

PROFESSIONAL SERVICES AGREEMENT

This Contract is made and entered into as of the date signed by the last party below (the "Effective Date"), by and between **DESOTO COUNTY, FLORIDA** (the "County"), a political subdivision of the State of Florida, located at 201 E. Oak Street, Second Floor, Arcadia, Florida 34266, and **THE WEILER ENGINEERING CORPORATION**, whose principal place of business is 201 West Marion Avenue, Suite 1306, Punta Gorda, Florida 33950, and whose Federal I.D. number is 65-0413376 (the "Consultant").

W I T N E S S E T H

WHEREAS, the County, through Request for Qualifications No. 26-01-00 (the "RFQ"), pursued the competitive process contemplated under the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, to seek interested firms for the provision of Construction Engineering and Inspection (CEI) Services for Phase 1 of the DeSoto County Regional Wastewater Treatment Plant Expansion (the "Services"); and

WHEREAS, Consultant submitted a Response to the RFQ, which is incorporated herein by this reference, was selected pursuant to the RFQ, and represents that Consultant is capable and prepared to provide such Services; and

WHEREAS, Consultant and County negotiated the terms of this Agreement pursuant to the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, for the provision of the Services.

NOW, THEREFORE, in consideration of the mutual promises herein, the County and the Consultant agree as follows:

ARTICLE ONE TERM

1.1. This Agreement shall take effect on the date of its execution by the Chairman of Board of County Commissioners.

1.2. The term of this Agreement shall commence upon execution by both parties ("Effective Date") and shall remain in effect through completion of the Project and all services required under this Agreement, including any related administrative or funding close-out activities, and payment of the final invoice, unless earlier terminated as provided herein.

ARTICLE TWO CONSULTANT'S RESPONSIBILITY

2.1. Scope of Services. Consultant shall provide Construction Engineering and

Inspection services to the County for the DeSoto County Wastewater Treatment Plant Expansion Project, including, but not limited to, the Scope of Services set forth in the RFQ.

2.2. The Services required under this Agreement to be performed by Consultant shall be those set forth in Section 2.1, Scope of Services, and as issued periodically as Scopes of Work within a Supplemental Agreement (SA). The first SA is attached as Exhibit "C" hereto. The basis of compensation to be paid Consultant by the County for Services is set forth in Article Five, Section 5.1 Basis of Compensation, and will be attached to each SA. The County's Representative will make requests for services to Consultant as may be warranted, including but not limited to updates of plans, designs of improvements, field and construction services, acquisition analysis, and permitting activities as may be reasonably contemplated hereunder.

2.2.1. Consultant shall perform services as may be specifically designated and authorized by the County, in writing. Such services will be outlined in the Scope of Work of a SA, and the provisions of this Agreement will apply to the SA with full force and effect as if appearing in full within each SA. Each SA will set forth a specific Scope of Work, maximum limit of compensation, schedule, liquidated damages, and completion date, and shall become effective upon execution after approval by the Board.

2.2.2. The Consultant is not authorized to provide services or materials to the County or undertake any project or work provided for in any SA prior to the County having first issued a Notice to Proceed for that particular SA. Consultant recognizes that the County may employ several different Consultants to perform the work described and that the Consultant has not been employed as the exclusive agent to perform any such services.

2.2.3. When the Consultant and the County enter into a SA where the term of the SA expires on a date that is later than the date that this Agreement expires, the Consultant and the County agree that the terms of this Agreement and any amendments, exhibits, or provisions thereof are automatically extended until the expiration or full completion of the requirements of the SA have been performed. Cancellation by the County of any remaining work prior to the full completion of the requirements of the SA shall cause the terms of this Agreement to terminate at the same time. This provision only applies when the expiration of the SA extends beyond the expiration of this Agreement. It does not apply when a SA expires or is cancelled prior to the expiration of this Agreement.

2.3. The Consultant agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, including, but not limited to, all licenses required by the respective state boards, and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by the Consultant pursuant to this Agreement.

2.4. The Consultant agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of

authorization or other form of legal entitlement to practice such services, it shall employ and/or retain only qualified personnel to provide such services.

2.5. Consultant agrees that the Project Manager for the term of this Agreement shall be:

Michael J. Giardullo, P.E.
201 West Marion Avenue, Suite 1306
Punta Gorda, Florida 33950
Phone: 941-505-1700
Email: mgiardullo@weilerengineering.org

The Consultant agrees that the Project Manager shall devote whatever time is required to satisfactorily manage the services to be provided and performed by the Consultant hereunder. The person selected by the Consultant to serve as the Project Manager shall be subject to the prior approval and acceptance of the County, such approval or acceptance shall not be unreasonably withheld.

2.6. Consultant agrees, within fourteen (14) calendar days of receipt of a written request from the County, to promptly remove and replace from the project team the Project Manager, or any other personnel employed or retained by the Consultant, or any subconsultants or subcontractors or any personnel of any such subconsultants or subcontractors engaged by the Consultant to provide and perform services or work pursuant to the requirements of this Agreement, whom the County shall request in writing to be removed, which request may be made by the County with or without cause.

2.7. The Consultant has represented to the County that it has expertise in the type of professional services that will be required for the Project. The Consultant agrees that all services to be provided by Consultant pursuant to this Agreement shall be subject to the County's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by Consultant hereunder. In the event of any conflicts in these requirements, the Consultant shall notify the County of such conflict and utilize its best professional judgment to advise County regarding resolution of the conflict.

2.8. Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without County's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant hereunder, and Consultant shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this article.

2.9. Evaluations of the County's adopted capital improvement budget, preliminary

estimates of construction cost, and detailed estimates of construction cost prepared by the Consultant represent the Consultant's best judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that bids or negotiated prices will not vary from any estimate of construction cost or evaluation prepared or agreed to by the Consultant. Notwithstanding anything above to the contrary, Consultant shall revise and modify Construction Documents and assist in the rebidding of the work at no additional cost to County, if all responsive and responsible bids exceed the estimates of construction costs prepared by Consultant.

2.10 Consultant acknowledges that the County, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained shall prevent the making of agreements for a period exceeding one year, but any agreement so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the County's performance and obligation to pay under this agreement is contingent upon annual appropriation.

ARTICLE THREE COUNTY'S RESPONSIBILITIES

3.1. The County shall designate in writing a representative to act as County's representative with respect to the services to be rendered under this Agreement (hereinafter referred to as the "County's Representative"). The County's Representative shall have County transmit instructions, receive information, interpret, and define County's policies and decisions with respect to Consultant's services for the Project. However, the County's Representative is not authorized to issue any verbal or written orders or instructions to the Consultant that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

3.1.1. The Scope of Services to be provided and performed by the Consultant hereunder;

3.1.2. The time the Consultant is obligated to commence and complete all such services; or

3.1.3. The amount of compensation the County is obligated or committed to pay the Consultant.

3.2. The County's Representative shall:

3.2.1. Review and make appropriate recommendations on all requests submitted by the Consultant for payment for services and work provided and performed in accordance with this Agreement;

3.2.2. Provide all criteria and information requested by Consultant as to County's requirements, for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations;

3.2.3. Upon request from Consultant, assist Consultant by placing at Consultant's disposal all available information in the County's possession pertinent to the Project, including existing drawings, specifications, shop drawings, product literature, previous reports and any other data relative to design or construction of the Project;

3.2.4. Arrange for access to and make all provisions for Consultant to enter the Project site to perform the services to be provided by Consultant under this Agreement; and

3.2.5. Provide notice to Consultant of any deficiencies or defects discovered by the County with respect to the services to be rendered by Consultant hereunder.

3.3. Consultant acknowledges that access to the Project Site, to be arranged by County for Consultant, may be provided during times that are not the normal business hours of the Consultant.

3.4. County shall be responsible for the acquisition of all easements, property sites, rights-of-way, or other property rights required for the Project and for the costs thereof, including the costs of any required land surveys in connection with such acquisition.

3.5. For the purposes of this Agreement, the County's Representative shall be:

With Copy To:

Greg Harris
DeSoto County Utilities Director
201 E. Oak Street, Second Floor
Arcadia, Florida 34266
Phone: 863-491-7500
Fax: N/A
Email: g.harris@desotobocc.com

DeSoto County Attorney
Nabors, Giblin & Nickerson, P.A.
8201 Peters Road, Suite 1000
Plantation, Florida 33324
Phone: (954) 315-0268
Fax: N/A
Email: vvicente@ngnlaw.com

ARTICLE FOUR TIME

4.1. Services to be rendered by Consultant shall be commenced subsequent to the execution of any SA issued pursuant to this Agreement, after receiving written Notice to Proceed from County for all or any designated portion of the SA and shall be performed and completed in accordance with the Project Schedule attached to the SA for the Project.

4.2. Should Consultant be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of Consultant, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the County, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then Consultant shall notify County in writing within five (5) working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Consultant may have had to request a time extension.

4.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of Consultant's services from any cause whatsoever, including those for which County may be responsible in whole or in part, shall relieve Consultant of its duty to perform or give rise to any right to damages or additional compensation from County. Consultant's sole remedy against County will be the right to seek an extension of time to its schedule. This article shall expressly apply to claims for early completion, as well as claims based on late completion. Provided, however, if through no fault or neglect of the Consultant, the services to be provided hereunder have not been completed within the schedule identified in the SA, the Consultant's compensation shall be equitably adjusted, with respect to those services that have not yet been performed, to reflect the incremental increase in costs experienced by Consultant.

4.4. Should the Consultant fail to commence, provide, perform, or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the County hereunder, the County at its sole discretion and option may withhold any and all payments due and owing to the Consultant until such time as the Consultant resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the County's satisfaction that the Consultant's performance is or will shortly be back on schedule.

ARTICLE FIVE COMPENSATION

5.1. Basis of Compensation. Compensation and the manner of payment of such compensation by the County for services rendered hereunder by Consultant shall be as prescribed in this "Basis of Compensation," which is attached hereto and made a part hereof.

5.1.1. As consideration for providing Services set forth herein Article Two of the Agreement for Professional Consulting Services, the County agrees to pay, and Consultant agrees to accept, fees as indicated in Exhibit "C" and this Article.

5.1.2. Reimbursable costs shall mean the actual expenditures made by the Consultant while providing Services, in the interest of the Project, and may include the following items:

- a. Expenses for preparation, reproduction, photographic production techniques, postage and handling of drawings, specifications, bidding documents and similar Project-related items.
- b. When authorized in advance by County, except as specifically otherwise provided herein, the expense of overtime work requiring higher than regular rates.
- c. Expenses for renderings, models and mock-ups requested by County.

5.1.3. Unless approved by the County in advance, reimbursable costs shall not include the following:

- a. Transportation and subsistence, including transportation and subsistence expenses incidental to out-of-town travel required by Consultant and directed by County, other than visits to the Project Site or County's office.
- b. Consultant overhead including field office facilities.
- c. Overtime not authorized by County.
- d. Expenses for copies, reproductions, postage, handling, express delivery, and long distance communications not required for a Project.

5.1.4. Payments will be made for services rendered on no more than on a monthly basis, within thirty (30) days of submittal of an approvable invoice. The number of the SA pursuant to which the services have been provided shall appear on all invoices. All invoices shall be reasonably substantiated, identify the services rendered and must be submitted in triplicate in a form and manner required by County.

5.2. The total amount to be paid by the County under this Agreement for all services and materials, including "out of pocket" expenses and any approved subcontracts, shall not exceed the amount set forth in the approved SA without prior approval of the County. The Consultant shall notify the County's Representative in writing when 90% of the "not to exceed amount" has been reached.

5.3. Invoices received by the County from the Consultant pursuant to this Agreement will be reviewed and approved in writing by the County's Representative, who shall confirm whether services have been rendered in conformity with the Agreement, and then send for processing payment. All invoices shall contain a detailed breakdown of the services provided for which payment is being requested. Invoices shall be paid within thirty (30) days following the County Representative's approval, who shall process all

payments in accordance with the Florida Prompt Payment Act or advise Consultant in writing of reasons for not processing same. In addition to detailed invoices, upon request of the County's Representative, Consultant will provide County with detailed periodic Status Reports on the project.

5.4. "Out-of-pocket" expenses shall be reimbursed in accordance with Florida law and the applicable SA. All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid receipts, invoices, or other documentation acceptable to the County's Representative. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Services described in this Agreement.

5.5. In order for both parties herein to close their books and records, the Consultant will clearly state "final invoice" on the Consultant's final/last billing to the County for each SA. This final invoice shall also certify that all services provided by Consultant have been performed in accordance with the applicable SA and all charges and costs have been invoiced to the County. Because this account will thereupon be closed, any and other further charges not included on this final invoice are waived by the Consultant. Acceptance of final payment by Consultant shall constitute a waiver of all claims and liens against County for additional payment.

ARTICLE SIX WAIVER OF CLAIMS

6.1. Consultant's acceptance of final payment shall constitute a full waiver of any and all claims related to the obligation of payment by it against County arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by Consultant as unsettled at the time of the final payment. Neither the acceptance of Consultant's services nor payment by County shall be deemed to be a waiver of any of County's rights against Consultant.

ARTICLE SEVEN TRUTH IN NEGOTIATION REPRESENTATIONS

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

7.2. In accordance with provisions of Section 287.055(5)(a), Florida Statutes, the signature of this Agreement by the Consultant shall also act as the execution of a truth in negotiation certificate certifying that the wage rates, overhead charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement and no higher than those charged

the Consultant's most favored customer for the same or substantially similar service. Should the County determine that said rates and costs were significantly increased due to incomplete, noncurrent, or inaccurate representation, then said rates and compensation provided for in this Agreement shall be adjusted accordingly.

ARTICLE EIGHT TERMINATION OR SUSPENSION

8.1. Consultant shall be considered in material default of this Agreement and such default will be considered cause for County to terminate this Agreement, in whole or in part, as further set forth in this article, for any of the following reasons: (a) failure to begin work under the Agreement within a reasonable time after issuance of the Notice(s) to Proceed of a SA, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by County pursuant to this Agreement, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by Consultant or by any of Consultant's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The County may so terminate this Agreement, in whole or in part, by giving the Consultant ten (10) calendar days' written notice.

8.2. If, after notice of termination of this Agreement as provided for in article 8.1 above, it is determined for any reason that Consultant was not, in default, or that its default was excusable, or that County otherwise was not entitled to the remedy against Consultant provided for in article 8.1, then the notice of termination given pursuant to article 8.1 shall be deemed to be the notice of termination provided for in article 8.3 below and Consultant's remedies against County shall be the same as and limited to those afforded Consultant under article 8.3 below.

8.3. County shall have the right to terminate this Agreement, in whole or in part, without cause upon written notice to Consultant. In the event of such termination for convenience, Consultant's recovery against County shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by Consultant that are directly attributable to the termination, but Consultant shall not be entitled to any other or further recovery against County, including, but not limited to, anticipated fees or profits on work not required to be performed.

8.4. Upon termination, the Consultant shall deliver to the County all original papers, records, documents, drawings, models, and other material set forth and described in this Agreement.

8.5. The County shall have the power to suspend all or any portions of the services to be provided by Consultant hereunder upon giving Consultant two (2) calendar days prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are so suspended, the Consultant's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in Article

Four herein.

**ARTICLE NINE
PERSONNEL**

9.1. The Consultant is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Consultant, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Consultant's sole direction, supervision, and control. The Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Consultant's relationship and the relationship of its employees to the County shall be that of an Independent Consultant and not as employees or agents of the County.

9.2. The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County, nor shall such personnel be entitled to any benefits of the County including, but not limited to, pension, health, and workers' compensation benefits.

9.3. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized, or permitted under state and local law to perform such services.

9.4. Consultant shall notify County in the event of key personnel changes, which might affect this Agreement. To the extent possible, notification shall be made within ten (10) days prior to changes. Consultant at County's request shall remove without consequence to the County any subcontractor or employee of the Consultant and replace him/her with another employee having the required skill and experience. County has the right to reject proposed changes in key personnel. The following personnel shall be considered key personnel:

Name: Michael Giardullo
Name: _____

9.5. The Consultant warrants that all services shall be performed by skilled and competent personnel to professional standards applicable to firms of similar local and national reputation.

9.10. The Consultant warrants that it fully complies with all Federal Executive Orders, statutes and regulations regarding the employment of undocumented workers and others and that all employees performing work under this Agreement meet the citizenship or immigration status requirements set forth in Federal Executive Orders, statutes and regulations, as further set forth in Article Seventeen below. Consultant shall indemnify,

defend and hold harmless the County, its officers and employees from and against any sanctions and any other liability which may be assessed against the Consultant in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder.

9.11. The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

ARTICLE TEN SUBCONTRACTING

10.1. Consultant shall not subcontract any services or work to be provided to County without the prior written approval of the County's Representative. The County reserves the right to accept the use of a subconsultant or to reject the selection of a particular subcontractor and to inspect all facilities of any subconsultants in order to make a determination as to the capability of the subconsultant to perform properly under this Agreement. The County's acceptance of a subconsultant shall not be unreasonably withheld. Where permitted, the Consultant is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

10.2. Subconsultants included in Consultant's Response to the RFQ shall be considered approved by the County's Representative by execution of this Agreement.

ARTICLE ELEVEN FEDERAL AND STATE TAX

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

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

ARTICLE TWELVE OWNERSHIP OF DOCUMENTS

12.1. Upon completion or termination of this Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports, computer assisted design or drafting disks and other technical data, other than working papers, prepared, or developed by Consultant under this Agreement shall be delivered to and become the property of County. Consultant, at its own expense, may retain copies for its files and internal use.

12.2. The County and the Consultant shall comply with the provisions of Chapter 119, Florida Statutes, pertaining to public records. Consultant assumes no liability for the use

of such documents by the County or others for purposes not intended under this Agreement.

ARTICLE THIRTEEN MAINTENANCE OF RECORDS & PUBLIC RECORDS

13.1. Consultant will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by Consultant for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. County, or any duly authorized agents or representatives of County, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

13.2. Consultant must comply with the public records laws, Florida Statute chapter 119, specifically Consultant must:

13.2.1. Keep and maintain public records required by the County to perform the service.

13.2.2. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.

13.2.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.

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

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-993-4800, S.ALTMAN@DESOTOBOCC.COM, 201 E. OAK STREET, ARCADIA, FLORIDA 34266.

13.3 The County reserves the right to unilaterally cancel this Agreement for refusal by the Consultant or any consultant, subconsultant, contractor, subcontractor, or materials vendor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement unless the records are exempt.

ARTICLE FOURTEEN INSURANCE

14.1. During the life of the Agreement the Consultant shall provide, pay for, and maintain, with companies satisfactory to the County, the types of insurance as set forth in the RFQ.

14.2 Consultant shall maintain, at all times, the following minimum levels of insurance and shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below and provide the County with a Certificate of Insurance and an opportunity to inspect a certified copy of each policy applicable to this Agreement followed thereafter by an annual Certificate of Insurance satisfactory to the County to evidence such coverage before any work commences. Such certificates will provide that there shall be no termination, non-renewal, modification, or expiration of such coverage without thirty (30) days prior written notice to the County. The County shall be named as an additional insured on all Consultant policies related to the project, excluding professional liability and worker's compensation. The policies shall contain a waiver of subrogation in favor of DeSoto County. All such policies shall be endorsed to provide defense coverage obligations. All insurance coverage shall be written with an insurer having an A.M. Best Rating of a least the "A" category and size category of VIII. The Consultant's self-insured retention or deductible per line of coverage shall not exceed \$10,000.00 without the permission of the County. If there is any failure by the Consultant to comply with the provisions of this section, the County may, at its option, on notice to the Consultant, suspend the work for cause until there is full compliance. County may, at its sole discretion, purchase such insurance at Consultant's expense provided that the County shall have no obligation to do so and if the County shall do so, it shall not relieve Consultant of its obligation to obtain insurance. The Consultant shall not be relieved of or excused from the obligation to obtain and maintain such insurance amount and coverages. All Consultant's sub-contractors shall be required to include County and Consultant as additional insured on their General Liability Insurance policies. In the event that subcontractors used by the Consultant do not have insurance, or do not meet the insurance limits, Consultant shall indemnify and hold harmless the County for any claim in excess of the subcontractors' insurance coverage. The Consultant shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the County.

14.3 Comprehensive Automobile Liability Insurance. In the event Consultant travels in furtherance of the performance of the services required in this Agreement, Consultant

shall obtain comprehensive automobile liability insurance with \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles, as appropriate.

14.4 Commercial General Liability. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence.

14.5 Umbrella (Excess) Liability Insurance. Umbrella Liability with limits of not less than \$1,000,000.00, exclusive of defense costs, to be in excess of all other coverages. Such coverage shall be at least as broad as the primary coverages above, with any excess umbrella layers written on a strict following form basis over the primary coverage. All such policies shall be endorsed to provide defense coverage obligations.

14.6 Professional Liability Insurance. \$1,000,000.00 for design errors and omissions, exclusive of defense costs. Consultant shall be required to provide continuing Professional Liability Insurance to cover each project for a period of two (2) years after the project is completed. Insurance requirements may vary depending on projects as determined by the County Director of Risk Management and Insurance. The County may require the Consultant to provide a higher level of coverage for a specific project and time frame.

14.7 Performance, Payment, and Other Bonds. Consultant shall furnish Performance and Payment Bonds specific to each project if required and agreed to under the Consultant Service Agreement for the project.

14.8 Workers' Compensation. The Consultant shall provide, pay for, and maintain workers' compensation insurance on all employees, its agents or subcontractors as required by Florida Statutes.

ARTICLE FIFTEEN INDEMNIFICATION

15.1. The Consultant agrees to indemnify and hold harmless and defend the County, its officers, agents and employees against any loss, damage or expense (including all costs and reasonable attorneys' fees) suffered by County from any claim, demand, judgment, decree, or cause of action of any kind or nature arising out of any negligent error, omission, negligent act, recklessness, or intentionally wrongful act of Consultant, its agents, servants, or employees, in the performance of services under this Agreement.

15.2. Consultant shall indemnify, defend (by counsel reasonably acceptable to County) protect and hold County, and its officers, employees and agents, free and harmless from and against any and all, including, but not limited to, any claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses and expenses (including, without limitation, attorney's fees and costs during negotiation, through litigation and all appeals therefrom), or death of or injury to any person or damage to any property whatsoever,

arising out of or resulting from (i) the failure of Consultant to comply with applicable non-conflicting laws, rules or regulations, (ii) the breach by Consultant of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of Consultant's performance of this Agreement, or (iv) the negligent act, errors or omissions, or intentional or willful misconduct, of Consultant, its sub-Consultants, agents, employees and invitees; provided, however, that Consultant shall not be obligated to defend or indemnify the County with respect to any such claims or damages arising solely out of the County's negligence. County review, comment and observation of the Consultant's work and performance of this Agreement shall in no manner constitute a waiver of the indemnification provisions of this Agreement. Consultant agrees that it bears sole legal responsibility for its work and work product, and the work and work product of subcontractors and their employees, and/or for Consultant's performance of this Agreement and its work product(s).

15.3. Consultant acknowledges that the general conditions of any construction contract shall include language, satisfactory to the County's attorney, in which the contractor agrees to hold harmless and to defend County, Consultant, their agents and employees, from all suits and actions, including attorney's fees, and all costs of litigation and judgments of any name and description arising out of or incidental to the performance of the construction contract or work performed thereunder. County acknowledges that Consultant shall be expressly named as an indemnified party, and shall be held harmless, in the general conditions of any construction contract, and shall be named as an additional insured in any contractor's insurance policies.

15.4. The first ten dollars (\$10.00) of remuneration paid to Consultant under this Agreement shall be in consideration for the indemnification provided for in this article.

ARTICLE SIXTEEN CONFLICT OF INTEREST

16.1. The Consultant represents that it has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The Consultant further represents that no person having any interest shall be employed for said performance.

16.2. The Consultant shall promptly notify the County Representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Consultant's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Consultant may undertake and request an informed determination from the County Representative as to whether the association, interest or circumstance would be viewed by the County Representative as constituting a conflict of interest if entered into by the Consultant. The County Representative agrees to notify the Consultant of its opinion by certified mail within thirty (30) days of receipt of notice by the

Consultant. Such determination may be appealed to the Board of County Commissioners by the Consultant within thirty (30) days of the County Representative's notice to the Consultant. If, in the opinion of the County Representative or County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the County Representative or County shall so state in the notice and the Consultant shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Consultant under the terms of this Agreement.

ARTICLE SEVENTEEN E-VERIFY & STATE PROVISIONS

17.1. Consultant certifies that Consultant complies with the following enrollment and verification requirement as set forth in this Article. If the Consultant is not enrolled as a Federal Consultant in E-Verify at time of contract award, the Consultant shall-

17.1.1. Enroll. Enroll as a Federal Consultant in the E-Verify Program within thirty (30) calendar days of contract award;

17.1.2. Verify all new employees. Within ninety (90) calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Consultant, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see section 17.3 of this Article); and,

17.1.3. Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within ninety (90) calendar days after date of enrollment or within thirty (30) calendar days of the employee's assignment to the contract, whichever date is later (but see section 17.4 of this Article)

17.2. If the Consultant is enrolled as a Federal Consultant in E-Verify at time of contract award, the Consultant shall use E-Verify to initiate verification of employment eligibility of the following:

17.2.1. All new employees enrolled ninety (90) calendar days or more. The Consultant shall initiate verification of all new hires of the Consultant, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section); or

17.2.2. All new employees enrolled less than ninety (90) calendar days. Within ninety (90) calendar days after enrollment as a Federal Consultant in E-Verify, the Consultant shall initiate verification of all new hires of the Consultant, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see section 17.3 of this Article); or

17.2.3. Employees assigned to the contract. For each employee assigned to the contract, the Consultant shall initiate verification within ninety (90) calendar days

after date of contract award or within thirty (30) days after assignment to the contract, whichever date is later (but see section 17.4 of this Article).

17.3. If the Consultant is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State of local government or the government of a Federally recognized Indian tribe, or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Consultant may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Consultant shall follow the applicable verification requirements of section 17.1 or 17.2, respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

17.4. Option to verify employment eligibility of all employees. The Consultant may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Consultant shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within one hundred eighty (180) calendar days of-

17.4.1. Enrollment in the E-Verify program; or

17.4.2. Notification to E-Verify Operations of the Consultant's decision to exercise this option, using the contract information provided in the E-Verify program Memorandum of Understanding (MOU)

17.5. The Consultant shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

17.5.1. The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Consultant's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Consultant, will be referred to a suspension or debarment official.

17.5.2. During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Consultant is excused from its obligations under this Article. If the suspension or debarment official determines not to suspend or debar the Consultant, then the Consultant must reenroll in E-Verify.

17.5.3. Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

17.5.4. Individuals previously verified. The Consultant is not required by this clause to perform additional employment verification using E-Verify for any employee-

- (a) Whose employment eligibility was previously verified by the Consultant through the E-Verify program;
- (b) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
- (c) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12. Policy for a Common Identification Standard for Federal Employees and Consultants.

17.6. Subcontracts. The Consultant shall include the requirements of this Article, including this section appropriately modified for identification of the parties in each subcontract that:

17.6.1. Is for-(i) Commercial and noncommercial services (except for commercial services that are part of the purchase of a Commercially Available Off-the-Shelf (COTS) item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction;

17.6.2. Has a value of more than \$3,500; and includes work performed in the United States; and

17.6.3. Includes work performed in the United States.

17.7. United States-Produced Iron And Steel (Section 255.0993, Fla. Stat.). Pursuant to Section 255.0993, Florida Statutes, unless waived by the County, any iron or steel product permanently incorporated into the Project must be produced in the United States. The following are exempt from this requirement: (i) small amounts of foreign steel and iron that are incidental or ancillary to the primary product, are not separately identified in the project specifications, and the cost of which does not exceed 1/10th of the total contract cost or \$2,500, whichever is greater; and (ii) electrical components, equipment, systems, and appurtenances, including supports, covers, shielding, and other appurtenances related to an electrical system, necessary for operation or concealment, except transmission and distribution poles.

17.8 Anti-Human Trafficking. As a condition precedent to entering into this Agreement and in compliance with Section 787.06(13), Florida Statutes, a duly authorized officer or representative of the Consultant must attest under the penalty of perjury that Consultant does not use coercion for labor or services as defined in Section 787.06, Florida Statutes. The required affidavit is set forth in Exhibit "A".

17.9. Countries of Foreign Concern. Pursuant to Section 287.138, Florida Statutes, the County cannot knowingly enter into a contract with an entity which would give access to an individual's personal identifying information if the entity is owned, controlled,

organized, or operating in a foreign country of concern, which include the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, and any contracting entity that may be given access to an individual's personal identifying information must have a duly authorized officer or representative attest under the penalty of perjury that said entity is not owned by the government of a foreign country of concern, that the government of a foreign country of concern does not have a controlling interest in the entity, and that the entity is not organized under the laws of nor have its principal place of business in a foreign country of concern. The required affidavit, which must be signed by a duly authorized officer or representative of Consultant, is attached hereto as Exhibit "B".

ARTICLE EIGHTEEN MODIFICATION

18.1. It is the intent of this Agreement that County shall from time-to-time issue SAs for Consultant to perform such services set forth in the Scope of Work therein. SAs shall be duly approved by the County prior to issuance. Consultant shall expediently perform the Scope of Work within the schedule indicated in the SA in accordance with Article Four above. Consultant shall timely cooperate with County Representative in negotiating the cost and schedule of said SA prior to submission to the County for approval. The County reserves the right to make changes in the Scope of Services of this Agreement, the Scope of Work of any SA, including alterations, reductions therein, or additions thereto. Upon receipt by the Consultant of the County's notification of a contemplated change, the Consultant shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the County of any estimated change in the completion date, and (3) advise the County if the contemplated change shall effect the Consultant's ability to meet the completion dates or schedules of SAs issued under this Agreement.

18.2. If the County so instructs in writing, the Consultant shall suspend work on that portion of the Scope of Work of a SA affected by a contemplated change, pending the County's decision to proceed with the change. Consultant shall be entitled to invoice County for that portion of the Scope of Work completed prior to receipt of the written notice.

18.3. If the County elects to make the change, the County shall initiate a written amendment to the SA signed by both parties, and the Consultant shall not commence work on any such change until such written amendment is signed by the Consultant and the County.

ARTICLE NINETEEN ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

19.1. The County and the Consultant agree that this Agreement together with the

Exhibits hereto, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article Eighteen, Modification.

19.2. The Contract Documents shall consist of: this Agreement with attachments; RFQ No. 26-01-00; Consultant's Response to RFQ No. 26-01-00; and any SA issued pursuant to this Agreement, all of which are incorporated herein by reference, copies of which have been provided to each party. In the event of conflict among the Contract Documents, the following Order of Precedence shall control:

1. SA
2. This Agreement
3. RFQ No. 26-01-00
4. Consultant's Response to RFQ No. 26-01-00

ARTICLE TWENTY CONTRACTING WITH THE ENEMY OR SCRUTINIZED COMPANIES

20.1 In accordance with 2 C.F.R. 200.215, it is acknowledged that no services under a covered SA are to be performed outside the United States and its territories nor in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

20.2 Consultant certifies that it is not ineligible to submit a bid or proposal for, or enter into a contract or renewal thereof, with any local government entity as a result of the application of Section 287.135, Fla. Stat. In addition, Consultant certifies that it is not on the Scrutinized Companies with Activities in Sudan List, is not on the Scrutinized Companies with Activities in the Iran Petroleum Sector List, and does not have business operations in Cuba or Syria, and is not participating in a boycott of Israel, as required by Section 287.135(5), Fla. Stat. In addition, Consultant understands that this reference allows for termination of this Agreement, at the option of the County, if Consultant is found to have submitted a false certification.

ARTICLE TWENTY-ONE GENERAL PROVISIONS

21.1. Good Faith. Consultant, in representing County, shall promote the best interest of County and each party agrees to assume toward the other party a duty of good faith and fair dealing.

21.2. Impairment of Rights or Liabilities. No modification, waiver, suspension, or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

21.3. Remedies. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be held in DeSoto County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21.4. Waiver. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

21.5. Headings. The headings of the Articles, Schedules, Parts, and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions in such Articles, Schedules, Parts, and Attachments.

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

21.7 Successors and Assignment. The County and the Consultant each binds itself and its successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the County nor the Consultant shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Consultant.

21.8. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

21.9. Authority to Contract. The signatory signing this Agreement on behalf of Consultant represents and warrants that signatory is duly authorized and has legal capacity to execute and deliver this Agreement. The signatory represents and warrants to the County (1) that the execution and delivery of this Agreement and the performance of Consultant obligations hereunder have been duly authorized and (2) that the

Agreement is a valid and legal agreement binding on the Consultant and enforceable in accordance with its terms.

21.10. Pledging of Indebtedness. The Consultant shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Consultant further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

21.11. Enforcement. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

21.12. Notices. All notices required in this Agreement shall be sent by certified mail, return receipt requested to the Consultant's Representative and the County Representative at the addresses shown in Articles One and Three hereof.

ARTICLE TWENTY-TWO GOVERNING LAW, VENUE AND WAIVER OF JURY TRIAL.

22.1. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in the state courts of DeSoto County, Florida, or where proper subject matter jurisdiction exists, in the United States District Court for the Middle District of Florida, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device.

22.2. BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

22.3. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the County pursuant to Section 768.28, Florida Statutes.

ARTICLE TWENTY-THREE STANDARD OF CARE

23.1 Consultant has represented to the County that it has the personnel and experience necessary to perform the work in a professional and workmanlike manner.

23.2 Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge, and resources, under similar circumstances.

23.3 Consultant shall, at no additional cost to County, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Agreement.

23.4 The Consultant warrants that all services shall be performed by skilled and competent personnel to the professional standards in the field.

ARTICLE TWENTY-FOUR FEDERAL PROVISIONS

24.1. General Federal Provisions. Work issued under this Agreement may be fully or partially funded by a Federal Grant. Where applicable, in accordance with Federal law, Contractor shall comply with the provisions of this Article and comply with the authorities enumerated below, which are incorporated herein by reference.

24.1.1. 2 CFR Part 25.110

24.1.2. 2 CFR Part 170 (including Appendix A), 180, 200 (including Appendixes), and 3000

24.1.3. Executive Orders 12549 and 12689

24.1.4. 41 CFR Part 60-1(a) and (d)

24.1.5. Consolidated Appropriations Act, 2021, Public Law 116-260 related to salary limitations

24.2. Nondiscrimination Acts and Authorities. For all federally funded work, Contractor agrees for itself, its successors, and its assigns, to comply and to assure that any subcontractor also agrees to comply with the following Title VI List of Pertinent Nondiscrimination Acts and Authorities.

24.2.1. Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq. 78 stat. 252), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement;

24.2.2. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

24.2.3. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

24.2.4. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

24.2.5. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

24.2.6. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23 (prohibit discrimination on the basis of age);

24.2.7. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

24.2.8. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

24.2.9. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto (as amended 42 U.S.C. §§ 12101 et seq.) or in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

24.2.10. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

24.2.11. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and

activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

24.2.12. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

24.2.13. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

24.2.14. Federal Fair Labor Standards Act (Federal Minimum Wage). All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

24.2.15. Occupational Safety and Health Act of 1970. All contracts and subcontracts that result from this Agreement incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractors' compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

24.3. Nondiscrimination Clauses for Compliance with Regulations. For all federally funded work, the Contractor agrees for itself, its successors, and its assigns to comply with the following Nondiscrimination Clauses.

24.3.1. Nondiscrimination. The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

24.3.2. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding, or negotiation made by

the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

24.3.3. Information and Reports. The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

24.3.4. Sanctions for Noncompliance. In the event of a Contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

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

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

24.4. Mandatory Disclosures (31 U.S.C. §§ 3799 – 3733). For all federally funded work, Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement. The Contractor must disclose in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting any applicable Federal award.

24.5. Conflict of Interest (2 CFR § 200.112). For all federally funded work, the Contractor must disclose in writing any potential conflict of interest to the County or pass-through entity in accordance with applicable Federal policy. Further, the County is required to

maintain conflict of interest policies as it relates to procured contracts. A conflict of interest exists when any of the following occur: (i) Because of other activities, relationships, or contracts, a Contractor is unable, or potentially unable, to render impartial assistance or advice; (ii) A Contractor's objectivity in performing the work is or might be otherwise impaired; or (iii) The Contractor has an unfair competitive advantage.

24.6. Drug Free Workplace Requirements (Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), 2 CFR § 182. To the extent applicable, Contractor must comply with Federal Drug Free workplace requirements of the Drug Free Workplace Act of 1988.

24.7. Equal Employment Opportunity (As per 2 CFR Part 200, Appendix II(C); 41 CFR § 61-1.4; 41 CFR § 61-4.3; Executive Order 11246 as amended by Executive Order 11375). For all federally funded work, the Contractor agrees as follows: (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause; (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin; (3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining Contract or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment; (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor; (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.; (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.; (7) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the

provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

24.8. Minority/Women Business Enterprise. For all federally funded work, Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, in accordance with 2 CFR 200.321. If subcontracts are to be let, prime contractor will require compliance by all sub-contractors. Prior to contract award, the contractor shall document efforts to utilize M/WBE firms including what firms were solicited as suppliers and/or subcontractors as applicable and submit this information with their bid submittal. Information regarding certified M/WBE firms can be obtained from:

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

24.9. Procurement of Recovered Materials. For all federally funded work, Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24.10. Environmental and Energy Policies. For all Work Authorizations over the micro-purchase threshold, the Contractor and subcontractors and subcontractors will comply with mandatory standards and policies relating to energy efficiency, stating in the state energy conservation plan issued in compliance with the Energy Policy and Conservation act. (Pub. L. 94-163, 89 Stat. 871) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

24.11. Clean Air Act and Federal Water Pollution Control Act. In all Work Authorizations funded in excess of \$150,000, the Contractor shall comply with the Clean Air Act as set forth below.

24.11.1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387).

24.11.2. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State of Florida, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

24.11.3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance under this Agreement.

24.12. Federal Suspension and Debarment. This Agreement may be covered in part as a transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of its subcontractors, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

24.12.1. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

24.12.2. By entering this Agreement, Contractor has made the Certification set forth in this section. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

24.12.3. Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the term of this Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

24.12.4. Certification Instructions

24.12.4.1. By signing this Agreement, the Contractor, referred to in this section as the prospective lower tier participant, is providing the certification set out in accordance with these instructions.

24.12.4.2. 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

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

24.12.4.3. The prospective lower tier participant shall provide immediate written notice to the person(s) 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.

24.12.4.4. 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 Orders 12549, at Subpart C of OMB 2 C.F.R. Part 180 and 3000.332. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

24.12.4.5. The prospective lower tier participant agrees by submitting this form 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.

24.12.4.6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

24.12.4.7. 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 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 System for Award Management (SAM) database.

24.12.4.8. 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 is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

24.12.4.9. 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 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.

24.12.5. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Lower Tier Covered Transactions. The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This

certification is required by the regulations implementing Executive Orders 12549, Debarment and Suspension, and OMB 2 C.F.R. Part 180, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. [READ CERTIFICATION INSTRUCTIONS ABOVE BEFORE COMPLETING CERTIFICATION]

24.12.5.1. 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 participation in this transaction by any Federal or State department or agency;

24.12.5.2. 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

24.13. Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148, as supplemented by 29 CFR Part 5). Contractor agrees to comply with all provisions of the Davis Bacon Act as amended. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. If the grant award contains Davis Bacon provisions, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the agreement. The decision to award a Contract shall be conditioned upon the acceptance of the wage determination.

24.14. Federal Lobbying. If applicable as set forth in any contract, Contractor who applies for an award of \$100,000 or more shall file the required Byrd Anti-Lobbying Amendment certification as set forth in Exhibit "D" attached hereto as if fully set forth herein. Each tier of subcontractor will certify 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 of subcontractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Contractor.

24.15. Copeland Anti Kick Back Act (40 U.S.C. § 3145 as supplemented by 29 CFR Part 3). Contractor shall comply with all the requirements of 18 U.S.C. § 874, 40 U.S.C. § 3145, 29 CFR Part 3 which are incorporated herein by this reference. Contractor is prohibited from inducing by any means any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.

24.16. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708 as supplemented by 29 CFR Part 5). All applicable contracts issued in excess of \$100,000

that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor and all subcontractors and subcontractors are required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence.

24.17. Rights to Inventions Made Under a Contract or Agreement (37 CFR Part 401). If the Federal funding for a Work Authorization meets the definition of “funding agreement” under 37 CFR § 401.2, Contractor may be subject to additional standard patent rights clauses in accordance with 37 CFR § 401.14.

24.18. Access to Records and Reports. Contractor will make available to the County’s granting agency, the granting agency’s Office of Inspector General, the Government Accountability Office, the Comptroller General of the United States, County, County Clerk of Court’s Inspector General, or any of their duly authorized representatives any books, documents, papers or other records, including electronic records, of the Contractor that are pertinent to the County’s grant award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. The right also includes timely and reasonable access to the Contractor’s personnel during normal business hours for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are retained.

24.19. Record Retention (2 CFR § 200.33). Contractor will retain of all required records pertinent to this contract for a period of three years, beginning on a date as described in 2 C.F.R. §200.333 and retained in compliance with 2 C.F.R. §200.333.

24.20. Federal Changes. Contractor will comply with all applicable Federal agency regulations, policies, procedures, and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of any awarded contract.

24.21. Termination for Default (Breach or Cause). If Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the County may terminate the contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or

services performed in accordance with the manner of performance set forth in the contract.

24.22. Termination for Convenience. For any Work Authorization issued over the micro-purchase threshold may be terminated by County in whole or in part at any time, upon ten (10) days written notice. If the Contract is terminated before performance is completed, the Contractor shall be paid only for that work satisfactorily performed for which costs can be substantiated.

24.23. Safeguarding Personal Identifiable Information (2 CFR § 200.82). Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, state and/or local laws regarding privacy and obligations of confidentiality.

24.24. Prohibition On Utilization Of Cost Plus A Percentage Of Cost Contracts (2 CFR Part 200). The County will not issue contracts containing Federal funding on a cost-plus percentage of cost basis.

24.25. Trafficking Victims Protection Act (2 CFR Part 175). Contractor will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits Contractor from (1) engaging in severe forms of trafficking in persons during the period of time that resulting contract is in effect; (2) procuring a commercial sex act during the period of time that resulting contract is in effect; or (3) using forced labor in the performance of the contracted services under a resulting contract. A resulting contract may be unilaterally terminated immediately by County for Contractor's violating this provision, without penalty.

24.26. Domestic Preference For Procurements (2 CFR § 200.322). As appropriate and to the extent consistent with law, to the greatest extent practicable when using federal funds for the services provided in a resulting contract, shall provide a preference for the purchase, acquisition, or use of goods and products or materials produced in the United States.

24.27. Buy America (Build America, Buy America Act (Public Law 117-58, 29 U.S.C. § 50101. Executive Order 14005). All iron, steel, manufactured products, and construction materials used under a federally grant funded project must be produced in the United States. Additional requirements may apply depending on the Federal Granting Agency provisions, please check with County for further details. Contractors shall be required to submit a completed Buy American Certificate with any applicable Work Authorization in substantially the following form:

24.28.1. Buy American Certificate (FAR 52.225-2) Contractor certifies that each end product, except those listed in paragraph 25.28.2 of this provision, is a domestic end product. Contractor shall list as foreign end products in paragraph 25.28.2 those end products manufactured in the United States that do not qualify as domestic end products.

The terms “domestic end product,” “end product,” and “foreign end product” are defined in FAR 52.225-1 entitled “Buy American-Supplies.”

24.28.2.	Foreign End Products:	Line Item No.	Country of Origin
		_____	_____
		_____	_____

24.28.3. The Government will evaluate offer in accordance with the policies and procedures of part 25 of the Federal Acquisition Regulation.

24.28. Prohibition On Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR § 200.216). Contractor and any subcontractors are prohibited to obligate or spend grant funds to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain; or (3) enter into a contract to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). ii. Telecommunications or video surveillance services provided by such entities or using such equipment. iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

24.29. Enhanced Whistleblower Protections (41 U.S.C. § 4712). An employee of Contractor and/or its subcontractors may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in 42 U.S.C. § 4712(a)(2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

24.30. Federal Funding Accountability and Transparency Act (FFATA) (2 CFR § 200.300; 2 CFR Part 170). In accordance with FFATA, the Contractor shall, upon request, provide County the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed

under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

24.31. Federal Awardee Performance and Integrity Information System (FAPIIS)(The Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417 and 2 CFR Part 200 Appendix XII)). The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of this contract, by posting the required information in the System for Award Management via <https://www.sam.gov>.

24.32. Never Contract With The Enemy (2 CFR Part 183). For contracts funded by grant and cooperative agreements in excess of \$50,000 and performed outside of the United States, including U.S. territories and in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities, Contractor must exercise due diligence to ensure that none of the funds, including supplies and services, received are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR 180.300 prior to issuing a subcontract.

24.33. Federal Agency Seals, Logos and Flags. Contractor shall not use any Federal Agency seal(s), logos, crests, or reproductions of flags or likenesses of any federal agency officials without specific federal agency pre-approval.

24.34. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from a resulting contract.

24.35. Conflict with Grant Terms. In the event of any conflict between the terms and conditions of this Article and the terms and conditions of any federal grant funding document provided specific to the funds being used to contract services or goods under this Agreement, the conflicting terms and conditions of that document shall prevail.

24.36. Environmental Protection Agency General Terms and Conditions. This Agreement is subject to the EPA General Terms and Conditions and any federal grant funding award document. The most recent version of the EPA General Terms and Conditions is available at: https://www.epa.gov/system/files/documents/2024-10/fy_2025_epa_general_terms_and_conditions_effective_october_1_2024_or_later.pdf/

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS.**

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals the day and year below last written.

**DESOTO COUNTY,
a political subdivision of the State of
Florida**

Attest:

Mandy Hines
County Administrator

Steve Hickox, Chairman
Board of County Commissioners

Date: _____

Approved as to form:

Valerie Vicente
County Attorney

Attest:

THE WEILER ENGINEERING CORP.

Name: _____

Name: _____

Its: _____

Its: _____

Date: _____

Exhibit “A”
Anti-Human Trafficking
Affidavit

**HUMAN TRAFFICKING AFFIDAVIT
SECTION 787.06, FLORIDA STATUTES**

DIRECTIONS: All nongovernmental entities that are or potentially will be contracting, renewing or extending contracts with Okaloosa County, must have an officer or representative fully execute this affidavit. Note, this is a mandatory requirement of s 787.06(13), Florida Statutes effective July 1, 2024.

I Michael J. Giardullo (insert name) as Director of Civil Engineering (insert title) on behalf of The Weiler Engineering Corporation(insert entity name) under penalty of perjury hereby attest as follows:

1. I am over 21 years of age and have personal knowledge of the matters set forth in this affidavit.
2. The Weiler Engineering Corporation (insert entity name) does not use coercion for labor or services as defined in s. 787.06(2)(a), Florida Statutes.
3. More particularly, The Weiler Engineering Corporation (insert entity name) does not participate in any of the following actions:
 - a. Using or threatening to use physical force against any person;
 - b. Restraining, isolating or confining or threatening to restrain, isolate or confine any person without lawful authority and against her or his will;
 - c. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of the labor or services are not respectively limited and defined;
 - d. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
 - e. Causing or threatening to cause financial harm to any person;
 - f. Enticing or luring any person by fraud or deceit; or
 - g. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, Florida Statutes to any person for the purpose of exploitation of that person.

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Exhibit “B”
Foreign Country of Concern
Affidavit

FOREIGN COUNTRY OF CONCERN AFFIDAVIT

DIRECTIONS: All nongovernmental entities that are or potentially will be contracting, renewing or extending contracts with DeSoto County, must have an officer or representative fully execute this affidavit. Note, this is a mandatory requirement of s 287.138, Florida Statutes, for all entities that may have access to individuals' personal identifying information.

I Michael J. Giardullo (insert name) as Director of Civil Engineering (insert title) on behalf of The Weiler Engineering Corporation (insert entity name) under penalty of perjury hereby attest as follows:

1. I am over 21 years of age and have personal knowledge of the matters set forth in this affidavit.

2. I certify that The Weiler Engineering Corporation (insert entity name) ("Vendor"):

- a. Is not owned by the government of a foreign country of concern;
b. A government of a foreign country of concern does not have a controlling interest in Vendor; and
c. Is not organized under the laws of nor have its principal place of business in a foreign country of concern.

3. For purposes of this Affidavit, "Foreign Country of Concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.

FURTHER AFFIANT SAYETH NAUGHT.

Printed Name: Michael J. Giardullo
Title: Michael J. Giardullo
Nongovernmental entity: The Weiler Engineering Corpor.
Date: 11/6/2025

STATE OF Florida
COUNTY OF Lee

SWORN TO AND SUBSCRIBED before me x in person or remote notarization by Michael J. Giardullo as Director of Civil Engineering on behalf of The Weiler Engineering Corporation, who is personally known to me or who produced as identification this day of November 6, 2025.

Notary Public signature

(Notary Seal)

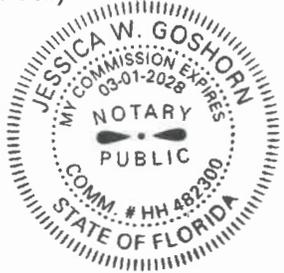


Exhibit “C”
First Supplemental Agreement
(SA)



February 20, 2026

Cindy Talamantez, CPPO, CPPB
Purchasing Director
DeSoto County Board of County Commissioners
201 East Oak Street, Suite 203
Arcadia, Florida 34266

Re: DeSoto County Regional Wastewater Treatment Plan Expansion Construction
Engineering and Inspection Services – DeSoto County RFQ No. 26-01-00

Ms. Talamantez:

The Weiler Engineering Corporation (an Apex Company), herein referred to as “CONSULTANT” is pleased to work with DeSoto County (“COUNTY”) to perform Construction Engineering and Inspection (CEI) services for the expansion of DeSoto County Regional Wastewater Treatment Plant (DCR WWTP). The DCR WWTP is located at 7728 SE Highway 31, Arcadia, FL 34266. The FDEP Facility ID is FLA530808 and the project intends to expand the permitted treatment capacity in 2 phases and upgrade the effluent disposal facilities. Expansion Phase 1 includes the expansion from the existing 0.950 MGD to 1.40 MGD and Expansion Phase 2 includes the expansion from 1.40 MG to 2.0 MGD. Effluent disposal is intended to be accomplished through the construction of deep injection wells. The CONSULTANT shall be responsible for both phases of the expansion and the effluent disposal. This proposal is intended for Phase 1 of the Expansion as bid under DeSoto County contract No ITB-25-24-01-0-2026/MD. Due to the unknown schedules of Phase 2 and the effluent disposal, the CONSULTANT proposes to add those in a change order at a future date.

The Phase 1 CEI scope of services generally includes:

- 1) Pre-construction activities
- 2) CEI services for 20 months of construction
- 3) Construction close-out
- 4) Additional 4 months of CEI services (if required)

Detailed services include the following:

Task 1 – Pre-Construction Activities

Prior to initiation of onsite construction activities, the CONSULTANT will perform the following:

- Obtain all contract documents and review by project team members.
- Host the construction kick-off meeting with the awarded contractor – The kick-off meeting will be held at the DeSoto County Administration Building with a site visit to follow. The CONSULTANT will prepare the agenda and produce detailed meeting minutes.
- Review and respond any submittals and shop drawings required for the Contractor to start construction. Generally, the CONSULTANT anticipates responding in writing to submittals and shop drawings within ten (10) working days.
- Review and respond to any Requestions for Information (RFI) from the Contractor prior to mobilization. Generally, the CONSULTANT anticipates responding in writing to RFIs within ten (10) working days. It is anticipated that there will be no more than twenty-five (25) RFI through the course of the project.
- Review permit requirements and assist in filing construction commencement notices as required.

Task 2 – CEI Services (20-month Construction Duration)

The CONSULTANT will perform continuous CEI for construction duration of twenty (20) months. The CONSULTANT will perform the following:

- Attend project meetings. It is anticipated that there will be two (2) meetings per month involving the COUNTY, the contractor, and CONSULTANT. One meeting is anticipated to be onsite and the other is anticipated to be held via Microsoft Teams. The CONSULTANT will set up, schedule, host, provide an agenda and create meeting minutes for all meetings. The Design Engineer (Engineer of Record) will be invited to the monthly virtual meetings.
- Perform regular onsite inspection. Inspection frequency will vary depending on the construction activities. It is estimated that average inspection frequency will be approximately half time. Construction is anticipated Monday through Friday in daytime hours and on non-County holidays. Occasional Saturday work can be accommodated upon mutual agreement of CONSULTANT, the CEI and the COUNTY. Inspection reports for all days onsite along with photos of the Contractor progress will be maintained throughout the project. Note, the CONSULTANT understands with County will permit work 7-days per week for the erection of the tanks for a period not to exceed three (3) months. CONSULTANT will provide the weekend inspection as needed during that period.
- Review and respond any submittals and shop drawings received from the Contractor throughout construction. Generally, the CONSULTANT anticipates responding in writing to submittals and shop drawings within ten (10) working days. The CONSULTANT understands that the Design Engineer (Engineer of Record) will develop a list of critical items which they will review in addition to the CONSULTANT's review.
- Review and respond to any Requestions for Information (RFI) from the Contractor throughout construction. Generally, the CONSULTANT anticipates responding in writing to

RFIs within ten (10) working days. It is anticipated that there will be no more than twenty-five (25) RFIs through the course of the project. When needed the Design Engineer (Engineer of Record) may review and comment on the RFIs.

- Review and make recommendation on approval on application for payment received from the Contractor. Generally, the CONSULTANT anticipates responding in writing regarding pay applications within ten (10) working days. It is anticipated that there will be up to twenty-one (21) pay applications including the final application for release of retainage.
- Assist the COUNTY grant management staff by providing project information from reimbursement support when requested.
- Review requests for Change Orders received from the Contractor. CONSULTANT will respond in writing recommending approval, denial or adjustment. Generally, the CONSULTANT anticipates responding in no more than ten (10) working days. It is anticipated that there will be up to ten (10) requests for Change Order for this project. When needed the Design Engineer (Engineer of Record) may review and comment on the change orders.
- Witness and document required testing as dictated by the Design Engineer (Engineer of Record).
- Provide regular updates to the COUNTY on project status and schedule.
- The CONSULTANT shall set up and maintain a Microsoft SharePoint (or other similar content management software) to store project documents and grant access to the COUNTY and Design Engineer (Engineer of Record).

Task 3 – Construction Closeout

Towards the end of construction and following Final Completion, the CONSULTANT shall perform the following:

- Attend a walkthrough for Substantial Completion. The CONSULTANT will also document any deficiencies in a written punch list to be shared with the Contractor.
- Following the Substantial Completion Walkthrough, CONSULTANT shall inspect to verify completion of all outstanding punch list items prior to the FINAL walkthrough.
- Attend system startups and commissioning to be scheduled and performed by the Contractor.
- Utilize Redlines provided by the Contractor, the Contractor's as-built survey information, and notes from CONSULTANT inspectors to prepare final as-built plans to be signed and sealed by a Florida Registered Professional Engineer.
- Coordinate the regulatory permit certifications to be certified by the Design Engineer (Engineer of Record).
- Attend all start-ups and commissioning and verified completion in compliance with contract terms and conditions.
- Review Operations & Maintenance Manuals and Start-Up reports and confirm acceptability.
- Assist COUNTY grant management staff with information required for reimbursement when needed.
- Provide records from construction including all permit compliance documents, submittals and shop drawings, submittal logs, testing reports construction photos and daily report forms.

Task 4 – Additional CEI Time

Task 2 is based on an assumed twenty (20) month construction schedule based on the Invitation to Bid used to procure the construction contract. Through the course of construction, it is likely that the contractor may be due additional time for items such as inclement weather, change orders, material lead times or other factors outside of the control of the contractor, COUNTY or CONSULTANT. This scope includes up to four (4) additional months of CEI services to be used on if required by the contractor’s schedule. These services will be extension of the task 2 services included herein.

Cost Proposal Summary

BASE SCOPE

Task 1 – Preconstruction Activities.....	\$ 44,346.00
Task 2 – CEI Services for 20 Months of Construction.....	\$ 747,340.00
Task 3 – Construction Closeout.....	\$ 47,282.00

TOTAL BASE SCOPE SERVICES.....\$ 838,968.00

ADDITIONAL SERVICES (if required)

Task 4 – Additional 4 Months of CEI Services.....	\$ 136,632.00
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TOTAL CONTRACT AMOUNT.....\$ 975,600.00

All tasks are lump sum. CONSULTANT will invoice based on a percent complete for each task on a monthly basis.

If the construction duration is less than 20 months, the Task 2 fee will be reduced.

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Exclusions

- This proposal pertains to the Phase 1 Expansion project only. CEI services for the Phase 2 Expansion Project and for the Effluent Disposal contract can be added through Change Order at a later date.
- This proposal does not include an survey stake out or surveyed as-builts. CONSULTANT shall create the as-built plans from field note and contractor red lines using Cad files from the Engineer of Record.
- This proposal does not include an engineering design or permitting services. CONSULTANT assumes no liability for design errors or omissions.
- CONSULTANT does not guarantee contractor performance. CONSULTANT shall not direct the work of the contractor, determine construction means, methods or sequencing, subcontractor management and shall not stop the work of the contractor.
- Final certifications to FDEP for the wastewater plant expansion permit and the environmental resource permit will be prepared and submitted by others (Design Engineer/Engineer of Record).

EXHIBIT A - STAFF HOUR ESTIMATE

DeSoto County
 DCR WWTP CEI Services - Phase 1
 RFQ 26-01-00

STAFF HOUR ESTIMATE

Staff Classification	Hourly Rate	Start Up	20 Months Construction																				Close Out	HRS	Extension
			BASE SCOPE																						
			M1	M2	M3	M4	M5	M6	M7	M8	M9	M10	M11	M12	M13	M14	M15	M16	M17	M18	M19	M20			
Professional 8	\$ 285.00	40	24	24	24	24	20	20	18	18	18	18	18	18	16	16	16	16	16	16	36	456	\$ 129,960.00		
Professional 7	\$ 262.00	16	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	0	176	\$ 46,112.00		
Professional 6	\$ 230.00	10	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	0	170	\$ 39,100.00		
Professional 1	\$ 135.00	130	88	88	78	78	68	58	58	58	58	58	58	58	58	58	58	58	58	58	90	1500	\$ 202,500.00		
Technician 5	\$ 160.00	40	40	40	30	30	20	20	16	16	12	12	12	12	12	12	12	12	12	12	120	520	\$ 83,200.00		
Senior Inspector	\$ 132.00	16	160	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	40	2496	\$ 329,472.00		
Administrative 2	\$ 98.00	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	88	\$ 8,624.00		
																						5406	\$ 838,968.00		

ADDITIONAL SCOPE (if Needed)						
Additional 4 Months				HRS		
AM1	AM2	AM3	AM4			
16	16	16	16	64		\$ 18,240.00
8	8	8	8	32		\$ 8,384.00
8	8	8	8	32		\$ 7,360.00
58	58	58	58	232		\$ 31,320.00
10	10	10	10	40		\$ 6,400.00
120	120	120	120	480		\$ 63,360.00
4	4	4	4	16		\$ 1,568.00
				896		\$ 136,632.00

Total Hours 6302
 Contract Total \$ 975,600.00

Exhibit B – WEC Rate Schedule



EB-6656 – ENGINEERING SERVICES INCLUDE CIVIL | LAND DEVELOPMENT | WATERFRONT
 RESORTS | UTILITIES | MUNICIPAL GOVERNMENT | STRUCTURAL | MINING | GIS - GPS

Hourly Rate Schedule

Professional 9	\$330	CEI Services Manager	\$220
Professional 8	\$285	CEI Senior Project Administrator	\$190
Professional 7	\$262	CEI Project Administrator	\$172
Professional 6	\$230	Contract Support Specialist	\$145
Professional 5	\$205	Senior Inspector	\$132
Professional 4	\$187	CEI Inspector III	\$119
Professional 3	\$170	CEI Inspector II	\$110
Professional 2	\$145	CEI Inspector I	\$98
Professional 1	\$135	Compliance Specialist	\$108
Technician 6	\$188	CEI Inspector's Aide	\$80
Technician 5	\$160		
Technician 4	\$138		
Technician 3	\$117		
Technician 2	\$92		
Technician 1	\$82		
Administrative 3	\$108		
Administrative 2	\$98		
Administrative 1	\$80		
Field Crew: 4-Person	\$285		
Field Crew: 3-Person	\$245		
Field Crew: 2-Person	\$193		
Field Crew: 1-Person	\$145		

Exhibit “D”
Federal Lobbying Certification

BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION
(To be submitted with each contract exceeding \$100,000 proposed to use Federal Funds)

The undersigned certifies to the best of one's knowledge and belief that:

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 an 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 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

Please check the appropriate box:

No non-federal funds have been used or are planned to be used for lobbying in connection with this application/award/contract.

or

Attached is Standard Form LLL, "Disclosure of Lobbying Activities," which describes the use (past or planned) of non-federal funds for lobbying in connection with this application/award/contract.

Executed this _____ day of _____, 2026

By: _____ (name) _____ (title)
_____ (entity name)