right to reduce (or eliminate, in whole or in part) the Scope of Work, any Project, or any Service Authorization at any time and for any reason, upon written notice to the Contractor specifying

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the nature and extent of the reduction. In such event the Contractor shall be fully compensated for the Services already performed, including payment of all Project-specific fee amounts due and payable prior to the effective date stated in the City's notification of the reduction. The Contractor shall also be compensated for the Services remaining to be done and not reduced or eliminated on the Project. However, Contractor will not be compensated for services not performed or that are eliminated from any resulting Agreement by City.

49. Disclaimer of Liability

The City will not hold harmless or indemnify any respondent for any liability whatsoever.

50. Sovereign Immunity Reserved

The City reserves and does not waive any and all defenses provided to it by the laws of the State of Florida or other applicable law, and specifically reserves and does not waive the defense of sovereign immunity or any other privilege, immunity or defense, including but not limited to the protections and limits set forth in Section 768.28, Florida Statutes, afforded by law to the City and its employees, officials and officers.

51. Compliance with Occupational Safety & Health

Proposer certifies that all material, equipment, etc. contained in this formal solicitation, meets all O.S.H.A. requirements. Proposer further certifies that if awarded as the successful qualifier, and the material, equipment, etc. delivered is subsequently found to be deficient in any O.S.H.A. requirement in effect on the day of delivery, all costs, necessary to bring the materials, equipment, etc. into compliance with the aforementioned requirements shall be borne by the qualifier. Proposer certifies that all employees, subcontractors, and agents shall comply with all O.S.H.A. and state safety regulations and requirements.

52. Severability

If any term, provision or condition contained in this Agreement shall to any extent, be held invalid against public policy, or otherwise unenforceable by a court of law, the remainder of this Agreement, or the application of such term or provision shall otherwise be fully enforceable.

53. Public Records

The Proposer shall maintain books, records, documents, photographs, time and cost accounts, and other evidence directly related to its provision or performance of services under the resulting Agreement. All time-records and cost data shall be maintained in accordance with generally accepted accounting principles and in adherence to the FEMA Policy requirements outlined in FEMA's Public Assistance Debris Monitoring Guide(FEMA 327).

The Proposer shall maintain and allow access to the records required under this section for a minimum period of five (5) years after the completion of the provision or performance services under the resulting Agreement and date of final payment for said services, or date of termination of the resulting Agreement. The City reserves the right to unilaterally terminate the resulting Agreement if the Proposer refuses to allow public access to all documents, papers, letters, or other materials subject to provisions of Chapter 119, Florida Statutes, and other applicable law, and made or received by the Proposer in conjunction, in any way, with the resulting Agreement.

In addition to the above, if Federal, State, County or other entity funds are used for any services under the resulting Agreement, the Comptroller General of the United States or the Chief Financial Officer of the State of Florida or the County of Orange, or any representative, shall have access to any books, documents, papers, and records of the Proposer which are directly pertinent to services provided or performed under the resulting Agreement for purposes of making audit, examination, excerpts, and transcriptions.

Proposer acknowledges and agrees that the City is a public entity that is subject to Florida's public records laws and as such, documents in Proposer's possession relating to the services performed for the City are subject to inspection pursuant to Chapter 119, Florida Statutes, unless otherwise exempt or excepted by applicable law. Moreover, Proposer agrees to perform and observe the requirements of section 119.0701, Florida Statutes, and Proposer will keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the services or Work hereunder; provide the public with access

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to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; and shall meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Proposer upon termination of any resulting Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the City. It is hereby specifically agreed that any record, document, computerized information and program, e-mail, audio or video tape, photograph, or other writing of the Proposer, its representatives, employees, agents, entities, and its independent contractors and associates related, directly or indirectly, to the resulting Agreement or the services, shall be deemed to be a Public Record whether in the possession or control of the City or the Proposer, unless an exemption or exception under applicable law applies. Such records, documents, computerized information and programs, e-mails, audio or video tapes, photographs or other writings of the Proposer are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City. While in the possession and control of the Proposer, its representatives, employees, agents, entities, and its independent contractors and associates, all public records shall be secured, maintained, preserved, and retained in the manner specified pursuant to the Public Records Law, at Proposer's expense. Upon request by the City, the Proposer shall, at Proposer's expense, within five (5) business days, supply copies of said public records to the City. All books, cards, registers, receipts, documents, and other papers in connection with the resulting Agreement shall, at any and all reasonable times during the normal working hours of the Proposer, be open and freely exhibited to the City for the purposes of examination and/or audit. Since the City's documents are of utmost importance to the conduct of the City's business and because of the legal obligations imposed upon the City and Proposer by the Public Records Law, Proposer agrees that it shall, under no circumstances, withhold possession of any public records, including originals, copies or electronic images thereof when such are requested by the City, regardless of any contractual or other dispute that may arise between Proposer and the City. **IF THE PROPOSER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROPOSER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO ANY RESULTING AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: ANGEE GRIMMAGE, CITY CLERK, 300 WEST PLANT STREET, WINTER GARDEN, FLORIDA 34787; E-mail agrimage@cwgn.com; telephone – 407-656-4111 (ext. 2297).**

This Section survives expiration and termination of the resulting Agreement and completion of the work and services thereunder.

54. Counterparts

The resulting Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

55. Lien

No lien or security interest in any City property may be created in relation to the resulting Contract or any work performed thereunder.

56. Authority to Bind City

No officer or employee has the authority to bind the City to the terms of this formal solicitation. A majority vote of a quorum of the members of the City Commission present at a duly noticed meeting held in accordance with Florida Statute Section 286.011 (the Florida Sunshine Law) shall be required to bind the City to the terms of this formal solicitation. This provision shall not apply to the extent that a particular procurement or type of purchase may be entered by the City Manager pursuant to an Ordinance of the City.

57. Breach

Notwithstanding any limitation of warranty or remedy, the City reserves all remedies available under Florida law in the event of a breach of the terms of this proposal. Without limitation it will be a material breach if the successful Proposer delivers non-conforming goods or goods or services not reasonably fit for the intended purpose.

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Notwithstanding any limitation of warranty, the successful Proposer warrants that the goods, services, and products sold or provided to the City will be fit and useful for the intended purpose for which such products or services were sold or provided to the City and the successful Proposer warrants that the goods and services are in conformance with the representation made during the formal solicitation process or are of a quality consistent with the prevailing standard for similar products and services in the commercial market.

Unless otherwise prohibited by law, in the event the Contractor who is awarded a contract by the City is terminated or removed from further work by the City for a default in the performance under the Agreement, the City may, without commencing a new competitive procurement process and without waiving any rights or remedies against the defaulting Contractor, contract with the next highest ranked respondent that is ready, willing, and able to complete the work or services if such is determined by the City to be in the City's best interest.

58. Limitations on Damages

If the Contractor is been delayed in completing its Services through no fault or negligence of its own, and, as a result, will be unable to complete performance fully and satisfactorily under the provisions of the resulting Contract or any services authorization, then, in the City's reasonable discretion, and upon the submission to the City of evidence of the causes of the delay, the Contractor shall be granted an extension of its Project schedule equal to the period the Contractor was actually and necessarily delayed, as Contractor's sole and exclusive remedy. In no event shall the City be liable to the Contractor for damages caused by delays, impacts, disruption, acceleration, resequencing, and interruptions regardless of the cause. Contractor expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays in services, and Contractor expressly waives any and all other remedies for any claim for increase in the Contract price or sum, damages, expenses, losses, or additional compensation.

IN NO EVENT SHALL THE CITY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF REVENUE, OR LOSS OF USE, OR COST OF COVER INCURRED BY CONTRACTOR OR ANY THIRD PARTIES ARISING OUT OF THE AGREEMENT AND/OR CONCERNING THE PERFORMANCE OF SERVICES BY THE CONTRACTOR OR BY THE CITY UNDER THE AGREEMENT OR UNDER A SERVICES AUTHORIZATION ISSUED UNDER THE AGREEMENT.

59. Ethics

The selected Contractor shall not engage in any action that would create a conflict of interest in the performance of the actions of any City official, officer, employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government. Contractor hereby certifies that no officer, agent or employee of the City has any material interest (as defined in Section 112.312 (15), Florida Statutes), as over 5% either directly or indirectly, in the business of the Contractor to be conducted here, and that no such person shall have any such interest at any time during the term of the resulting Agreement.

Respondents and the selected Contractor shall warrant that they have not employed or retained any company or person, other than a bona fide employee working solely for Respondent/Contractor to solicit or secure any resulting Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for respondent, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the resulting Agreement. For the breach or violation of this provision, the City shall have the right to terminate the resulting Agreement without liability.

60. Dispute Resolution

Dispute resolution shall be by pre-suit mediation and litigation held in Orange County, Florida. Mediation shall be initiated by any party by serving a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within fifteen (15) days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator, then the City shall select the mediator who, if selected solely by the City, shall be a mediator certified by the Supreme Court of Florida. No suit or other

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legal proceeding shall be filed until: (i) the mediator declares an impasse, which declaration, in any event, shall be issued by the mediator not later than sixty (60) days after the initial mediation conference; or (ii) sixty (60) days has elapsed since the written mediation request was made in the event the other party refuses to or has not committed to attend mediation. The parties shall share the mediator's fee equally.

If pre-suit mediation does not resolve the dispute, then the dispute shall be resolved by litigation before the County Court or Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida. Each party shall bear its own costs and fees in any mediation and litigation arising out or concerning the resulting Agreement, except as may be allowed pursuant to an indemnification provision of the resulting Contract.

61. Scrutinized Companies

Pursuant to Senate Bill 444, Laws of Florida Chapter 2012-104, and Section 287.135, Florida Statutes, the City will not contract with any entity that is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in The Iran Petroleum Energy Sector List, with respect to any contract for goods or services of \$1M or more. The City shall have the right to immediately terminate the contract/purchase in its sole discretion if the company is found to have submitted a false certification or it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in The Iran Petroleum Energy Sector List. And, if the company has submitted a false certification, then the City shall have the right to bring a lawsuit seeking civil penalties, damages, attorneys' fees and costs as authorized by Section 287.135, Florida Statutes.

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SECTION II: Special Conditions

1. Access to Records

Contractor and its subcontractors shall permit access by the State of Florida, the City of Winter Garden, any requesting Federal agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor and its subcontractors which are directly pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcriptions.

2. Americans with Disabilities Act of 1990 ("ADA")

Contractor and, as required, its subcontractors shall comply with the ADA, the regulations of the Federal government issued thereunder, and assurance by the City of Winter Garden pursuant thereto.

3. Anti-Kickback

If the Contract is for construction or repair, Contractor and its subcontractors shall comply with and shall take no action which would violate the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

4. Buy America Requirements

For all types of work eligible for reimbursement under the Federal Highway Administration Emergency Relief Program or other federal Department of Transportation program, Contractor and, as required, its subcontractors shall comply with all applicable requirements contained in 23 CFR 635.410, copies of which are attached hereto and incorporated herein by this reference as **Exhibit B**. Unless otherwise expressly permitted in the City's solicitation or in writing signed by the City's Procurement Manager, if steel or iron materials are to be used in the performance of work, domestic steel and iron must be used meeting the requirements of FHWA and all manufacturing processes, including application of a coating, for these materials must occur in the United States.

5. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that take place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

6. Contract Work Hours and Safety Standards Act

If the Contract is a construction contract in excess of two thousand dollars (\$2,000.00) or any other type of contract which involves the employment of mechanics or laborers in excess of two thousand five hundred dollars (\$2,500.00), Contractor and its subcontractors shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). To the extent that such statutes and regulations apply and require the inclusion of any language into the Contract, such language shall be deemed included and made a part of the Contract as if fully reproduced therein.

7. Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or Contractor 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 from the date of being placed on the convicted vendor list.

Contractor shall immediately notify City in writing and cease all work (or cause the applicable subcontractor

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to cease all work) in the event that it or a subcontractor is placed on the convicted vendorlist.

8. Davis-Bacon Act

If the Contract is a construction contract in excess of two thousand dollars (\$2,000.00) and if required by the applicable federal grant program legislation, Contractor and its subcontractors shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). The wage rate tables set forth on Florida Department of Transportation's website located at <http://www.fdot.gov/construction/wage.shtm> are hereby incorporated herein by this reference. For purposes of clarification and mutual understanding, the Davis-Bacon Act does not apply to debris removal agreements unless done in conjunction with a construction project.

9. Debarment & Ineligibility

The Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Contractor shall not employ any subcontractor that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Contractor shall include such requirement in writing in its subcontracts. In the event that Contractor or any of its subcontractors becomes debarred, suspended, proposed for debarment, ineligible or excluded from performing any work hereunder, Contractor shall immediately cease, or cause its sub-contractor to cease all work and notify the City in writing. Contractor and its subcontractors shall each execute and submit to the City prior to performing any work hereunder a debarment certification in the form and content set forth in the Contract solicitation or as otherwise specified by the City.

10. Disadvantaged Business Enterprise Program

Successful Contractor must meet FEMA procurement and contracting requirements. It shall be the responsibility of the successful Contractor to ensure compliance with any and all Federal, State and local laws and standards required as a condition of receiving public assistance funding for contract costs for eligible work, including conducting all necessary affirmative steps to ensure the utilization of disadvantaged business enterprises when possible.

11. Discriminatory Vendor List

In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or Contractor under a contract with any public entity and may not transact business with any public entity. In addition, an entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or has further been determined by the federal or Florida Department of Transportation to be a non-responsible contractor may not submit a bid (or other response to a solicitation) or perform work for the construction or repair of a public building or public work on a contract with the City. Contractor shall immediately notify City in writing and cease all work (or cause the applicable subcontractor to cease all work) in the event that it or a subcontractor is placed on the discriminatory vendor list or had its Certificate of Qualification suspended, revoked, denied or has been determined by the federal or Florida Department of Transportation to be a non-responsible contractor or Contractor.

12. Energy Efficiency

Contractor and its subcontractors shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State of Florida energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871).

13. Environment Regulations

If the Contract is in excess of one hundred thousand dollars (\$100,000.00), Contractor and its subcontractors shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). Contractor and its

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subcontractors shall incorporate these requirements into all subcontracts in excess of one hundred thousand dollars (\$100,000.00).

14. Equal Employment Opportunity

Contractor shall comply with Section 13.36(e) of Title 44 of the Code of Federal Regulations entitled, "Emergency Management and Assistance." In addition, if the Contract is a construction contract in excess of ten thousand dollars (\$10,000.00), Contractor and its subcontractors shall also comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). To the extent that such Orders and regulations apply and require the inclusion of any language into the Contract [including but not limited to the language contained in 41 CFR 60-1.4(b) and 60- 4.3 if required], such language shall be deemed included and made a part of the Contract as if fully reproduced therein.

15. E-Verify Program

Contractor shall utilize the U.S Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract.

In addition, Contractor shall require any subcontractors performing work or providing services pursuant to the Contract to verify the employment eligibility of all new employees hired by the subcontractor during the term of the Contract. The Contractor shall provide to the City, within thirty (30) days of the effective date of this Contract, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen", which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

Contractor further agrees that it will require each subcontractor that performs work under the resulting Contract to enroll and participate in the E-Verify Program on the same terms as Contractor. Contractor shall obtain from its subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the City upon request.

16. Fees & Commissions

Contractor warrants that it has not:

- i. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration any company or person, other than bona fide personnel working solely for Contractor, to solicit or secure this Contract;
- ii. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this Contract; and
- iii. paid, or agreed to pay, or given or offered any fee, contribution, donation, commission, percentage, brokerage, consideration, gift, loan, or anything of value (Value) to any person, company, corporation, individual, organization or firm, other than bona fide personnel working solely for Contractor, in connection with, consideration for, or contingent upon, or resulting from the award or making of this Contract.

Contractor further warrants and agrees that no member of, or delegate to, the Congress of the United States will be admitted to any share or part of this contract or to any benefit arising therefrom. It is understood and agreed to by Contractor that, for the breach or violation of this paragraph, the City shall have the right to immediately terminate this Contract without liability and at its sole discretion, and to deduct from the contract price, or to otherwise recover, the full amount of any Value.

17. FHWA Requirements

For all types of work eligible for reimbursement under the Federal Highway Administration Emergency Relief Program or other federal Department of Transportation program, Contractor and, as required, its subcontractors shall comply with all applicable requirements contained in FHWA Form 1273, a copy of which is attached hereto and incorporated herein by this reference as **Exhibit A**.

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18. Hurricane & Disaster Relief Funding

As a result of hurricanes or other natural or man-made disasters ("Disaster Events"), the City of Winter Garden has or may in the future apply to the State of Florida or Federal government for funds which will be used to pay Contractor or reimburse the City for payments made to Contractor under the Contract, including but not limited to funds from the Federal Highway Administration ("FHWA") Emergency Relief Program and from the Federal Emergency Management Agency ("FEMA") under its public assistance program. The selected Contractor shall be familiar with and comply with: (i) all laws, rules, regulations and programmatic requirements of the FHWA Emergency Relief Program for eligible costs incurred thereunder with respect to work related to federal-aid highways and roads; and (ii) all laws, policies, rules, regulations and programmatic requirements of the FEMA public assistance program for all other Disaster Events related work, including work related to federal-aid highways and roads not otherwise eligible for payment or reimbursement under the FHWA Emergency Relief Program, unless otherwise directed by the City.

19. Indemnity of Funding Entities

Contractor agrees to indemnify and hold harmless the State of Florida, the Federal Government and its agencies (including but not limited to the Federal Highway Administration and the Federal Emergency Management Agency) and the City of Winter Garden, and their officers, agents, employees and elected officials, from and against any and all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions, and cost of actions, including attorneys' fees for trial and appeal, and for the preparation of same arising out of the Contractor's, its officers', agents', employees' and subcontractors' acts or omissions associated with this Contract.

20. Interest in Contract

No member, officer, or employee of the Florida Department of Transportation or the City during his or her tenure, or for two years thereafter, shall have any interest, direct or indirect, in the Contract or the proceeds thereof. Contractor shall insert the above sentence in each of its subcontracts.

21. Lobbying Activities

Firms responding to or receiving an award for this solicitation shall comply with 44 CFR, Part 18 regarding lobbying activities on federal-aid contracts. Firms responding to this solicitation should execute and return with their response an executed copy of **Exhibit F**, Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts. A contract shall not be awarded to a respondent who does not submit the certification form at the time of submittal or within seven (7) days of the date the City requests the certification form be submitted.

22. National Environmental Policy Act

For all types of work eligible for reimbursement under the Federal Highway Administration Emergency Relief Program or other federal Department of Transportation program, Contractor and, as required, its subcontractors shall coordinate with the City of Winter Garden and the Florida Department of Transportation to ensure compliance with the requirements of National Environmental Policy Act of 1969.

23. Prohibition on Convict Labor

For all types of work eligible for reimbursement under the Federal Highway Administration Emergency Relief Program or other federal Department of Transportation program, Contractor and, as required, its subcontractors shall comply with the convict labor prohibition in 23 U.S.C. 114. Convict labor cannot be used in Emergency Relief construction projects.

24. Record Retention

Contractor and its subcontractors shall retain all records related to the Contract for five (5) years after receipt of final payment under the Contract and all other pending matters related to the Contract are closed. If any litigation, claim or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. Notwithstanding the preceding for work performed related to a disaster event for which the City has applied for reimbursement or funding from FHWA or FEMA, all records shall be retained for the longer of the period set forth above or five (5) years from the date of final closeout of the disaster by the federal agency.

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25. Reporting Requirements: Patent & Copyrights

Contractor and its subcontractors shall comply with and the Contract is subject to the requirements and regulations of FHWA, FEMA, and the State of Florida, Department of Community Affairs, pertaining to:

- i. reporting;
- ii. patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract; and
- iii. to copyrights and rights in data, applicable to contracts subject to payment or reimbursement from funding made pursuant to a Disaster Relief Funding Agreement (or similar agreement) with the City. The federal awarding agency (and, if applicable, any intermediary state agency) and the City shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for governmental purposes (i) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant, and (ii) any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

26. Rights to Inventions Made Under a Contract or Agreement

Contractor shall comply with the standards and policies regarding patent rights contained in 37 CFR 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

27. State and Federal Law; Inclusion in Subcontracts

Contractor and its subcontractors (of all tiers) shall comply with and be bound by the provisions of all applicable federal, state and local laws, rules and regulations governing the work performed hereunder, including all licensing requirements.

In addition, Contractor and its subcontractors (of all tiers) shall comply with all laws, rules and regulations applicable to each program under which the City is eligible for funding for payment or reimbursement for work performed by the Contractor, including but not limited to (i) Titles 23 and 49 of the Code of Federal Regulations for work on or related to federal aid highways and roads eligible to be funded in whole or in part by the federal Department of Transportation under the FHWA Emergency Relief Program; and (ii) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5121) and related regulations contained in Title 44 of the Code of Federal Regulations for other disaster relief work. Contractor shall physically incorporate a copy of this Exhibit and all attachments hereto, including but not limited to FHWA Form 1273, in all subcontracts of all tiers. In the event of any conflict in the requirements of state or federal disaster relief programs, Contractor and its subcontractors (of all tiers) shall comply with the laws, rules, and regulations governing the program under which payment or reimbursement is or will be sought by the City. In the event of any ambiguity or question by Contractor or any of its subcontractors of any tier regarding the program under which the City is or will be seeking payment or reimbursement for any work, Contractor shall immediately contact the City and request clarification from the City prior to proceeding with the work or authorizing a subcontractor to proceed with such work.

28. Subcontracting & Payment to Subcontractors

Contractor shall self-perform such percentage of the work related to a Disaster Event as may be required by the state or federal program providing reimbursement. Unless otherwise authorized by the City in writing, for all types of work eligible for reimbursement under the Federal Highway Administration Emergency Relief Program or other federal Department of Transportation program, in accordance with the provisions of 23 CFR 635.116, Contractor shall perform a minimum of thirty percent (30%) of all such work. With respect to all work under the Contract, Contractor shall pay each of its subcontractors, including DBE subcontractors, for all work satisfactorily performed within thirty (30) days from receipt of billing by the subcontractor, not contingent upon payment by the City. Contractor further agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City.

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29. Suspension & Debarment

If a firm, or its principals, are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency, it may not submit a response to this solicitation.

Firms responding to or receiving an award for this RFP shall comply with 49 CFR, Section 29.510 regarding debarment, suspension, ineligibility and voluntary exclusion for federal-aid contracts. Firms responding to this solicitation should execute and return with their response an executed copy of **Exhibit E**, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal-Aid Contracts. A contract shall not be awarded to a respondent who does not submit the certification form at the time of submittal or within seven (7) days of the date the City requests the certification form be submitted.

30. Termination for Convenience

The City may terminate the Contract at its convenience with or without cause upon written notice of termination to Contractor. In the event of such a termination by the City, the City shall be liable for the payment of all work properly performed prior to the effective date of termination and for all portions of materials, supplies, services, and facility orders which cannot be cancelled and were placed prior to the effective date of termination and other reasonable costs associated with the termination. Notwithstanding the preceding, under no circumstances shall the City be liable to Contractor for lost profits or overhead for work, materials or services not performed or delivered to the City.

31. Title VI Compliance

Title VI of the Civil Rights Act, 42 U.S.C. 2000, provides in Section 601, that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." Contractor, for itself, its delegates, successors-in-interest, its assigns, and its subcontractors, and as a part of the consideration hereof, does hereby covenant and agree that:

- i. it shall comply with Section 601 of Title VI of the Civil Rights Act, 42 U.S.C. 2000, set forth above;
- ii. it shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract and shall carry out the applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. The failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the City deems appropriate as set forth below; and
- iii. in the furnishing of services to the City hereunder, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in regard to this Contract on the grounds of such person's race, color, creed, disability, national origin, religion or sex.

In the event of a breach of any of the nondiscrimination and other covenants described in this paragraph, such breach shall constitute a breach of this Contract and the City shall have the right to immediately terminate this Contract in whole or in part, without liability, or seek such other remedies as the City deems appropriate, including but not limited to suspension or debarment from future City contracts. In addition to the City, the United States shall also have the right to enforce such laws and regulations. This nondiscrimination is in agreement with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-7 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation. Disadvantaged business enterprises are defined in 49 CFR Part 26. Contractor shall require that all of its subcontractors agree and comply with the requirements of this paragraph.

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SECTION III: Scope of Work

The City of Winter Garden (City) is requesting proposals from qualified firms to assist in the monitoring of all aspects of disaster debris collection, processing and disposal operations on behalf of the City, ensuring compliance with the FEMA Public Assistance Debris Monitoring Guide, which is incorporated by reference and other Federal requirements (including, but not limited to FHWA & OSHA) and the City's applicant debris management plans as related to contractor operation, oversight, truck measurements/certification, accurate load tracking (ticket or electronic) preparation and issuing, monitoring (including GPS and photograph documentation), report preparation, project administration, and grant (reimbursement) management.

The debris monitoring Contractor shall provide all management, supervision, labor, transportation, and equipment necessary to initiate load tracking (ticket or electronic) at debris pick-up loading sites, estimate the volume of debris (in cubic yards) being delivered by trucks to each disposal site licensed and permitted by the State of Florida, and support the operations of the field supervisor(s), debris loading and tower/site monitors, administrative and clerical staff, and grant management.

Background & Statistical Information

The City of Winter Garden serves over 45,000 residents, approximately 17,000 homes in a 17.94 square mile area that covers a total of 11,481.6 acres, with its central location in the region and the State, Winter Garden is easily accessible from State Road 429 and the Florida Turnpike. The City limits contain approximately 249.37 miles of roads (136.76 miles of City roads; 57.11 miles of private city roads; 23.2 miles of FDOT roads; 32.3 miles of county roads), 273.17 miles of sidewalk, and part or all of 13 lakes.

Mandatory Minimum Qualifications

The following mandatory minimum qualifications have been established. Subject to the City's right to waive minor irregularities, Proposers that do not meet the mandatory minimum qualifications will be deemed non-responsive and will not be considered for further evaluation.

1. The proposing firm must have at least eight (8) years of experience in disaster recovery monitoring and Federal grant management as a result of federally declared events in the State of Florida.
2. The proposing firm must provide evidence of successful completion of a minimum of three (3) projects for a public entity, within the last eight (8) years, involving monitoring the removal and processing of over 250,000 cubic yards of debris.
3. The proposing firm shall demonstrate on the date of submission, the ability to qualify for a \$1,000,000 performance bond by providing a letter from a surety to that effect.

Scope of Services & Technical Requirements

Contractor shall provide all services described herein. Activities will include, but are not limited to monitoring and accurate documentation (including GPS and photographs) of the following: (a) field operations regarding all storm generated debris; (b) debris pickup; (c) debris hauling; (d) debris delivery; (e) debris staging and reduction; (f) temporary debris storage site management; (g) debris management; and (h) final disposal of debris to an approved facility.

Streets and other public facilities (parks, recreation centers, City offices, etc.) will be identified by City and direction will be given to Contractor for clearing these roads and facilities. City reserves the right to add or remove roadway segments or public facilities at the direction of the City's Debris Representative.

Contractor shall have experience in the Federal Highway Administration Emergency Relief Program (FHWA-ER), the Federal Emergency Management Agency Public Assistance Program (FEMA-PA), and other applicable federal, state and/or local programs to assist the City in its Emergency Response and Recovery efforts. Proper documentation (including paper, electronic, GPS and photographs) by Contractor, as required by FHWA and FEMA, is required for all debris removal monitoring operations to ensure reimbursement to the City from the appropriate agency.

Contractor shall assist City in performing: (a) contract administration; (b) damage assessment; (c) environmental permitting of temporary debris management sites; (d) truck certification; (e) debris removal monitoring; (f) quality assurance and quality control of all documentation pertaining to debris removal

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monitoring; (g) assist in responding to public inquiries; (h) and be available to address questions from FEMA and FHWA, both during and after services have been performed. Contractor shall monitor all aspects of debris removal from parks, other public facilities, and private streets if requested by City. Contractor shall monitor any right of private property entry if requested by City.

Contractor shall coordinate with City to schedule debris removal monitoring and contractor operations. Contractor shall provide a Project Manager who shall report to the EOC and be responsible for the overall project management and coordination of the debris monitoring services required to oversee the debris removal operations. The Project Manager shall be the point of contact to the City. The Project Manager shall assign field Operations Manager(s) to oversee the debris removal contractor(s), monitors, and a Data Manager to provide supervision of the data entry operations and documentation process.

A not-to-exceed amount will be negotiated for each operation requested by City based on the price schedule attached herein. Contractor will be responsible for tracking all contract costs and adhering to the not to exceed limit as defined. Proper notification must be given to City as costs approach this limit.

Contractor shall report and stop any work that does not comply with federal, state and local regulations and laws. Contractor shall report and stop any work that is not authorized by City's Notice to Proceed, Scope of Services and Technical Requirements for all debris management contractors.

At a minimum, Contractor in accordance with FEMA and FHWA policy and guidelines shall provide the following services: (a) ensure a sufficient number of trained debris monitors are available to monitor the "first push" (cut & toss) operations; (b) all "first pass" and subsequent passes of debris pick-up/removal and hauling activities; (c) provide one debris monitoring field supervisor for no more than 10 debris loading sites monitors; (d) provide tower / disposal site monitors to observe and accurately record (including GPS and photographs) all debris loads entering the temporary debris management sites and provide tower/disposal site monitors to observe and record (include photographs) all debris loads exiting the temporary debris management sites for final disposal; (e) ensure appropriate on-going training and safety meetings are conducted for all field staff; and (f) provide staff to measure and certify all vehicles used in the debris removal activities.

Contractor shall provide: (a) data entry and document processing services and personnel; (b) quality assurance and quality control of all documentation of debris removal operations; (c) respond to and document issues regarding complaints, damages, accidents or incidents involving Contractor/Subcontractor or Contractor/Subcontractor personnel and ensure that they are fully documented and reported; (d) coordinate daily briefings with the City and the debris removal contractor(s), daily status reports of work process and staffing; (e) ensure documentation of environmental authorizations and/or permits for temporary debris management sites and final disposal; (f) review and reconcile debris removal contractor invoices submitted to the City and preparation of regular operations and status reports and final report, as directed by City; (g) organize, maintain, and provide City with electronic copies of documentation (including photographs) in a satisfactory manner; (h) all documentation and information related to the project shall be surrendered to City upon completion of the project.

To ensure all necessary documentation (paper, electronic and photographs) is provided to confirm all eligible debris removal operations activities are documented and tracked to meet the requirements of the FHWA-ER program, the FEMA-PA program or other applicable federal, state or local agencies, Contractor shall: (a) provide documentation of the number of crews and types of equipment utilized, actual hours of operation, and locations of work performed during the time and materials phase of operations; (b) document the completion of truck certifications, equipment certifications and establishment of a QA/QC program throughout the life of the project; (c) provide load tickets documenting the eligible debris removal and/or disposal activities by and in accordance with the applicable program, FHWA- ER or FEMA-PA, and/or any other federal, state or local programs; (d) provide documentation of eligible hazardous stump removal, dangerous hanging limbs and leaning trees, and/or approved tree removal which includes photographs, stump/hanger/limb diameter measurements, GPS coordinates street or milepost identifier, and/or other information as available and applicable; (e) provide documentation of all environmental authorizations and/or permits, as applicable; (f) provide daily electronic spreadsheet summaries of cubic yards/tons

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collected by Federal program which shall be communicated to the City Debris Manager and other officials designated by the City; (g) produce copies, both electronic (scanned) and hardcopy, of all documentation for submittal to Federal and/or State agencies; and (h) assist the City in creating field maps using geographic information system (GIS), as well as track and present Contractor progress in GIS.

Electronic Data Management System (EDMS)

City requires the Contractor use a proven EDMS to monitor and document all field debris removal and processing operations. This EDMS shall mirror the flow and information used by the manual multi-part load ticket system. An explanation of the required features of an EDMS follows below, however, an EDMS must contain, at a minimum, all the data elements required to meet the documentation requirements of the FHWA and FEMA.

Contractor's Field Monitors shall use hand-held units (HHU) to initiate the load data by entering the debris type into the HHU along with the driver's identity and truck number. The HHU will capture all data required to verify the debris meets FEMA and FHWA eligibility requirements including, but not limited to, the type of material, GPS pick-up location, address of pick-up, date, time and the Field Monitor's name/ID. Load data can be given to the driver in a removable computer media format (i.e. smart card, thumb drive, etc.).

HHU's shall be used at the debris verification area of disposal site(s) by Tower Monitors. The driver presents the removable media, previously initiated by the Field Monitor, to the Tower Monitor personnel located at the disposal site, which will then: (a) verify the debris classification is appropriate (vegetative, C&D, mixed, etc. and manually revises, if necessary); (b) verify vehicle and driver information is correct; and (c) estimate and enter the load quantity into the HHU. The HHU will automatically extract the information recorded earlier on the removable media and add the information to the Tower Manager's HHU, including the date, time of debris arrival, site ID, GPS readings, load quantity and Tower Monitor ID. Visual inspection to ensure a truck is empty must be entered prior to the initiation of a new load by a Field Monitor.

All information regarding each debris load will be stored in the HHU's internal memory or on a separate removable media. The debris load information will be uploaded to the host system, as well as City and Contractor databases. The host system will retain a running total of the quantity and type of debris hauled by each individual vehicle. All debris load information will be retained by the Tower Monitor until upload to the database has been accomplished and confirmed by authorized personnel. Direct access to data on the HHU will be restricted to personnel specifically authorized to do so by City.

EDMS Features

The host system shall have the capability to record truck and trailer certification data. Truck certification is used to register authorized debris hauling vehicles and equipment; right-of-way (ROW) collection data must be captured, stored, validated, audited, reported and transmitted to City Project Managers, haulers and applicants; the system shall have the capability to manage user roles. The majority of the system users will be loading or tower monitors; completed point of origin transactions (loading) must be received at the approved disposal site.

Transactions are not considered complete until they are processed thru the receiving applications; the system must have the capability to perform administrative duties in the field. Requirements include the capability to edit user roles, verify vehicle audit information, display real-time collection volumes, and review ticket/tower personnel GPS audit logs. Collection data must be summarized, validated, presented and audited to provide an overall status of mission performance. The system must facilitate billing, error reporting, performance tracking, photographs and graphical data preparation.

General Reporting Requirements

Unless otherwise specified, City requires Contractor to provide: (a) daily status reports of the debris removal operations; (b) interim reports as requested by City; and (c) final report of the debris removal operations.

Daily status report shall include at a minimum: the daily cubic yards/tons collected, defined by material and by program (FHWA-ER First Pass, First Pass on non-Federal Aid roadways, second and subsequent passes on all roadways); cumulative totals in cubic yards/tons by debris type; debris removal crews and equipment

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currently in operation; number of debris monitors in the field; cubic yards/tons by debris type hauled to final disposal and location of final disposal; and total cubic yards/tons hauled to recycling or salvage facilities.

Periodic status reports may be required at the discretion of the City. A final report covering the history of the operations; locations of temporary debris sites used; remediation and site closure activities, including any environmental reports or authorizations generated; and the locations and permits of final disposal sites, recycling facilities and salvage facilities used during operations.

Federal Grant Management

Contractor shall have experience and be ready to assist City with all aspects of Federal grant management, which shall consist of the following tasks as directed by City: (a) attend the applicant briefing and kick off meeting with the client; (b) assist the City with damage and eligibility assessment (DDIR, etc.); (c) identification of hazard mitigation opportunities; (d) preparation of scopes of work for eligible repairs; (e) preparation of project worksheets and subsequent required documentation; (f) preparation for project closeout and audits; and (g) writing appeals and representing the City when necessary.

Location Requirements

Proposer should demonstrate that they have a fully functional and operating office within Orange, Seminole, Lake or Osceola County at the time of proposal submission. A fully functional office is defined as one that includes resources that are immediately available to deliver services under this Contract, including professional/technical personnel resources and equipment. Contractor is to inform the City immediately if there are any changes in this information.

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SECTION IV: Proposal Format

Proposers must respond in the format delineated below.

Please submit one (1) **original**, three (3) hard copies and one (1) **electronic copy on USB** for document management purposes. All responses, and copies, are to be submitted on 8½ x 11 inch paper, bound individually. If your response contains any information deemed confidential, provide an additional version of your response labeled REDACTED. Electronic copy shall be in Microsoft Word or Adobe – the most recent software version.

Each directive listed will require an individual index tab in your response package to indicate the information as requested is listed behind its specific tab. Any other information pertinent to the headings as listed herein may be added to the end of each section. However, required information must be listed first in each section. If further materials are necessary to complete your response and are not noted under any of the headings listed below, add a **TAB –X** tab to the end of your response with proper index as to the subject matter contained therein. Any Addenda are to be acknowledged on the Signature Sheet.

Failure to submit this information will render your proposal non-responsive. Each Section is to be preceded with a Tab delineating the information after the Tab.

Note: The City shall not be responsible for any costs incurred by the Proposer in preparing, submitting or presenting its response to the RFP. This Request for Proposals does not and shall not commit the City or their agents to enter into any agreement, to pay any costs incurred in preparation of the submittals or to procure or contract for services or supplies.

Table of Contents

Clearly outline and identify the material and responses by the tab and page number. Outline in sequential order the major areas of the responses, including enclosures. Tabs should be used to separate each tabbed section. All pages must be consecutively numbered and correspond to the table of contents.

Tab 1. Cover Letter

Provide a cover letter indicating your company’s understanding of the requirements/scope of services and specifications of this formal solicitation. The letter must be a brief formal letter from the Proposer that provides information regarding the company’s familiarity and interest in providing Emergency Debris Monitoring Services for the City of Winter Garden. A person who is authorized to commit the Proposer’s organization to provide the goods/services included in the response must sign the letter. Provide all names, titles, addresses, telephone numbers (including facsimile numbers), and email addresses.

Tab 2. General Business Information

- a. Proposer’s legal entity name, principal business address, phone number, email address, and the name of the principal in charge.
- b. Name and contact information of the person to be contacted for information regarding this RFP, if different from the principal in charge.
- c. State whether the Proposer’s business is local, national, or international and indicate the business’s legal status (corporation, partnership, etc.). Provide the date the Proposer was organized or incorporated and state of incorporation. If the Proposer is a joint venture, please list the partners and the date such joint venture was formed.
- d. Indicate whether the Proposer’s business is a parent or subsidiary in a group of firms/agencies.
- e. Provide the location of the office from which the work is to be performed and the number of professional staff employed at the office.
- f. State if the Proposer’s business is licensed, permitted and/or certified to do business in the State of Florida and attach copies of all such licenses issued to the business entity. Also indicate

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the Proposer's Disadvantaged Business Enterprise (DBE) status and provide copies of the government-issued certifications, if applicable.

Tab 3. Proposer's Experience

- a. A verifiable statement of the Proposer's experience, familiarity with FEMA Public Assistance Program and ability to perform the type of work specified in Section III, Scope of Work. Supporting references must also be included in this section.
- b. A statement of experience and résumés of the management staff who will be assigned to the project.
- c. A list of all contracts in which your firm was terminated for cause by a governmental agency.

Tab 4. Operational Plan

Submit a narrative that outlines the firm's procedures in meeting the disaster monitoring services listed in Section III, Scope of Work. Explain how the firm was successful with their operational plan on other disasters they worked in the last 8 years.

Tab 5. Financial Stability

- a. Provide documentation illustrating the Proposer has the financial capability to provide the equipment and resources necessary to satisfactorily perform the Services required by this RFP.
- b. State if the Proposer is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law.
- c. The City reserves the right to utilize Dun and Bradstreet or any other financial reporting companies' financial reports for evaluation purposes or to request credit references in its review process.

Tab 6. Price Proposal Schedule

- a. Proposer's price shall be submitted on the Price Proposal Form in the format provided and included in this section. The price proposal shall provide a fixed-fee breakdown based on hourly rate of each individual staff position, with the pricing submitted to include any and all chargeable services, including all labor customarily associated with delivery of the services contemplated by this RFP. Similarly, all expenses such as, but not limited to, travel, lodging, meals and telephones/faxes/copiers associated with delivery of the services contemplated by this RFP shall also be included in the proposed pricing breakdown. There shall be no separate reimbursement for such expenses under this total fee/price arrangement.

Tab 7. Standard Forms

A fully executed **Signature Sheet, Drug-Free Workplace Affidavit, E-Verify Affidavit, Non-Collusion Affidavit of Prime Respondent, Public Entity Crimes Affidavit, Public Records Act Acknowledgement and Proof of Insurance** shall be included in this section.

Tab 8. Supplemental Documents

A completed **Bid Opportunity List (Exhibit "C"), Anticipated DBE Participation Statement (Exhibit "D"), Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal-Aid Contracts (Exhibit "E") and Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts (Exhibit "F")** must be included in this section.

Tab X. Miscellaneous

Additional information, which the Proposer feels will assist in the evaluation, should be included in this section.

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SECTION V: Evaluation Procedure

All proposals will be subject to a review and evaluation process. It is the intent of the City that all Proposers responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

CRITERIA

Firms submitting a proposal along with the required information and documentation will have their proposal evaluated and scored based on the evaluation criteria set forth herein.

Further, each proposal will be evaluated for full compliance with the RFP instructions to the Proposers and the terms and conditions set forth within the RFP document. Proposals will be scored and ranked in accordance with the weighting and grade specified in the following table. The City is not obligated to make an award to the Proposer with the lowest bid or price submitted. Proposals will be evaluated and an award made to that Proposer who is determined to be responsible and responsive to this Request for Proposal and whose proposal is the most advantageous to the City in terms of price, quality of service, the Proposer's qualifications and capabilities to provide the specified services and comply with the applicable conditions of this Request for Proposal and Contract, and who in the judgment of the City will best serve the needs and interests of the City.

The following represent the principal selection criteria, which will be considered during the evaluation process. Points are determined by multiplying weight times grade. Shortlisting of firms will be based on converting each Committee Member's Total Score into a ranking with the highest score ranked first, second, highest ranked score, etc. Once converted, the Committee Member's ranking for each firm will be entered into a shortlist summary. The Total Score recorded on the summary sheet will determine the ranking and shortlisting.

M/WBE Utilization shall be graded in accordance with the following (*State-issued certification required*): Proposer M/WBE certification = 5, Proposer's subcontractor M/WBE certification = 3, no M/WBE certification = 1.

Evaluation Criteria

Criteria	Weight	Grade	Maximum Total Points
Proposer's Experience	4	1 2 3 4 5	20
Operational Plan	2	1 2 3 4 5	10
Financial Stability	6	1 2 3 4 5	30
Price Proposal Schedule	6	1 2 3 4 5	30
M/WBE Utilization	2	1 3 5	10
Total Possible Points To Be Earned			100

Total Points to be earned are on a scale of 1 – 100 points, 1 = lowest, 100 = highest

SCORING DEFINITIONS

- 1= **Poor** – Lacking or inadequate in most basic requirements, specifications, or provisions for the specific criteria.
- 2= **Below Average** – Meets many of the basic requirements, specifications, or provision of the scope, but is lacking in some essential aspects for the specific criteria.
- 3= **Average** – Adequately meets the minimum requirements, specifications, or provisions of the specific scope, and is generally capable of meeting the City's need.

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- 4= **Above Average** – More than adequately meets the minimum requirements, specifications, or provision of the specific scope, and exceeds those requirements in some aspects for the specific scope.
- 5= **Excellent** – Exceeds minimum requirements, specifications, provisions in most aspects for the specific criteria.

In evaluating the Proposals, the City shall have the discretionary power to render decisions on: (i) the honesty, reputation, and integrity of a Proposer necessary to a faithful performance of the Contract; (ii) a Proposer’s skill and business judgment; (iii) Proposer’s facilities, labor force, and equipment for carrying out the Contract properly and expeditiously; (iv) Proposer’s previous conduct under other contracts with the City and contracts with any other parties that the Proposer has provided work or services; (v) the quality of Proposer’s previous work for the City and any other parties that the Proposer has provided work or services; (vi) Proposer’s pecuniary ability and financial stability; (vii) the Proposer’s previous and existing compliance with laws, ordinances and regulations; (viii) Proposer’s maintenance of a permanent place of business; (ix) Proposer’s appropriate successful contractual and technical experience in similar work; (x) Proportional amount of the work Proposer intends to perform with its own organization as compared with the portion it intends to subcontract; (xi) the qualifications of subcontractors whom each Proposer proposes to use; (xii) the proximity of Proposer’s labor force, equipment and business operation in relation to the City, (xiii) Proposer’s ability to meet and/or maintain scheduling requirements, (xiv) Proposer’s quoted prices for services, and (xv) Proposer’s responsiveness to this Request for Proposals.

The above factors may be determined by Proposer’s past performance of services/work for supplied references and other parties Proposer has performed services/work, information submitted as part of the proposal or in response to an inquiry by the City, and information otherwise known or discovered by the City, or any combination thereof. The City may, but is not required to, conduct detailed examinations of Proposers, including of Proposer’s personnel, place of business and facilities, compliance with federal, state, and local laws and all relevant licensing and permitting requirements, and other matters of responsibility germane to the procurement process. The failure of a Proposer to supply information in connection with an inquiry in a timely manner, at the City’s discretion, may be grounds for rejecting such Proposer and its proposal.

The City and the selected Proposer will enter into a contract incorporating the requirements of this RFP and with other terms acceptable to the City. The Proposers agree to the use of the Contract Documents incorporated into this RFP; provided however, the City shall have flexibility to modify the Contract Document forms if it believes a change is warranted. The City reserves the right to reject a Proposer, even a proposer awarded the contract, at any time prior to full contract execution.

PROSPECTIVE RESPONDENTS ARE PROHIBITED FROM CONTACTING ANY MEMBER OF THE SELECTION COMMITTEE, EMPLOYEE OR PUBLIC OFFICIAL (EXCEPT THE FACILITATOR) AT ANY TIME DURING THE FORMAL SOLICITATION PROCESS, UP TO THE TIME OF CONTRACT AWARD. ANY ATTEMPTED CONTACT MAY BE GROUNDS FOR DISQUALIFICATION.

Tentative Calendar of Events*		
1	RFP Issue Date	April 28, 2024
2	Pre-Proposal Conference	May 13, 2024
3	Responses Due	June 3, 2024
4	Selection Committee Meeting – Evaluation and Ranking	June 7, 2024
5	Oral Presentations and Final Ranking	June 13, 2024

*** All times, dates and actions are subject to change. In accordance with F.S. 286.0113, portions of the meetings may be exempt from public meetings requirements. All interested parties are welcome to attend the non-exempt portions of the public meetings.**

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Selection Process

The selection process is as follows:

1. The Selection Committee will evaluate all proposals which have been determined to be responsive.
2. The Selection Committee will then rank the proposals of those firms based on their submittals to determine a short list.
3. If oral presentations are required, a post-presentation ranking will be conducted to determine the overall top ranked firm from the firms that were short listed.
4. The Assistant City Manager – Public Services will prepare an agenda item for the award recommendation to the City Commission.
5. The City Commission of the City of Winter Garden will make the final selection after considering the recommendations and rankings of the Committee. The City Commission is not required to accept the recommendation and rankings of the Committee. The City Commission’s decision will be final.
6. The City and the selected Proposer will enter into a contract incorporating the requirements of this RFP and with other terms acceptable to the City. The City reserves the right to negotiate the terms and conditions of the contract with the selected Proposer. The City has the right to rescind the contract award to the selected Proposer if the City and the selected Proposer do not agree upon the contract terms. The City reserves the right to reject a Proposer, even a Proposer awarded the contract, at any time prior to full contract execution.

Formal Oral Presentations/Interviews

The City may conduct oral interviews with, or receive oral presentations from, two or more of the short listed firms. Oral presentations will be held in accordance with F.S. 286.0113 and will adhere to the following guidelines:

The Assistant City Manager-Public Services will establish the schedule and Proposers will be notified at least five (5) calendar days in advance of the date, time and place of the presentations. The specific format of each presentation will be provided to Proposers with the notifications.

The City will allot equal time for each Proposer divided into two sequential parts: formal presentations, and questions and answers. Each Proposer interviewed may be asked differing questions.

Oral presentations will provide an opportunity for the Proposers to demonstrate their ability to use time efficiently, effectively and economically. The times allotted are maximums and no firm will be penalized for using less than the allotted time.

Post Award Termination

Unless otherwise prohibited by law, in the event the Proposer/contractor who is awarded a contract by the City through this RFP is terminated early or suspended from further work or services by the City for a default in the performance under the contract, or in the event the City rescinds a contract award to the selected Proposer prior to execution of a contract, the City may, without commencing a new competitive procurement process and without waiving any rights or remedies against the defaulting Proposer/contractor (if applicable), contract with the next lowest responsive and responsible Proposer that is willing and able to complete the work or services if such is determined by the City Commission to be in the City’s best interest. In awarding a contract to the next lowest responsive and responsible Proposer that is willing and able to complete the work or services, the City may accept such Proposer’s original proposal pricing or negotiate a price more consistent with the original pricing submitted by the defaulting Proposer/contractor or the Proposers whose contract award was rescinded.

Emergency Debris Monitoring Services

RFP-24-003



Bid Checklist

Bidders should use the following bid check list as a guide to assist in the Bid submittal. This checklist is intended to be used as a tool to assist Bidders, but is not a substitute for Bidders' obligation to read and understand the provisions of this Request for Proposal. Additional items may be required to be submitted by the terms of this Request for Proposal which are not listed below:

- _____ Cover Letter
- _____ General Business Information
- _____ Proposer's Experience
- _____ Operational Plan
- _____ Financial Stability
- _____ Price Proposal Schedule
- _____ Required Forms
- _____ Supplemental Documents

Sealed Proposal Envelope Label:

The label provided below, with all appropriate information completed, should be used for the proper processing of the RFP submittal. The label will facilitate the Procurement Office to properly handle the sealed envelope without revealing the contents until the solicitation is opened.

**SEALED PROPOSAL ENCLOSED**

Company Name: _____

Company Address: _____

Company Telephone Number: _____

**City of Winter Garden
Attn: Assistant City
Manager –Public Services
300 West Plant Street
Winter Garden, FL 34787**

Solicitation No: RFP-24-003
Solicitation Title: Emergency Debris Monitoring Services
Solicitation Due Date & Time(EST): June 3, 2024 by 2:00 p.m.

Emergency Debris Monitoring Services

RFP-24-003



Signature Sheet

RFP-24-003

I, the undersigned, do hereby agree to all terms and conditions listed within this formal solicitation, and will supply all labor and materials as required with this specification.

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE _____ FAX: _____

EMAIL: _____

ADDENDUM ACKNOWLEDGEMENT

The Proposer shall acknowledge obtaining all addenda issued to this formal solicitation from the City's website by completing the blocks below. Failure to acknowledge all addenda may be cause for rejection of the response.

Addendum No. _____ Date Issued: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

(print/type name as signed above): _____

DATE: _____

Emergency Debris Monitoring Services RFP-24-003



Drug-Free Workplace Affidavit

RFP-24-003

The undersigned Proposer, in accordance with Florida Statute 287.087 hereby certifies that

_____ does:
(Name of Business)

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

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

(Authorized signature)

(Date)

(Print/type name as signed above)

Emergency Debris Monitoring Services

RFP-24-003



Affidavit of E-Verify Requirements Compliance

RFP-24-003

I, the duly authorized representative/agent of _____ hereinafter referred to as Contractor, by this Affidavit attest to the following:

The Contractor acknowledges that Section 274A of the Immigration and Nationalization Act and other relevant provisions of law prohibit the employment of unauthorized aliens; that the U.S. Department of Homeland Security has established an E-Verify System that allows employers to verify employee eligibility in an efficient manner; and that the Office of the Governor of the State of Florida has issued Executive Order 11-116, encouraging public agencies not under the control of the Governor to include as a provision of contracts for the provision of goods or services a requirement that contractors and subcontractors utilize the E-Verify System to verify employee eligibility. Contractor hereby affirms and agrees that Contractor is in compliance and shall at all times comply with Section 274A of the Immigration and Nationalization Act and other provisions of law with respect to the hiring of unauthorized aliens. Contractor shall verify the eligibility of its current and prospective employees utilizing the U.S. Department of Homeland Security's E-Verify System during the term of this Agreement. Contractor shall include in all contracts with subcontractors related to this Agreement a provision requiring the subcontractor to comply with Section 274A of the Immigration and Nationalization Act and other provisions of law with respect to the hiring of unauthorized aliens and to verify the employment eligibility of all the subcontractor's current and prospective employees using the U.S. Department of Homeland Security's E-Verify System. The Contractor shall maintain records showing its compliance with the requirements of this paragraph, and shall provide copies of all such records to the City upon request. Failure to comply with any requirement of this paragraph shall constitute a breach of this Agreement for which the City may immediately terminate the Contract without penalty. In the event of such breach or termination, the Contractor shall be liable to the City for any costs incurred by the City as a result of the breach.

In accordance with § 837.06, Fla. Stat., Contractor acknowledges that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083, Fla. Stat.

Contractor Name: _____

By: _____

Title: _____

Print: _____

Date: _____

Emergency Debris Monitoring Services RFP-24-003



Non-Collusion Affidavit of Prime Respondent

RFP-24-003

STATE OF _____)
COUNTY OF _____)

_____, being duly sworn, deposes and says that:

- (1) He/she is _____ of _____,
Title Firm/Company
the respondent that has submitted the attached response.
- (2) He/she is fully informed respecting the preparation and contents of the attached solicitation and of all pertinent circumstances respecting such solicitation.
- (3) Such solicitation is genuine and is not a collusive or sham solicitation.
- (4) Neither the said respondent nor any of its officers, partners, owners, agent representatives, employees or parties in interest including this affiant, has in any way, colluded, conspired, or agreed, directly or indirectly, with any other respondent, firm or person, to submit a collusive or sham response in connection with the Agreement for which the attached response has been submitted or to refrain from proposing in connection with such Agreement, or has in any manner, directly or indirectly, sought by Agreement or collusion or communication or conference with any other responder, firm or person to fix the price or prices in the attached solicitation or of any other respondent, or to fix any overhead, profit or cost element of the proposed price or the proposed price of any other responder, or to secure through any collusion, conspiracy, connivance or unlawful Agreement any advantage against the City of Winter Garden, Florida, or any person interested in the proposed Agreement.
- (5) The price or prices quoted in the attached response are fair and proper and are not tainted by any collusion, conspiracy, or unlawful Agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties of interest, including affiant.

[signature]

[title]

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

Personally known _____

OR Produced identification _____ Notary Public - State of _____

_____ My commission expires _____

(Type of Identification)

(Printed typed or stamped Commissioned name of Notary Public)

Emergency Debris Monitoring Services

RFP-24-003



Sworn Statement Under Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes

RFP-24-003

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

1. This sworn statement is submitted to _____
[name of public entity]
by _____
[individual's name and title]
for _____
[name of entity submitting sworn statement]
whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement): _____

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), **Florida Statutes**, means:
 1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

Emergency Debris Monitoring Services

RFP-24-003



3. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity.

The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

4. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **[indicate which statement applies.]**

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

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

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

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

[signature]

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

Personally known _____

OR Produced identification _____ Notary Public - State of _____

_____ My commission expires _____

(Type of Identification)

(Printed typed or stamped Commissioned name of Notary Public)

Emergency Debris Monitoring Services

RFP-24-003



Public Records Act/Chapter 119 Requirements

RFP-24-003

Contractor/vendor agrees to comply with the Florida Public Records Acts to the fullest extent applicable, and shall, if this engagement is one for which services are provided by doing the following:

1. Contractor/vendor shall keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service;
2. Contractor/vendor shall provide the public with access to such public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes or as otherwise provided by law;
3. Contractor/vendor shall insure that public records that are exempt or that are confidential and exempt from the public record requirements are not disclosed except as authorized by law; and
4. Contractor/vendor shall meet all requirements for retaining public records and transfer to the public agency, at no cost, all public records in possession of the contractor upon termination of the contract and shall destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the City.

The parties agree that if the contractor/vendor fails to comply with a public records request, then the City must enforce the contract provisions in accordance with the contract and as required by Section 119.0701, Florida Statutes. Notwithstanding any other requirement herein stated, the Contractor/vendor shall comply fully with the requirements of Florida Statutes 119.0701.

Contractor Name: _____

By: _____

Title: _____

Print: _____

Date: _____

Emergency Debris Monitoring Services

RFP-24-003



Insurance Requirements

Insurance Type	Required Limits
<input checked="" type="checkbox"/> Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits
<input checked="" type="checkbox"/> Employer's Liability	\$500,000.00 each accident, single limit per occurrence
<input checked="" type="checkbox"/> Commercial General Liability (Occurrence Form) patterned after the current ISO form	\$1,000,000.00 single limit per occurrence \$2,000,000.00 aggregate for Bodily Injury Liability & Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products & Completed Operations & Contractual Liability.
<input checked="" type="checkbox"/> Automobile Liability	\$1,000,000.00 each person; Bodily Injury & Property Damage, Owned/Non-owned/Hired; Automobile Included. \$2,000,000.00 each accident; Bodily Injury & Property Damage, Owned/Non-owned/Hired; Automobile Included.

Vendor shall ensure that all subcontractors comply with the same insurance requirements that he/she is required to meet. The same Vendor shall provide the City with certificates of insurance meeting the required insurance provisions.

The City of Winter Garden must be named as "**ADDITIONAL INSURED**" on the Insurance Certificate for Commercial General Liability where required.

The Certificate Holder shall be named as City of Winter Garden.

Thirty (30) Days Cancellation Notice required.

Emergency Debris Monitoring Services

RFP-24-003



Price Proposal Form

This will be a firm, fixed-price Contract and the Scope of Services to be completed by Contractor as defined in this RFP consists of specific tasks. Compensation for the work tasks stated herein shall be in accordance with the following Price Proposal:

Item	Hours*	Hourly Rate**	Total Price
Project Manager	40		
Operations Manager	80		
Data Manager	80		
Field Supervisor	160		
Environmental Specialist	40		
Field Monitor (loading)	2,000		
Tower Monitor	1,000		
Data Entry Clerk (QA/QC)	500		
Billing Invoice Analyst	160		
Scheduler/Expediter	80		
Drop-Off Monitor	500		
GIS Analyst	80		
Senior PA Grant Specialist	80		
PA Grant Specialist	160		
Administrative Assistant	80		
Field Monitor (loading) with EDMS HHU	1,000		
Tower Monitor with EDMS HHU	1,000		
		Total:	\$

* Hours will be used to calculate the total price of these items for evaluation purposes and are no guarantee of actual quantities requested.

** Hourly rate shall include all overhead, profit and expenses to provide the requested service. All costs for travel, per diem, equipment, safety gear, office space, supplies and other costs shall be included in the hourly rates.

Other Required Positions – The Proposer may include other positions with hourly rates and attach job descriptions for each position.

Company Name: _____ Date: _____

Signature: _____ Print: _____ Title: _____

EXHIBIT A

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

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

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

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

10. Certification of eligibility.

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

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

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

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

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT B

23 CFR Part 635.410

§ 635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of § 635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either:

(i) includes no permanently incorporated steel or iron materials; or

(ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)

(1) A State may request a waiver of the provisions of this section if;

(i) the application of those provisions would be inconsistent with the public interest; or

(ii) steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the FEDERAL REGISTER for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

EXHIBIT C

BID OPPORTUNITY LIST

Prime Contractor/Contractor: _____

Address/Telephone Number: _____

Bid/Proposal Name and Number: _____

Quote Submitted MM/YR: _____

49 CFR Part 26.11 requires the Florida Department of Transportation to develop and maintain a "bid opportunity list." The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and supplies materials on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subContractors contacting you and expressing an interest in teaming with you on a specific DOT-assisted project. Prime contractors and Contractors must provide information for Nos. 1, 2, 3 and 4 and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves and their subcontractors and subContractors.

- | | | |
|---------------------------------|-------------------------------------------|-----------------------------------------------------|
| 1. Federal Tax ID Number: _____ | 6. <input type="checkbox"/> DBE | 8. Annual Gross Receipts |
| 2. Firm Name: _____ | <input type="checkbox"/> Non-DBE | <input type="checkbox"/> Less than \$1 million |
| 3. Phone: _____ | | <input type="checkbox"/> Between \$1 -\$5 million |
| 4. Address: _____ | | <input type="checkbox"/> Between \$5 -\$10 million |
| _____ | 7. <input type="checkbox"/> Subcontractor | <input type="checkbox"/> Between \$10 -\$15 million |
| _____ | <input type="checkbox"/> SubContractor | <input type="checkbox"/> More than \$15 million |
| 5. Year Firm Established: _____ | | |

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- | | | |
|---------------------------------|-------------------------------------------|-----------------------------------------------------|
| 1. Federal Tax ID Number: _____ | 6. <input type="checkbox"/> DBE | 8. Annual Gross Receipts |
| 2. Firm Name: _____ | <input type="checkbox"/> Non-DBE | <input type="checkbox"/> Less than \$1 million |
| 3. Phone: _____ | | <input type="checkbox"/> Between \$1 -\$5 million |
| 4. Address: _____ | | <input type="checkbox"/> Between \$5 -\$10 million |
| _____ | 7. <input type="checkbox"/> Subcontractor | <input type="checkbox"/> Between \$10 -\$15 million |
| _____ | <input type="checkbox"/> SubContractor | <input type="checkbox"/> More than \$15 million |
| 5. Year Firm Established: _____ | | |

-
- | | | |
|---------------------------------|-------------------------------------------|-----------------------------------------------------|
| 1. Federal Tax ID Number: _____ | 6. <input type="checkbox"/> DBE | 8. Annual Gross Receipts |
| 2. Firm Name: _____ | <input type="checkbox"/> Non-DBE | <input type="checkbox"/> Less than \$1 million |
| 3. Phone: _____ | | <input type="checkbox"/> Between \$1 -\$5 million |
| 4. Address: _____ | | <input type="checkbox"/> Between \$5 -\$10 million |
| _____ | 7. <input type="checkbox"/> Subcontractor | <input type="checkbox"/> Between \$10 -\$15 million |
| _____ | <input type="checkbox"/> SubContractor | <input type="checkbox"/> More than \$15 million |
| 5. Year Firm Established: _____ | | |
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EXHIBIT D

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ANTICIPATED DBE PARTICIPATION ('ADBEPS') STATEMENT

275-030-11A
EQUAL OPPORTUNITY OFFICE
03/11

1. FINANCIAL PROJECT NO.		2. FAP NO.		3. CONTRACT NO.		4. COUNTY(IES)		5. DISTRICT	
6. PRIME CONTRACTOR NAME						7. PRIME'S FEID NUMBER			
8. CONTRACT DOLLAR AMOUNT						9. ADBEPS REVISION? <input type="checkbox"/> NO <input type="checkbox"/> YES IF YES, REVISION NUMBER: _____			
10. IS THE PRIME CONTRACTOR A FLORIDA CERTIFIED "DBE"? (Disadvantaged Business Enterprise)				<input type="checkbox"/> NO <input type="checkbox"/> YES		11. IS THE WORK OF THIS CONTRACT <input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> MAINTENANCE <input type="checkbox"/> OTHER			
12. ANTICIPATED DBE SUBCONTRACTS:									
DBE SUBCONTRACTOR or SUPPLIER COMPANY NAME AND FEID NUMBER			TYPE OF WORK AND FDOT SPECIALTY CODE(S)			DOLLAR AMOUNT		PERCENT OF CONTRACT DOLLARS	
A	NAME: FEID:		WORK: SPEC CODE:						
B	NAME: FEID:		WORK: SPEC CODE:						
C	NAME: FEID:		WORK: SPEC CODE:						
D	NAME: FEID:		WORK: SPEC CODE:						
E	NAME: FEID:		WORK: SPEC CODE:						
						12F TOTAL DOLLARS TO DBE'S		12G TOTAL PERCENT OF CONTRACT	
						\$0.00		0.00%	
13. SUBMITTED BY				14. DATE		15. TITLE OF SUBMITTER			
16. EMAIL ADDRESS OF SUBMITTER						17. FAX NUMBER		18. PHONE NUMBER	
NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL STATE AND FEDERALLY FUNDED FDOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS. THIS FORM MUST BE SUBMITTED AT THE PRE CONSTRUCTION OR PRE WORK CONFERENCE. FDOT STAFF FORWARDS THE FORM TO THE EQUAL OPPORTUNITY OFFICE.									
THE FOLLOWING SECTIONS ARE FOR FDOT USE									
DIST	19. PROCESSED BY		20. DATE TO EO OFFICE		21. LETTING DATE		22. EXECUTED DATE		23. PRECON CONF DATE
	24. SUBMITTED TO EO BY		<input type="checkbox"/> FAX <input type="checkbox"/> EMAIL <input type="checkbox"/> SHARED FOLDER						
EO OFFICE	25. INCLUDED IN DBE PARTICIPATION REPORT OF (M/D/Y)								

EXHIBIT E

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR FEDERAL AID CONTRACTS

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

Name of Contractor: _____

By: _____ Date: _____
Authorized Signature

Title: _____

Instructions for Certification

1. By signing and submitting this certification, the Contractor (referred to hereinafter as prospective lower tier participant) is providing the certification set out above.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the federal government, State of Florida, and the City may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if, at any time, the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this certification clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, proposed for debarment, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant are not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is debarred, suspended, proposed for debarment, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the federal government, State of Florida, and the City may pursue available remedies, including suspension and/or debarment.

EXHIBIT F

CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES ON FEDERAL-AID CONTRACTS

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

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (Standard Form-LLL can be obtained from the Florida Department of Transportation's Professional Services Administrator or Procurement Office.)

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

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

Name of Contractor: _____

By: _____ Date: _____
 Authorized Signature

Title: _____