**Special Conditions**

**Federal Requirements**

The projects, programs, and activities to be funded under this RFP are, or may be, funded in whole or in part by Federal grants. As a result, the successful firm (hereinafter referred to as the “Contractor”) and its subcontractors will be required to comply with the following provisions, as applicable:

**Clean Air Act (42 U.S.C. 7401-7671q.) and Federal Water Pollution Control Act (33 U.S.C. 1251-1387)** Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor shall immediately report any violation to the County and the Regional Office of the Environmental Protection Agency (EPA) upon discovery.

Contractor must include this requirement in all subcontracts that exceeds $150,000.

**Byrd Anti Lobbying Amendment (31 U.S. C. 1352).** Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must 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 non-Federal award.

**Equal Employment Opportunity (2 CFR Part 200, Appendix II(C); 41 CFR § 61-1.4; 41 CFR 61-4.3; Executive Order 11246).** During the performance of this contract, the Contractor agrees as follows:

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

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

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

(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) The 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.

**Procurement of Recovered Materials**

Pursuant to 2 CFR §200.322, Contractor and its subcontractors 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.

**Affirmative Action**

The County supports diversity in its procurement program and requires that all subcontracting opportunities afforded by this Agreement embrace and encourage diversity. The Contractor’s award of subcontracts should reflect the diversity of the citizens of the State of Florida. In accordance with 2 C.F.R. § 200.321, the Contractor and its subcontractors must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. The Contractor agrees to use affirmative steps, and to require its subcontractors to utilize affirmative steps, to ensure that minority businesses and women’s business enterprises are used when possible. Such affirmative steps shall at a minimum include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, or women’s business enterprises;

5. Utilizing services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of the Commerce, the Florida Department of Management Services (Office of Supplier Diversity), the Florida Department of Transportation, Minority Business Development Center, and Local Government M/DBE programs; and

6. As used herein, the term “minority and women business enterprise” means a business at least fifty‑one (51) percent owned and controlled by minority group members or women. Prior to award of any subcontract under this Agreement, Contractor shall document its efforts made to comply with the requirements of this paragraph. The Contractor shall state that it is an Equal Opportunity or Affirmative‑Action employer in all solicitations or advertisements for subcontractors or employees who shall perform work under this Agreement.

7. The requirement outlined in subparagraphs (1) through (5) above does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms. Rather, the requirement only imposes an obligation to carry out and document the six affirmative steps identified above.

8. The requirements described in subparagraphs (1) through (5) above outlines the affirmative steps that the Contractor must take; the requirements do not preclude the Contractor from undertaking additional steps to involve small and minority businesses and women’s business enterprises.

9. The requirement to divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises, does not authorize the Contractor to break a single project down into smaller components in order to circumvent the micro-purchase or small purchase thresholds so as to utilize streamlined acquisition procedures (e.g. “project splitting”).

**Contract Work Hours and Safety Standards Act (40 U.S.C.** §§ **3701–3708)**:

Where applicable, all contracts awarded in excess of $100,000 that involve the employment of mechanics or laborers must be in compliance 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, each contractor is 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.

**Copeland Anti Kick Back Act**:

Contractor and its subcontractors shall comply with all the requirements of the Copeland Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 3145, as supplemented by Department of Labor regulations at 29 CFR Part 3), which are incorporated by reference to this Agreement. Contractor and its subcontractors are 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.

**Debarment and Suspension (Executive Orders 12549 and 12689)**:

A contract award (see 2 CFR 180.220) must not be made under this Agreement to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), Debarment and Suspension. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The contractor shall certify compliance. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions and subcontracts, which shall read as follows:

Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under $25,000 not requiring the consent of the County and/or the applicable state or federal entity) are subject to 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).” In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than $100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying,” published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget “Governmentwide Guidance for New Restrictions on Lobbying,” and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996)

**Federal Changes**:

Contractor shall 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 the contract.

**Safeguarding Personal Identifiable Information:**

Contractor and its subcontractors 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.

**Energy Policy and Conservation Act (43 U.S.C. §6201):**

Contracts shall 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].

**Right to Inventions Under Federal Grants.**

If applicable, Contractor shall comply with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**Federal Non-Discrimination Provisions**

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.)

2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.)

3. Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12101 et seq.)

4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)

5. Revised ADA Standards for Accessible Design for Construction Awards

a. Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285)

b. Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286)

6. Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.)

7. Parts II and III of EO 11246, “Equal Employment Opportunity,” (30 FR 12319, 1965), as amended by EO 11375 (32 FR 14303, 1967)

8. EO 12086 “Consolidation of contract compliance functions for equal employment opportunity” (43 FR 46501, 1978), requiring federally assisted construction contracts to include the non-discrimination provisions of §§ 202 and 203 of EO 11246 “Equal Employment Opportunity” (41 C.F.R. § 60-1.4(b), 1991)

9. EO 13166 (August 11, 2000), “Improving Access to Services for Persons With Limited English Proficiency”

10. Pilot Program for Enhancement of Employee Whistleblower Protections. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. No. 112-239, enacted January 2, 2013 and codified at 41 U.S.C. § 4712)

**Environmental Compliance**

Contractor shall comply with all of the federal environmental statutes, regulations, and executive orders listed below, as applicable:

1. The National Environmental Policy Act (42 U.S.C. § 4321 et. seq.)

2. The Endangered Species Act (16 U.S.C. § 1531 et seq.)

3. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)

4. Clean Water Act Section 404 (33 U.S.C. § 1344 et seq.)

5. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712); Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds

6. National Historic Preservation Act (54 U.S.C. § 300101 et seq.) and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)

7. Clean Air Act (42 U.S.C. § 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)

8. The Flood Disaster Protection Act (42 U.S.C. § 4002 et seq.)

9. Executive Order 11988 (“Floodplain Management”) and Executive Order 11990 (“Protection of Wetlands”)

10. Executive Order 13112 (“Invasive Species”)

11. The Coastal Zone Management Act (16 U.S.C. § 1451 et seq.)

12. The Coastal Barriers Resources Act (16 U.S.C. § 3501 et seq.)

13. The Wild and Scenic Rivers Act (16 U.S.C. § 1271 et seq.)

14. The Safe Drinking Water Act (42 U.S.C. § 300 et seq.)

15. The Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.)

16. The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 et seq.)

17. Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”)

18. Rivers and Harbors Act (33 U.S.C. § 407)

19. Marine Protection, Research and Sanctuaries Act (Pub. L. 92-532, as amended), National Marine Sanctuaries Act (16 U.S.C. § 1431 et seq.), and Executive Order 13089 (“Coral Reef Protection”)

20. Farmland Protection Policy Act (7 U.S.C. 4201 et seq.)

21. Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

22. Pursuant to 2 CFR §200.322, Contractor and its subcontractors 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.