

# **FLORIDA KEYS AQUEDUCT AUTHORITY AND MONROE COUNTY**



## **REQUEST FOR PROPOSALS CUDJOE REGIONAL WASTEWATER COLLECTION SYSTEM DESIGN BUILD PROJECT FOR OUTER ISLANDS**

**FKAA Project No. 4053-12**

**Volume 1 - Instructions to Proposers**

**SEPTEMBER 10, 2012**

**Florida Keys  
Aqueduct Authority  
1100 Kennedy Drive  
Key West, Florida 33040  
Telephone (305) 296-2454  
[www.fkaa.com](http://www.fkaa.com)**

# **VOLUME 1 - INSTRUCTIONS TO PROPOSERS**

## **Contents**

<b>1.</b>	<b>Introduction .....</b>	<b>1-1</b>
<b>1.1</b>	<b>Project Objectives .....</b>	<b>1-1</b>
<b>1.2</b>	<b>Overall Project Schedule .....</b>	<b>1-1</b>
<b>1.3</b>	<b>Definitions and Acronyms .....</b>	<b>1-2</b>
<b>1.4</b>	<b>General Project Description.....</b>	<b>1-3</b>
<b>1.5</b>	<b>Project Cost.....</b>	<b>1-4</b>
<b>1.6</b>	<b>Project Ownership and Financing .....</b>	<b>1-4</b>
<b>1.7</b>	<b>Project Site.....</b>	<b>1-5</b>
<b>1.8</b>	<b>Scope of Design-Builder’s Obligations .....</b>	<b>1-5</b>
<b>1.9</b>	<b>Due Date for Submitting Questions and Seek Clarifications.....</b>	<b>1-6</b>
<b>1.10</b>	<b>Disadvantaged Business Enterprise (DBE) and Local Business Participation .....</b>	<b>1-7</b>
<b>1.11</b>	<b>Overall Risk Posture.....</b>	<b>1-7</b>
<b>1.11.1</b>	<b>Security for Performance .....</b>	<b>1-8</b>
<b>1.11.2</b>	<b>Insurance Requirements .....</b>	<b>1-8</b>
<b>1.12</b>	<b>Reference Documents Available.....</b>	<b>1-8</b>
<b>1.13</b>	<b>Accuracy of RFP and Related Documents.....</b>	<b>1-9</b>
<b>2.</b>	<b>Procurement Process .....</b>	<b>2-1</b>
<b>2.1</b>	<b>Procurement Objectives.....</b>	<b>2-1</b>
<b>2.2</b>	<b>Procurement Process.....</b>	<b>2-1</b>
<b>2.3</b>	<b>Rights of the FKAA .....</b>	<b>2-2</b>
<b>2.4</b>	<b>Communications Protocol .....</b>	<b>2-3</b>
<b>2.5</b>	<b>Questions and Response Process .....</b>	<b>2-3</b>

2.6	Identification of Proposer Authorized Representative .....	2-4
2.7	Addenda.....	2-4
2.8	Pre-Proposal Meeting.....	2-4
2.9	Information Disclosure to Third Parties .....	2-5
2.10	Changes in Proposer’s Organization or Team Members .....	2-5
3.	Scope of Services .....	3-1
3.1	Background .....	3-1
3.2	Scope of Work.....	3-1
3.3	Basis of Design.....	3-1
3.4	Design .....	3-2
3.4.1	Detailed Design.....	3-2
3.4.2	Quality.....	3-2
3.4.3	Design Deliverables.....	3-2
3.4.4	Value Engineering .....	3-3
3.5	Permitting.....	3-4
3.5.1	Assumption of Permitting Risk for D-B Work .....	3-5
3.5.2	Contact with Regulatory Agencies and Utilities.....	3-5
3.5.3	FCAA Assistance in Permitting Process .....	3-5
3.6	Construction.....	3-6
3.6.1	Construction Management and Reporting .....	3-6
3.6.2	Project Management Information System (PMIS) .....	3-7
3.6.3	Project Budget Reporting .....	3-7
3.6.4	Construction Site – Office Requirements .....	3-8
3.6.5	Construction Team Organization.....	3-9
3.6.6	Team Members, Processes, and Responsibilities .....	3-9
3.6.7	Construction Period Services Schedule.....	3-9
3.6.8	Construction Quality Assurance and Quality Control Plan .....	3-10
3.6.9	Completion of Construction Period.....	3-11

3.6.10	Substantial and Final Completion.....	3-11
3.6.11	As-Built Drawings and Documents .....	3-12
3.6.12	Record Documents .....	3-12
3.6.13	Safety Plan .....	3-12
3.6.14	Emergency Action and Recovery Plan during the Construction Period .....	3-13
3.6.15	Warranty .....	3-14
<b>3.7</b>	<b>Project Management.....</b>	<b>3-14</b>
3.71	Communications.....	3-14
3.72	Meetings.....	3-15
3.73	Monthly Progress Reports.....	3-15
<b>3.8</b>	<b>Easements .....</b>	<b>3-16</b>
<b>3.9</b>	<b>Public Outreach.....</b>	<b>3-16</b>
<b>4.</b>	<b>Requirements for Submittal of Proposals.....</b>	<b>4-1</b>
<b>4.1</b>	<b>Overview of Proposal Submittal Requirements.....</b>	<b>4-1</b>
<b>4.2</b>	<b>Proposal Format.....</b>	<b>4-1</b>
4.2.1	Technical Proposal.....	4-1
4.2.2	Price Proposal.....	4-1
4.2.3	Other Requirements .....	4-1
<b>4.3</b>	<b>Proposal Deadline and Address for Submittal .....</b>	<b>4-2</b>
<b>4.4</b>	<b>Number of Copies and Packaging of Proposals .....</b>	<b>4-2</b>
<b>4.5</b>	<b>Technical Proposal Content/Details.....</b>	<b>4-3</b>
<b>4.6</b>	<b>Section 1.0 - Transmittal Letter and Executive Summary .....</b>	<b>4-3</b>
4.6.1	Proposal Transmittal Letter .....	4-3
4.6.2	Executive Summary .....	4-3
<b>4.7</b>	<b>Section 2.0 – Table of Contents .....</b>	<b>4-4</b>
<b>4.8</b>	<b>Section 3.0 - Proposal Security and Proposal Forms .....</b>	<b>4-4</b>
4.8.1	Proposal Security .....	4-4

4.8.2	Financial Information.....	4-4
4.8.3	Proposal Forms .....	4-4
<b>4.9</b>	<b>Section 4.0 - Project Management Approach.....</b>	<b>4-5</b>
4.9.1	Project Team Qualifications and Experience .....	4-5
4.9.2	Organization Chart.....	4-6
4.9.3	Risk Matrix .....	4-6
4.9.4	Public Outreach.....	4-6
<b>4.10</b>	<b>Section 5.0 - Design Approach.....</b>	<b>4-6</b>
<b>4.11</b>	<b>Section 6.0 - Permitting Approach .....</b>	<b>4-7</b>
<b>4.12</b>	<b>Section 7.0 - Construction Approach .....</b>	<b>4-8</b>
<b>4.13</b>	<b>Section 8.0 - Project Schedule and Schedule of Values .....</b>	<b>4-8</b>
<b>4.14</b>	<b>Price Proposal .....</b>	<b>4-9</b>
4.14.1	Lump Sum Price .....	4-9
4.14.2	Unit Prices.....	4-10
4.14.4	Duration of Proposal Pricing .....	4-10
<b>5.</b>	<b>PROPOSAL EVALUATION .....</b>	<b>5-1</b>
<b>5.1</b>	<b>Evaluation Committee.....</b>	<b>5-1</b>
<b>5.2</b>	<b>Initial Technical Proposal Evaluation.....</b>	<b>5-1</b>
<b>5.3</b>	<b>Proposer Interviews.....</b>	<b>5-1</b>
<b>5.4</b>	<b>Technical Proposal Clarifications.....</b>	<b>5-1</b>
<b>5.5</b>	<b>Detailed Technical Proposal Evaluations .....</b>	<b>5-2</b>
5.5.1	Proposal Section 1.0 - Transmittal Letter and Executive Summary ...	5-2
5.5.2	Proposal Section 3.0 - Proposal Security and Proposal Forms.....	5-2
5.5.3	Proposal Section 4.0 - Project Management Approach .....	5-3
5.5.4	Proposal Section 5.0 - Design Approach .....	5-3
5.5.5	Proposal Section 6.0 - Permitting Approach.....	5-4
5.5.6	Proposal Section 7.0 - Construction Approach.....	5-4
5.5.7	Proposal Section 8.0 - Project Schedule and Schedule of Values .....	5-4

5.6	Price Proposal Evaluations .....	5-4
5.7	Selection of Recommended Proposer .....	5-5
5.8	Negotiation of Agreement.....	5-5
5.10	Recommendation to the Board of Directors .....	5-5
6.	LIST OF REFERENCE DOCUMENTS.....	6-1

ATTACHMENTS:

- A. Location and Site Map
- B. Preliminary Responsibility and Risk Matrix
- C. Proposal Form 1 – Acknowledgement of Addenda
- D. Proposal Form 2 – Key Project Staff Experience/ Commitment
- E. Proposal Form 3 – Drug Free Workplace Certification
- F. Proposal Form 4 – Price Proposal
- G. General Conditions of Contract Between Owner and Design-Builder
- H. Agreement Between Owner and Design-Builder – Lump Sum
- I. FDEP Bureau of Water Facilities Funding, Supplementary Conditions for Formally Advertised Construction Procurement

# 1. Introduction

## 1.1 Project Objectives

The FKAA Florida Keys Aqueduct Authority (FKAA) is soliciting Proposals from Respondents that have been found qualified to design, construct, outfit, start-up, performance test, warranty and obtain governmental approvals for a major portion of the Cudjoe Regional Wastewater System. The FKAA Project will be designed and constructed to collect and pump wastewater to the Cudjoe Wastewater Treatment Plant. Attachment A presents a Location Map of the Project area.

The issuance of the Request for Qualifications (RFQ) was the first step in a two-step solicitation process to develop the project using the design-build (D-B) procurement approach. FKAA's intent in developing the previous RFQ and this Request for Proposals (RFP) is to encourage qualified firms to provide the best solution for the Project within the confines of the requirements as described in these documents. FKAA expects to enter into a Design-Build Agreement with one of the qualified firms for this Project. Security for the Design-Build Entity's payment and performance obligations under the Agreement will be provided through bonds and insurance and warranties.

Only those firms that were previously qualified through the RFQ process are invited to submit a proposal in response to this RFP. Failure to submit information in accordance with this RFP requirements and procedures shall be cause for disqualification. Refer to Section 4 for submittal requirements.

Technical requirements for this Project are included in Volume 2 - Design Criteria Package (DCP) that is included with the RFP.

## 1.2 Overall Project Schedule

The FKAA has developed a procurement strategy that includes the following schedule:

**TABLE 1-1**

Overall Project Schedule

Activity	Date
RFQ Issuance	May 27, 2012 (complete)
SOQ Submittals Due	July 20, 2012 (complete)
Selection of Prequalified D-B Entities	August 22, 2012 (complete)
RFP Issuance to Prequalified D-B Entities	September 10, 2012
Pre-Proposal Meeting	September 20, 2012
Final Day to Submit Questions for Clarification	October 26, 2012

Proposer Interviews (if needed)	(To Be Determined)
Proposal Submittals Due	November 16, 2012
Selection of Design-Builder	December 7, 2012
Approval of D-B Contract	December 19, 2012
Notice to Proceed Issued	January 21, 2013
Substantial Completion of Project	December 31, 2015

*The schedule dates outlined above are the best approximation of current dates and are subject to change.*

### 1.3 Definitions and Acronyms

The following terms when used in this RFQ shall have the following meaning.

“Agreement” means the signed and executed Agreement Between Owner and Design-Builder. A draft copy of the Agreement is included as an attachment to this RFP.

“County” means Monroe County in the state of Florida.

“CRWWTS” means Cudjoe Regional Wastewater Treatment System.

“Design-Builder” means the Proposer with which the FKAA enters into an Agreement to design, construct, outfit, start-up, performance test, and obtain appropriate governmental approvals for the Project. The term ‘D-B entity’ was used previously in the RFQ to describe the Design-Builder.

“Design-Build” or “D-B” means a Project delivery system where the FKAA contracts with a single entity for Project services including design, permitting, construction and start-up of the Project.

“Design Criteria Package” or “DCP” means the FKAA’s Project Criteria prepared for this RFP and included as Volume 2 of this RFP.

“FKAA” means the Florida Keys Aqueduct Authority which will manage, operate, set rates and maintain the wastewater system under a long-term Interlocal Agreement with Monroe County, and is the owner of the Project documents. Where FKAA is used in this RFP, it shall also include their consultants, representatives, agents and advisors.

“General Conditions” means the General Conditions of Contract Between Owner and Design-Builder. A draft copy of the General Conditions is included as an attachment to this RFP.

“ILA” means Interlocal Agreement between Monroe County and the FKAA.

“Owner” - Monroe County is the owner of the capital assets being constructed. The FKAA is the constructor/operator/maintainer. Reference to the “Owner” in these documents shall refer to the FKAA.



“Price Proposal” refers to a Proposer’s Lump Sum Price Proposal for the Project, prepared and submitted in accordance with this RFP.

“Project” means the design, development, construction, outfit, start-up, performance testing, and obtaining of governmental approvals for the collection systems and transmission mains for the outer islands (Lower Sugarloaf, Ramrod, Middle Torch, Little Torch, and Big Pine) as part of the overall Cudjoe Regional Wastewater Collection System with all work required to meet the terms of the Agreement.

“Proposal” refers to a Proposer’s submittal in response to the requirements of this RFP, including both the Proposer’s Technical Proposal and Cost Proposal.

“Proposer” means a qualified Respondent that was found qualified by the Selection Committee and issued an RFP by the FKAA for the Project. If Proposer is a consortium, partnership, joint venture, or other organization, this definition shall include all partners, members, or participants.

“RFP” means Request for Proposal.

“RFQ” means Request for Qualifications.

“Respondent” is an entity who submitted an SOQ for the Project. If Respondent is a consortium, partnership, joint venture, or other organization, this definition shall include all partners, members, or participants.

“Statement of Qualifications” or “SOQ” refers to the document submitted by Respondents in response to the requirements of the previously issued Request for Qualifications.

“Technical Proposal” refers to a Proposer’s response to the requirements of this RFP, exclusive of the Cost Proposal.

“WWTP” means Wastewater Treatment Plant.

#### **1.4 General Project Description**

The State of Florida has mandated that the Florida Keys have central sewers and high levels of wastewater treatment by December 31, 2015. Through an Interlocal Agreement (ILA), Monroe County and FKAA have built several wastewater systems to meet this mandate. For the Cudjoe Regional Wastewater Treatment System (CRWWTs), planning and design work has been completed to different levels. There are four distinct projects that comprise the overall Cudjoe Regional System, and they will be procured as follows:

- A single, regional wastewater treatment plant has been designed and permitted to handle the flows from the entire service area. This WWTP is to be built at a County-owned site on Cudjoe Key. This WWTP will be advertised separately and will not be part of the Design Build Contract work described herein.. This plant project is anticipated to be substantially complete by December 31, 2014. For reference, plans for this project are included in the list of reference documents included with this RFP.

- Collection systems and transmission mains for the central islands (Upper Sugarloaf, Cudjoe, and Summerland) have been designed and permitted. This project will be advertised separately and will not be part of the Design Build Contract work described herein. This pipeline project is anticipated to be substantially complete by March 31, 2015. For reference, plans for this project are included in the list of reference documents included with this RFP.
- Collection systems and transmission mains for the outer islands (Lower Sugarloaf, Ramrod, Middle Torch, Little Torch, and Big Pine) have been planned and preliminarily sized. Preliminary design reports for the outer island collection and transmission system and preliminary drawings for the outer island transmission system have been developed that includes collection system types and locations, horizontal pipeline locations and alignments, and neighborhood and transmission pump station locations. The preliminary reports and drawings are included in the appendices of Volume 2, Design Criteria Package, of this RFP. The transmission system for the outer islands will connect to the central islands' transmission system referred to above for transport to and treatment at the WWTP on Cudjoe Key. *This Project is the one being procured via this RFP for Design-Builders.*
- The de-centralized on-site systems that will not be connected to the transmission and collection systems identified above.

Detailed design criteria for the Project are provided in Volume 2, Design Criteria Package, of this RFP.

### **1.5. Project Cost**

The current range of engineering opinion of probable design-build costs for this Project is \$80 - \$85 million.

### **1.6 Project Ownership and Financing**

Monroe County will own the capital assets of the new Cudjoe Regional Wastewater System. FCAA will manage, operate, set rates and maintain the system under a long-term ILA with Monroe County and for the purpose of these documents, shall be the "Owner". The Project will be financed using county instruments. Partial financing may be provided by the Florida State Revolving Fund (SRF). Proposer shall comply with all requirements of the Florida Department of Environmental Protection, Bureau of Water Facilities Funding, Supplementary Conditions for Formally Advertised Construction Procurement, included in Attachment I. The FCAA anticipates the Design-Builder will be paid a lump sum fixed price for design, permitting, construction, testing, startup and commissioning of the Project.

Monroe County will provide funding of the Cudjoe Regional Wastewater System. Through an ILA, FCAA provides engineering, construction, and operations as the Wastewater utility and acts as Owner on behalf of Monroe County and shall be the "Owner" of this Project.

## **1.7 Project Site**

Collection systems and transmission mains completed as part of this Project are to be located on Lower Sugarloaf Key, Ramrod Key, Middle Torch Key, Little Torch Key, and Big Pine Key. In general, the transmission main will be constructed within public rights-of-way, within easements along private roads, and open water crossings utilizing existing bridges. One water crossing may need to be constructed by horizontal directional drilling as further described in the DCP. The collection systems will be constructed within public rights-of-way and private road easements with parts of the collection system located on private property as necessary to provide service to the homeowners and businesses.

The FKAA will be responsible for obtaining easements on private property where necessary for those properties upon which the design is based as described in the DCP. The Design-Builder will be responsible for any easements or for surplus of property from FDOT that are necessary for any changes to the design that are proposed by the Design-Builder.

## **1.8 Scope of Design-Builder's Obligations**

To achieve the optimal benefit from the design-build process, FKAA requires that the Design-Builder's Project team be one that is a truly integrated team with a genuine, collaborative philosophy. Such a team would integrate the two prime roles of designer and builder (not a construction manager). These prime roles should be integrated in a manner that supports collaboration and high performing team concepts. This team structure should share risk and reward, contain proper incentives, and allow for the routine conflict resolution of the issues that typically arise among these two prime roles.

The Project has been planned and engineered to roughly 30 percent design. Design criteria have been developed for collection system materials. Routes and pump station locations have been preliminarily selected for the transmission system. Service connections for residential and commercial properties are required with few exceptions. The Design-Builder will be responsible for completing the design in accordance with the design criteria included in Volume 2 of this RFP.

The Design-Builder shall provide the FKAA with the following integrated D-B services:

### **Development:**

- Routing survey including all roadway boundaries, right of way lines, visible utilities, private roadways, property boundaries, etc.
- Final alignment layout and customer point of connection for customer properties.
- Design and construction sequencing.

### **Design:**

- Final Design of the Project and related interconnections, with coordination and integration with current and planned FKAA water and wastewater projects.

### **Permitting:**

- Preparing all permit applications and obtaining all permits in the Owner's name required for construction of the project and placing it in service, and permit closeout.

**Construction/Startup:**

- Construction of the Project and related interconnections as appropriate, with coordination and integration with current and planned FKAA projects.
- Completion of installation and start-up of all required pump station equipment and performance tests.
- Successful completion of the pipeline pressure and leakage tests.
- Other requirements as mandated by the Agreement.

In providing these services, the Design-Builder shall at all times comply with the following:

- Design criteria and performance standards outlined in the DCP.
- Measures set forth in the Project's certified/approved permits.
- Design review/approval processes as detailed in the RFP.
- FKAA and industry construction standards.
- The contract and general conditions per this document.
- Safety.
- Neighborhood sensitivity.

Documents are included with this RFP and DCP as reference documents, attachments and appendices. Reference documents are provided to assist the Proposer in understanding the Project and the relationship to other projects that are part of the overall CRWWTS, for preparing an accurate and complete Proposal. Material contained in the attachments and appendices represent requirements that shall be met by the Proposer in preparing the Proposal and for completion of the Project. Criteria and requirements of the attachments and appendices shall be met by the Proposer unless an exception is agreed to in writing by the FKAA.

### **1.9 Due Date for Submitting Questions and Seek Clarifications**

Proposers are encouraged to submit their questions regarding the RFP documents, including questions, comments and requests for clarification. Proposers should submit their questions, comments and requests for clarification to the FKAA's Representative identified in Section 2.4 of this RFP on or before the due date identified in Section 1.2. The FKAA will provide written responses to questions received by Addenda.

Proposers are also encouraged to submit comments for FKAA's consideration on the draft preliminary Agreement included in the appendices by the due date for questions as identified in Section 1.2.

In all cases, questions and comments shall be submitted in writing only to the FKAA representative identified in Section 2.4. Proposers shall not contact FKAA or Monroe County staff regarding this Project during the Proposal period. Failure to comply with this requirement will result in disqualification of the Proposer's submittal.

### **1.10 Disadvantaged Business Enterprise (DBE) and Local Business Participation**

Proposers are hereby informed that the FKAA encourages the utilization and participation of Minority and Women Business Enterprises and Local Businesses in FKAA contracts. Proposers are encouraged to seek Minority and Women Business Enterprises and Local Businesses for participation in subcontracting opportunities.

Proposers should use a goal of 9% of their Proposal price for Minority Business Enterprises and 3% of their Proposal price for Women Business Enterprises. Minority and women owned businesses must be certified by the state of Florida.

Proposers should use a goal of 15% of their Proposal price for local businesses. Businesses must meet the following Section 2-349, Local Preference in Bidding, of the Monroe County municipal code definition to be considered a local business:

*“Local business means the vendor has a valid receipt of the business tax paid as issued by Monroe County tax collector at least one year prior to the notice of request for bids or proposals for the business to provide the goods, services or construction to be purchased, and a physical business address located within Monroe County from which the vendor operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to Monroe County. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing a physical address. Vendors shall submit a copy of their current receipt of the business tax paid and also affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a ‘local business’ under this section.”*

During execution of the Project, the Design-Builder will be contractually required to meet or exceed the percentage of minority, women and local businesses indicated in their Proposal. Participation shall be verified by submittal of invoices from minority, women and local businesses with the pay applications.

### **1.11 Overall Risk Posture**

The successful Proposer will enter into an Agreement with the FKAA to design, construct, outfit, start up, performance test, and obtain governmental approvals for the Project. A preliminary draft copy of the General Conditions of the Contract and the Agreement are included as Attachments G and H to this RFP. Attachment B to this RFP contains a Preliminary Responsibility and Risk Matrix for the Project that indicates which party the FKAA currently envisions as responsible for each risk. The Preliminary Responsibility and Risk Matrix is NOT intended to describe all anticipated risks for the Project. As current Project development activities progress, the risk allocation will be expanded and revised as necessary to refine the FKAA’s desired allocation of risk. Proposers should expand upon the Preliminary Responsibility and Risk Matrix included with this RFP to include all identified risks they envision for the Project and include a proposed allocation for each risk for FKAA’s review

during evaluation of the Proposals. Proposer's should add additional risk items to the matrix but may not shift risk currently allocated to the Design-Builder or identified as a shared risk, to FKAA.

The following sections describe several important elements of the FKAA's general risk allocation for the Project.

#### **1.11.1 Security for Performance**

The Design-Builder shall provide as additional security for its design, construction, and acceptance obligations under the Agreement, a Performance Bond and a Payment Bond in forms acceptable to the FKAA at its sole discretion. The Construction Performance and Payment Bonds shall be issued by a surety company or companies having a rating of A- or higher per current A.M. Best Company ratings, listed in the United States Treasury Department's Circular 570 and authorized to do business in the State of Florida. The Performance Bond and the Payment Bond are each required to be in an amount equal to 110-percent of the Design-Builder's Total Project Lump Sum Price (including Base Price and Additive Alternates) as shown on the Price Proposal Form.

Respondents are required to furnish evidence of their ability and intention to provide these security instruments. The FKAA reserves the right to require other security enhancements in addition to, or to delete any of, the foregoing instruments.

#### **1.11.2 Insurance Requirements**

The Design-Builder shall obtain the following insurance coverage:

- Builder's Risk
- Installation Floater Insurance
- Commercial General Liability
- Automobile Liability
- Workers' Compensation (including Florida provisions)
- Excess or Umbrella Liability
- Professional Errors and Omissions Liability
- Environmental Liability including coverage for a spill if a line fails during the warranty period

Minimum coverage amounts required to be provided by the Design-Builder shall be as specified in the draft Agreement included in Attachment G to this RFP.

### **1.12 Reference Documents Available**

Lists of reference documents are included at the end of each volume of this RFP. The reference documents are provided on the CD accompanying this solicitation for proposals.

Proposers are advised that the reference documents identified in this RFP have been prepared in the course of the development of this and other projects and may not be completely

consistent with current goals and objectives for the Project as set forth in this RFP. In preparing Proposals, Proposers shall rely upon the RFP for the FKAA's definitive statement of Project goals and objectives.

Geotechnical investigations have not been performed for this Project. Where available, geotechnical reports for investigations done for other projects in the area are known, they have been included in the list of reference documents.

The reference documents are solely for informational purposes, and the identified documents shall not be considered an appropriate or exhaustive list of information necessary for a Proposer to meet the Design-Builder's obligations under the Agreement.

FKAA neither makes any representation nor warranty with respect to, nor assumes any responsibility for the appropriateness, completeness, or the accuracy of, the reference documents. Proposers are solely responsible for conducting their own independent research and due diligence for the preparation of their Proposals and the subsequent delivery of services under the Agreement.

Furthermore, by submitting a Proposal, each Proposer certifies that it has read and understands the limitations of the reference documents as stated above.

### **1.13 Accuracy of RFP and Related Documents**

Should a Proposer find discrepancies in, or omissions from, this RFP and its related documents, the Proposer shall immediately notify FKAA's representative identified in Section 2.4 at the address and telephone number provided. If necessary, a written addendum or a clarification letter will be faxed, mailed, or delivered to each Proposer. Every Proposer requesting a clarification of this RFP will be responsible for delivering such requests in writing.

FKAA considers any information that it may have released either verbally or in writing (other than such written information that was released as part of the formal procurement process) to be unofficial and therefore will not guarantee its relevance or validity.

## 2. Procurement Process

### 2.1 Procurement Objectives

Proposers should recognize that the FKAA, through the D-B solicitation process, seeks private-sector expertise in the development of the Project. In order to identify and solicit proposals from qualified parties, the FKAA has implemented a competitive procurement process to select a highly qualified, financially sound team for the planning, design, and construction of the project. The D-B process is being used to harness the innovation and efficiency of the private sector. In contrast to traditional approaches, the D-B process links project design and construction, encouraging the formation of an integrated teams that will provide the best project approach at a competitive price.

### 2.2 Procurement Process

The FKAA has implemented a two-stage procurement process to select the most qualified Design-Builder for the design and construction of the Project. As part of the RFQ process the FKAA has received and evaluated Statements of Qualifications for Respondents. Qualified Respondents has been selected to receive the RFP and to submit Proposals for the Project. Respondents that were selected to receive the RFP and are invited to submit a Proposal, are as follows:

- Garney Construction
- Higgins General Contractors
- Kiewit Infrastructure South
- Layne Heavy Civil
- Lanzo Construction
- Mastec

The RFP stage of the procurement process represents the second stage of the procurement process. The RFP process is a competitive procurement that is intended to result in the selection of a Preferred Proposer that represents the best value to FKAA. Following selection of a Preferred Proposer, final negotiation of the Project scope and price, which may include but not be limited to value engineering and selection of bid alternatives, will take place.

FKAA is committed to implement the Project through a fair and transparent procurement process that achieves the project objectives stated in this RFP. FKAA will award the Project to the responsible Proposer offering a Proposal meeting the standards set by the FKAA and which is solely determined by the FKAA, through evaluation based upon the criteria set forth in this RFP, to provide the best value and to be in the best interest of the FKAA. Once selected, the Preferred Proposer will enter into the Agreement with the FKAA and the Project will proceed in accordance with the terms and conditions of the Agreement.

FKAA will only accept Proposals for the Project from those Proposers the FKAA has found qualified for the procurement based on their responses to the RFQ for this Project. No stipend



or other compensation or reimbursement of expenses will be paid to Proposers or any other person under or in connection with the RFP. Proposers bear the full risk for the cost of preparing their Proposals.

### **2.3 Rights of the FKAA**

The issuance of this RFP constitutes only an invitation to present a proposal by prequalified Proposers selected through the qualifications process. The rights reserved by the FKAA, which shall be exercised in its sole and absolute discretion, include without limitation, the right to:

1. Require additional information from one or more Proposers to supplement or clarify the Proposals submitted.
2. Conduct investigations with respect to the qualifications and experience of each Proposer, and the Proposer's team members. FKAA considers qualifications provided to be part of the Agreement.
3. Visit and examine any of the projects referenced in the previously submitted SOQs or in the Proposals submitted in response to this RFP.
4. Waive any defect or technicality in any Proposal received.
5. Determine prequalification of Respondents who submitted SOQs, and as a result receive the RFP, and submit Proposals in response to the RFP.
6. Reject any Proposal found to be irregular, incomplete, conditional, or not in compliance with or not responsive to the requirements and instructions contained herein. A Proposal will be found to be irregular or non-responsive for reasons including, but not limited to, failure to strictly comply with the technical and non-technical criteria stated herein, failure to submit information needed to evaluate the Proposal based on the evaluation criteria contained herein, incomplete Proposals, submittal of more than one Proposal by the same firm<sup>1</sup>, or evidence of collusion or conflict of interest.
7. Supplement, amend, or otherwise modify this RFP, prior to the date of submission of the Proposals.
8. Receive written questions concerning this RFP from Proposers and to provide such questions, and the FKAA's responses, to all Proposers.
9. Cancel this RFP in whole or in part with or without substitution of another RFP if determined to be in the best interest and at the sole discretion of the FKAA.
10. Take any action affecting the procurement process, the RFP process, or the Project subject to this RFP that would be in the best interests of the FKAA and at the sole discretion of the FKAA, including, but not limited to, re-advertisement, issue and solicit for other proposals.

---

<sup>1</sup> This requirement does not preclude a subcontractor to be listed in more than one proposal when submitted by different teams.

## **2.4 Communications Protocol**

The FKAA is committed to a fair, open process for interested parties to receive information about the Project and the competitive procurement process that the FKAA is utilizing for selection of a Design-Builder and award of the Agreement.

All questions concerning this procurement process and proposals submitted in response to this RFP must be directed to David Jackson, FKAA Purchasing Manager:

David Jackson  
Purchasing Manager  
1100 Kennedy Drive  
Key West, FL 33040  
Phone: 305-295-2244  
Email: djackson@fkaa.com

All communications to the FKAA must be submitted in writing (no later than 7 days prior to submittal date or as otherwise specified in this RFP) and are subject to distribution to all Proposers. Communications sent via electronic mail may be printed and made available to all Proposers. No verbal inquiries shall be received or responded to.

With the exception of submission of written questions to FKAA, any contact with FKAA staff, Board of FKAA Directors, the FKAA Advisors, Monroe County staff, and other key Project stakeholders by a Proposer concerning any matter relating to this procurement is prohibited and is grounds for disqualification of the Proposal.

## **2.5 Questions and Response Process**

Proposers shall be responsible for reviewing the RFP and any Addenda issued by FKAA prior to the Proposal Due Date, and for requesting written clarification or interpretation of any perceived discrepancy, deficiency, ambiguity, error or omission contained therein, or of any provision which Proposer fails to understand.

Failure of Proposer to examine and inform itself shall be at its sole risk, and no relief for error or omission will be provided by FKAA. Proposers shall submit, and FKAA will respond to, as appropriate, requests for written clarification in accordance with this Section. FKAA will only consider comments or questions regarding the RFP, including requests for clarification and requests to correct errors, if submitted by a Proposer to the FKAA representative, identified in Section 2.4 of this RFP, in writing (i.e., hard copy) or other electronic transmission as allowed above. Such comments or questions may be submitted at any time prior to the applicable last date specified in Section 1.2 of this RFP or such later date as may be specified in any Addendum.

Questions and comments, including requests for clarification or interpretation, shall: (i) be sequentially numbered; (ii) specifically reference the relevant RFP volume (i.e., Book #), section and page number, unless such request is of general nature (in which case the request for

clarification shall so note); and (iii) not identify the Proposer's identity in the body of the question or contain proprietary or confidential information.

The questions and FKAA's responses, when appropriate as determined by the FKAA, will be in writing and will be delivered to all Proposers. The FKAA reserves the right to rephrase questions as it deems appropriate, consolidate similar questions and modify the question to remove information that the FKAA determines is either confidential or unrelated.

## **2.6 Identification of Proposer Authorized Representative**

Proposer shall identify in its Proposal an individual authorized to act on behalf of Proposer relating to this procurement ("Proposer's Authorized Representative"). If a Proposer changes its Proposer's Authorized Representative to receive documents, communications or notices in connection with the procurement subsequent to its submission of its Proposal, Proposer shall provide the FKAA's Authorized Representative with the name, address and e-mail address of such new Proposer's Authorized Representative. Failure to identify a Proposer's Authorized Representative in writing may result in Proposer failing to receive important communications from the FKAA.

## **2.7 Addenda**

The FKAA may, in its sole discretion, revise, modify or change the terms and/or contents of the RFP and/or procurement process at any time before the Proposal Due Date. Any such revisions will be implemented through issuance of written addenda to the RFP. Written addenda are the only means of amending or clarifying this RFP, and no other form of communication whether written or oral will in any way amend this RFP. Only the FKAA's Authorized Representative is allowed to amend or clarify this RFP by issuing an addendum.

The FKAA will notify Proposers of the issuance of addenda in a timely manner. If any addendum significantly impacts the RFP, as determined in the FKAA's sole discretion, FKAA may change the Proposal Due Date. The announcement of such new date will be included in the addendum.

## **2.8 Pre-Proposal Meeting**

A mandatory pre-proposal meeting will be held at the FKAA's office located at 1100 Kennedy Drive, Key West, Florida, on Thursday, September 20, 2012 starting at 2:00 PM local time. The purpose of this meeting is to present and clarify information about the Project and procurement process, and respond to any immediate questions Proposers may have about the RFP. A list of persons in attendance at the pre-proposal meeting will be recorded and made available to all Proposers. Any Proposer that does not have representation at the pre-proposal meeting shall be considered non-responsive and FKAA will not accept or open any Proposals from any entity that did not have official representation at the pre-proposal meeting.

Nothing stated at the pre-proposal meeting or included in a written record or summary of a meeting will modify this RFP unless it is incorporated in an Addendum issued pursuant to Section 2.7 of this RFP.

## **2.9 Information Disclosure to Third Parties**

All Proposals received in response to this RFP shall become the property of the FKAA, subject to all public domain requirements, inclusive of public access as provided by the Open Records Law of the State of Florida, and shall not be returned. If any information contained in the Proposal submittal is considered confidential, proprietary, or a trade secret by the Proposer, such information must be identified accordingly on each and every page of the submittal where it is present. The FKAA will make every reasonable effort to protect such information from disclosure in accordance with applicable law.

Proposers recognize and agree that the FKAA will not be responsible or liable in any way for any losses that the Proposers may suffer from the disclosure of information or materials to third parties.

## **2.10 Changes in Proposer's Organization or Team Members**

Proposers must recognize that its key assigned employees, along with subcontractors and their key employees included in the SOQ, were used as a basis for determining prequalified Respondents for eligibility to submit responses to the RFP. Any changes to Proposer's teams or their known workload from what was submitted with the SOQ, including major subcontractors and key employees, shall not be allowed except for extenuating circumstances, such as corporate takeovers, buyouts, and other unforeseen changes; and as acceptable to FKAA. Proposers may strengthen their teams beyond what was included in the SOQ by adding experienced personnel and subcontractor members.

If a Proposer wishes to make changes in the Key Project Staff identified in its SOQ, including, without limitation, additions, deletions, substitutions, reorganizations, changes in role or of any of the foregoing, Proposer shall submit a written request to FKAA's representative for approval of the change as soon as possible but in no event later than the final date to submit questions set forth in Section 1.2 of this RFP.

The Proposer's request for a change in its team must be accompanied by a written consent from the entity that Proposer seeks to add to its team and a written consent from the entity that Proposer wishes to delete from its team. The FKAA may, in its sole and absolute discretion, grant or deny any such request. If a request is made to allow deletion or role change of any Key Project Staff identified in the Proposer's SOQ, Proposer shall submit such information as may be required by FKAA to demonstrate that the changed team meets the RFQ criteria for Minimum and Enhanced Qualifications.

The Agreement between the FKAA and the successful Proposer will contain requirements for Team member commitments to the Project.

### 3. Scope of Services

#### 3.1 Background

Collection systems and transmission mains for the outer islands (Lower Sugarloaf, Ramrod, Middle Torch, Little Torch, and Big Pine) have been planned and preliminarily sized. The Design Criteria Package included with this RFP is based upon the preliminary design completed to date and includes collection system types and locations, horizontal pipeline locations and alignments, and neighborhood and transmission pump station locations. The transmission system for the outer islands will connect to the central islands' (i.e. inner islands) transmission system for transport to and treatment at the WWTP on Cudjoe Key. The WWTP on Cudjoe Key and the collection systems for the inner islands are being procured separately and are not included in this Project scope. Drawings and specifications for the central islands' collection and transmission main projects are included in the reference drawings listed in this RFP.

#### 3.2 Scope of Work

The Design-Builder selected for this Project will be responsible for design, permitting, construction, procurement, testing, start up, commissioning and providing an extended warranty for the collection systems and transmission mains for the outer islands (Lower Sugarloaf, Ramrod, Middle Torch, Little Torch, and Big Pine) as further described in this RFP.

In the DCP four categories of service areas are identified: primary service areas, additive service areas, outreach areas and the Long Beach Road area. The base design will include the primary areas only. Additive service areas, outreach areas and the Long Beach Road area will be included in the proposal as additive alternates.

The DCP included in Volume 2 with this RFP defines the design for the Project. The design for the primary service areas, additive service areas, outreach areas and the Long Beach Road area shall meet all of the design criteria and requirements of the DCP.

#### 3.3 Basis of Design

Preliminary designs have been completed for the outer island transmission mains and primary service areas collection systems to a level of approximately 30-percent. The designs completed to date include preliminary drawings and design criteria for the Project, which are included in the design criteria portion of this RFP. Collection system design for the additive service areas, outreach areas and the Long Beach Road area have not been developed. The Proposer shall develop preliminary designs for the additional areas for determining pricing for the alternates. Design of the additive service areas, outreach areas and the Long Beach Road area shall be developed using the same concepts and details as were developed for the primary service areas.

### **3.4 Design**

#### **3.4.1 Detailed Design**

The selected Design-Builder shall prepare a detailed final design for the transmission mains, pump stations, collection systems and all other facilities to provide a complete and operable system. The design criteria presented in the DCP of this RFP is the minimum criteria that is to be followed for development of the detailed design. Design of the Project shall meet or exceed the design criteria contained herein, standards and details of the FKAA, all applicable codes and ordinances, and best practices for preparation of conveyance systems design. Design deliverables shall consist of drawings and specifications for the Project.

#### **3.4.2 Quality**

The Design-Builder's design process shall include a Quality Assurance/Quality Control (QA/QC) process for review of all drawings, specifications, calculations, reports and other deliverables. All deliverable documents submitted to FKAA shall be reviewed internally by the Design-Build team prior to submittal.

The Design-Builder's Quality Management Plan shall include the organizational structure, policies and procedures, responsibilities, authorities, resources, requirements, documents, and guidance documents necessary for implementing the Design-Builder's quality management processes (including organization charts, minimum staffing and resource commitments, processes to identify and reach concurrence on required correction action, and detailed descriptions of roles, responsibilities, authorities and reporting relationships).

The Quality Management Plan shall be designed to ensure that the Project design and construction is of the quality required by the Contract and that the permitting, construction work, training of FKAA employees, equipment and systems testing, startup and acceptance testing are performed in accordance with the Contract.

#### **3.4.3 Design Deliverables**

The current preliminary design represented in the design criteria is considered to be approximately 30percent complete. The selected Design-Builder shall complete the design to 100 percent for construction of the Project. Design-Builder shall submit design drawings and specifications at the 60 percent and 90 percent completion levels for review by FKAA. Design deliverables will be reviewed for compliance with the requirements of this RFP and the design criteria contained herein. The FKAA will provide comments on the deliverable submittals and, where the design is determined not to be in compliance with the requirements of the RFP and design criteria, Design-Builder shall modify the drawings and specifications and resubmit them to FKAA. Review by the FKAA is not intended to replace the Design-Builder's internal QC process nor relieve the Design-Builder from ensuring compliance of all requirements for the design.

Additional requirements for design submittals are included in Volume 2, Design Criteria Package, of this RFP.

The design shall be prepared by the Design-Builder's design team under the direction of the Design Manager identified in the Proposal. The design shall be prepared by a licensed professional engineer registered in the state of Florida. The Engineer of Record for each drawing or specification shall be identified on the document. All engineering documents shall be signed and sealed by the professional in charge as required by applicable law.

The Proposer shall submit a proposed overall cost and resource loaded schedule for the Project with the Proposal. The schedule shall illustrate design phase and permitting activities integrated with the construction activities. Refer to Section 3.6.7 for schedule requirements. The selected Proposer shall update and maintain the overall schedule during performance of the Project.

#### 3.4.4 Value Engineering

Subsequent to award of the contract, FKAA and the Design-Builder will participate in a Value Engineering process to optimize the final price and scope of the Project. The Design-Builder shall provide a Certified Value Specialist (CVS), certified by SAVE International, to conduct and oversee the value engineering process. The VE study process shall be conducted in accordance with the following 6 phases of the internationally recognized VE Job Plan: Information, Function Analysis, Creative, Evaluation, Development and Presentation.

Based on the results of the value engineering, the Design-Builder shall submit recommended Value Engineering Change Proposals (VECP) for review by FKAA. The VECP proposal shall result in a savings to FKAA by providing a decrease in cost for performing the Work without impairing any of the essential functions and characteristics such as service life, reliability, economy of operation, desired appearance and safety features.

Design-Builder shall request an initial review of a proposed VECP. If a proposal is found to have merit, FKAA will confirm minimum technical content requirements to be submitted by Design-Builder for further consideration by FKAA. If a VECP proposal is accepted, the Contract Price will be adjusted. Acceptance of a VECP and performance of the Work shall not extend contract times.

If a VECP is approved by FKAA, the Design-Builder may be entitled to share in construction savings. For approved VECPs the reduction in construction price shall be shared equally (50%/50%) by the Design-Builder and FKAA. If an approved change is identical or similar to a previously submitted VECP, or an idea previously utilized by FKAA, it will not be considered for approval.

In the event of acceptance of a VECP, the Design-Builder shall grant to FKAA all rights to use, duplicate or disclose in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such proposal.

Costs of participating in the value engineering process and preparation of VECP proposals shall be included as part of the Price Proposal and no additional compensation shall be provided for participation in the value engineering process.

### **3.5 Permitting**

The selected Design-Builder will be responsible for identifying, preparing applications for, obtaining, and maintaining all necessary documentation, approvals, and certifications and permits for the Project. The following is a minimum list of anticipated permits for the Project (Design-Builder is responsible for identifying and securing all permits required to successfully perform the scope of work).

#### **Florida Department of Environmental Protection**

- Notification/ Application For Constructing A Domestic Wastewater Collection/Transmission System
- Generic Permit for Stormwater Discharge from Large and Small Construction Activities
- Environmental Resource Program (ERP) Permit

#### **Heritage Trail (FDEP)**

- Coordinate placement of pipelines and construction schedule and restoration plan

#### **SFWMD**

- Dewatering permit

#### **FDOT**

- Permit to construct the pipeline in the FDOT right of way
- Permit to attach the pipeline to FDOT bridges
- Maintenance of Traffic (MOT)

#### **United States Army Corps of Engineers/United States Coast Guard**

- Coordinate for bridge crossings

#### **Utility Companies**

- Coordinate location of utilities, connections, and resolve conflicts

The Design-Builder will conduct pre-application/coordination meetings with each of these agencies before the design is completed to incorporate any changes the permits may require. The Design-Builder shall handle responses to all Requests for Additional Information in a timely manner. The FKAA shall be provided advance notification (10 days minimum) by the Design-Builder of any meetings and reserves the right to attend all meetings.

It should be noted that multiple permits may be needed for non-contiguous areas of the Project. In addition, all permit applications prepared by the Design-Builder for Owner shall, upon permit issuance, become property of the Owner.

Proposers are solely responsible for determining all governmental approvals that are necessary for the Project. Where required by applicable law, or requested by FKAA, governmental approvals will be applied for and obtained. Permits shall be obtained in the name of the FKAA as the Owner of the system, as applicable.



It is the Proposer's responsibility to identify all permits needed for the Project and include costs for preparing applications and supporting documents, overseeing and facilitating the permitting process, and paying all permit application fees. Proposers shall include a permitting plan in their Proposal identifying the required permits, schedule for submitting applications and coordination with design and construction activities.

Proposers should be aware that Big Pine Key has special conditions required by US Fish and Wildlife that must be met, including but not limited to, limiting lengths of excavations, covering or plating over open ditches and excavations during construction. This condition, or similar conditions as well as others, may apply on any of the Keys where construction is to be performed. Proposers shall thoroughly review all permitting requirements for the construction areas to ensure they address all requirements.

### 3.5.1 Assumption of Permitting Risk for D-B Work

Subject to FKAA's review rights under the Agreement, the Design-Builder will be responsible for making all applications and taking all other actions to obtain and maintain all governmental approvals necessary to perform and complete the D-B work. Proposers are advised that the Design-Builder is required to assume the risk of obtaining and maintaining all such governmental approvals including, without limitation, the risk of delay of non-issuance (except as limited below). FKAA, however, will retain the risk of unreasonable withholding of a governmental approval by a governmental body in the event the Design-Builder has complied with all terms and conditions imposed by the governmental body and fully and promptly respond to all subsequent requests. The Design-Builder shall be responsible for post construction closeout of permits prior to Project final payment.

### 3.5.2 Contact with Regulatory Agencies and Utilities

Proposers are encouraged to contact and meet with regulatory agencies, County Building Permit officials, and any utility owners with respect to any matters relating to the approvals that may be required for this Project or for the preparation of their Proposals. However, Proposers shall abide by the following requirements with regard to contacting and meeting with regulatory agencies, and utilities with respect to this Project:

- Prior to any initial meeting or contact with any regulatory agency or utility, Proposers shall notify the FKAA Program Manager of such meetings in advance of the initial meeting to allow FKAA to make telephone contact with the regulatory agency or utility to introduce the Project and the Proposer.
- FKAA shall be included in scheduling for, and invited to attend all meetings with regulatory agencies and utilities.

### 3.5.3 FKAA Assistance in Permitting Process

The FKAA recognizes that the activities necessary to secure the governmental approvals are extensive. As the permit holder for the Project, FKAA has an interest in the ability of the Design-Builder to successfully obtain the necessary governmental approvals for the design, construction, and performance testing of the system. FKAA will review and comment on permit

applications and supporting materials submitted by the Design-Builder in the permitting processes and provide signature of permit application, when package is deemed by FKAA to be complete. In no event, however, shall FKAA's assistance to the Design-Builder in the permitting process result in any liability to FKAA, or release the Design-Builder from its obligation to obtain all governmental approvals necessary to design and construct the Project.

### **3.6 Construction**

#### **3.6.1 Construction Management and Reporting**

The selected Design-Builder shall be responsible for construction of the Project and overall construction management and reporting for the duration of the Project. This shall include, but is not limited to, planning and coordination of all construction activities of the Design-Builder's staff and all subcontractors and vendors, oversight and management of a site safety program, procurement of all materials and services during construction, coordination of all activities necessary to permit construction and operation of the Project, oversight and implementation of a Construction Period QA/QC Plan, material inspection and testing as identified in the DCP, reporting of all Construction Period activities, development and maintenance of a construction schedule, cost reporting and monitoring, and other tasks as defined in this request for proposals. The construction schedule shall follow the phasing requirements outlined in the DCP.

The Proposer shall prepare a **Plan of Construction** defining all elements of their plan to perform the construction of the Project. The Plan of Construction shall include the requirements of this section and requirements of other sections contained within this RFP as a minimum. The Plan of Construction shall be comprehensive, describing the processes and procedures to be followed by the Proposer and their subcontractors to complete the project and place it in operation. Responsibilities for performance of the construction activities shall be included in the Plan of Construction and an organization chart of the proposed construction team shall be included. The Plan of Construction shall include, but not be limited to the following items:

- Stormwater Management and Construction Drainage Dewatering Plan
- Site Utilization Plan
- Identification of areas for laydown, storage and temporary storage of excavated materials
- Construction Sequencing for each Key and a Detailed Construction Schedule (see 3.6.7)
- Schedule of Values for approval by FKAA
- Dewatering and Excavation Plan
- Restoration Procedures
- Temporary closure of excavations (nights, weekends)
- Dust control (Design-Builder will pay for all water used for dust control and all other uses during construction)
- Any Special Construction Plans (i.e. directional drilling, etc.)

- Health and Safety Plan
- QA/QC Plan
- Emergency Action & Recovery Plan
- Change Management Plan
- Initiation of Operations and Close-out Plan

The conceptual Plan of Construction shall be submitted as part of the Proposal. The Proposer shall submit the detailed Plan of Construction prior to the start of construction.

### 3.6.2 Project Management Information System (PMIS)

The Design-Builder shall develop, implement and utilize a construction PMIS approved by FKAA to facilitate accurate exchange and monitoring of information among all parties. The PMIS shall include, but not be limited to, the following:

- Project correspondence
- Narrative reporting, on a monthly basis
- Preconstruction photographs
- Schedule updates and control, on a monthly basis
- Cost control and estimating
- Project accounting
- Payment requests
- Change Orders
- Daily Quality Control/Inspection Reports
- Test results
- Change Order Log
- Request for Information Log
- Permit status reporting to the permit agencies
- Meeting Agenda/Meeting Minutes
- Monthly Progress Reports
- Submittal Log
- Record drawings
- Safety statistics
- Miscellaneous submittals to FKAA and its advisors

### 3.6.3 Project Budget Reporting

The Design-Builder shall prepare a project budget monitoring protocol to provide monthly updates on the status of financial attributes of the Project. The protocol shall monitor and provide updated cash flow projections throughout the construction period. Significant deviations from the previous cash flow projections shall be identified and explained.

### 3.6.4 Construction Site – Office Requirements

The Design-Builder shall provide for the FKAA staff, temporary office space during construction. The construction office trailer shall have all-metal frame, all-metal exterior, sides, and roof and insulated double walls, floor, and roof with the following minimum features:

- Eight foot interior, 110-volt lighting and wall plugs; fluorescent ceiling lights; electric heating and self-contained air conditioning unit properly sized for Project locale and conditions; toilet and wash basin in separate compartment with hot and cold water and drains; railed stairways and landings at entrances; sign on entrance door with wording as provided by the Owner; two exterior solid core doors with locks keyed alike; two windows with security guard screens, blinds or drapes.
- Minimum 650 square feet floor space with two private offices, 10 feet by 12 feet; 6 foot by 8 foot storage room with door and cylinder lock, keyed differently than exterior door locks; shelving in storage room 72 linear feet, 18 inches deep; two plan tables; plan rack; two desks in offices and two workstations in the open spaces; two 2-drawer, steel file cabinets; overhead shelf(s); two work surfaces 30 inches by 10 feet at desk height of 29 inches from floor.
- Office Equipment including bottled water service with cooler capable of producing hot water and cold water; paper cup dispenser with cups; paper towel dispenser with towels; two steel desks 30 inches by 60 inches with desk surface located 29 inches from floor; two work stations with surfaces located 29 inches from floor; two 2-drawer, steel file cabinets; overhead shelf(s); four desk chairs with five castor base, adjustable height, swivels, locking back, adjustable seat back for height and angle, adjustable arms; two folding tables 36 inches by 72 inches; eight steel folding chairs; one drafting table 3 feet by 6 feet, one drafting stool.
- Two four-drawer steel files with lock, legal width; two drawing racks with drawing hangers; two bookcases, 36 inches wide by 84 inches high; three wastepaper baskets; clothes rack; first-aid kit; two Tri-Class (ABC) dry chemical fire extinguisher, 10-Pound; three telephones with one intercom line and two incoming/outgoing lines, Touch-Tone, with conference speaker, and 12-foot coiled handset cord; Digital Answering Machine: AT&T; Model 1739. Facsimile (Fax) Machine: Brother 1030E with connecting cables; duplicator, dry type, self-feeding, capable of providing 11-inch by 17-inch, 8-1/2-inch by 11-inch, and 8-1/2-inch by 14-inch copies and collating multiple copies to 10, and reduction and enlargement capabilities; include maintenance service agreement for duration of contract; HP LaserJet M5035XS printer, with postscript and additional memory; printer accessories; HP LaserJet MFP Analog Fax Accessory model Q3701A, manufacturer's standard network-attached storage device.

Provide 1.54MB, T1 internet connection with minimum of four live portable computer (PC) ports; 8.11(n) wireless router; appropriate jacks, CAT-5 patch cords, wiring, and equipment required for a complete telecommunications system. Arrange and provide for telecommunication service for use during construction. Pay costs of installation, maintenance, and monthly service of internet connection.

Design-Builder shall maintain in good repair and appearance, and provide weekly cleaning service and replenishment, as required, of paper towels, paper cups, hand soap, toilet paper, first-aid kit supplies, and bottled water; replenish, as needed, facsimile paper, duplicator paper and toner, computer paper, and printer toner; provide for electric, water and sewer services for the duration of the contract. Monthly utility bills will be borne and paid for by the Contractor.

Design-Builder shall propose for FKAA's approval a location for the construction trailer to best suit the Project.

### 3.6.5 Construction Team Organization

The construction team shall include the Project Manager, Construction Manager(s), Superintendents, Construction QC Manager, Health and Safety Manager, inspectors, and subcontractors necessary to complete the construction of the Project in an efficient and timely manner. The Project Manager shall be a full time assignment for the duration of the Project. The construction team shall also include administrative staff, scheduling, procurement, and other support staff as needed to perform all aspects of the Project. The construction team shall be located at the project site for the duration of the construction. The construction team organization will be presented in the Plan of Construction.

### 3.6.6 Team Members, Processes, and Responsibilities

A description of the Proposer's construction team outlining the proposed organizational structure and identifying construction team members, including subcontractors with Construction Period roles and responsibilities, shall be provided in the Plan of Construction.

A construction team organization chart shall be included in the Plan of Construction. The organization chart shall clearly delineate lines of authority and reporting of the construction team staff.

Proposers shall describe their approach to ensuring that adequate qualified personnel resources are available to support the construction activities throughout the construction period of the Project. The Proposal shall indicate the percentage of time key individuals of the construction team will be committed to the Project and indicate if any individuals will be assigned to a location other than the Project construction site.

### 3.6.7 Construction Period Services Schedule

The Design-Builder's construction period responsibilities will include maintaining a detailed project construction schedule (submitted with the Proposal) and updating construction activities of each element of the Project along with their inter-relationships and milestone dates relative to project completion.

The Proposer shall develop and include with the technical proposal, a proposed cost and resource loaded overall master schedule for the Project in Primavera Project Planner (P3 or P6). The Project schedule shall be in Critical Path Method (CPM) format identifying the critical path activities. The schedule shall be based upon a Work Breakdown Schedule (WBS) commensurate with the complexity and duration of the Project, including design, permitting and construction

activities. Each activity shall include early and late start, early and late finish, activity duration, anticipated costs and resource requirements. The schedule shall include Notice To Proceed (NTP), substantial completion, final completion and other significant milestones such as: submittal of design deliverables, obtaining required permits and licenses; excavation, pipe placement, leak testing, pump testing, etc.; procurement and delivery of key materials; utility relocation and activities by subcontractors; mobilization and site preparation activities, shoring plans, temporary pollution/erosion control, construction of detours, clearing and grubbing, dewatering, etc.; agreement-specified milestones; cleanup; punch list work; commissioning; and demobilization and project closeout.

A phasing plan for construction of the collection systems and transmission main has been developed and is included in the DCP. The Project schedule developed by the Proposer shall incorporate the phasing as outlined in the DCP. The schedule shall include tie-ins with the inner islands transmission main. For planning purposes, Proposers shall use May 1, 2014 as the completion date for construction of the inner islands transmission main by others. The Design-Builder will not be able to achieve substantial completion of the transmission main for this Project until the inner island is completed, tested and placed in service.

The schedule shall be updated monthly throughout the duration of the Project. Actual durations of tasks shall be shown as they are completed showing the actual start and finish date(s), percent complete and/or working days remaining. In addition to tracking progress for completed work, other information that should be recorded is expected start and finish dates for anticipated and unanticipated delays and added or deleted scope of work. Adjustments to agreement time including excusable delays, changes in work, added scope of work, weather delays, procurement delays and other impacts on the duration of each task shall be included with the updates.

### 3.6.8 Construction Quality Assurance and Quality Control Plan

The Design-Builder shall be responsible for developing and implementing a project-specific Quality Assurance and Quality Control (QA/QC) Plan for the construction of the Project. The QA/QC Plan shall be submitted with the Proposal. The QA/QC Plan shall identify the construction QA/QC Manager responsible for ensuring that the plan is followed.

The QA/QC Plan shall describe the Design-Builder's overall approach to quality as well as specific quality management processes and their operation by the Design-Builder. The QA/QC Plan shall define by whom, when and how controls are to be applied to specific technical or Project efforts and shall outline how these efforts are planned, implemented, and assessed. It shall identify those items, programs, or activities to which it applies, and identify and describe activities which directly or indirectly affect quality. At a minimum, it shall include for the Design/ Builder and all subcontractors:

- Identification of Proposer's Construction QA/QC Manager.
- Identification of site resident observers and qualifications.
- Organization chart of the construction QA/QC team.

- Key elements of Construction QA/QC to be implemented on the Project.
- Processes and tools used during construction to deliver a quality Project.
- Source inspections and testing to be performed on materials prior to delivery to the Project site.
- Onsite inspection and testing to be performed on materials and equipment.
- Leakage testing (Design-Builder will pay for all water used for leakage testing and all other uses during construction)
- Functional and performance testing (Design-Builder will pay for all water used for functional and performance testing as well as all other uses during construction)
- Documentation and forms to be used for all testing and inspections.
- QA/QC submittal procedures.

The QA/QC Plan shall be maintained at the jobsite(s) at all times, either in electronic form (where accessible) or as hard copy.

The proposed QA/QC Plan shall be submitted to FKAA with the Proposal.

### 3.6.9 Completion of Construction Period

Completion of the Construction Period includes, but is not limited to, completion of all construction activities, commissioning, FDEP certificate of completion, placing the transmission main, pump stations and collection systems in service, demobilization from the site, and completion of all documentation for the construction period.

Neither payment to the Design-Builder, utilization of the Project for any purpose by FKAA, nor any other act or omission by FKAA shall be interpreted or construed as an acceptance of any work of the Proposer not strictly in compliance with the Agreement.

### 3.6.10 Substantial and Final Completion

The Design-Builder shall be responsible for performing all activities needed to achieve Final Construction Completion following the notification of Substantial Completion.

Substantial Completion of the Project shall be as defined in the General Conditions. The Design-Builder shall develop and submit to FKAA a plan for partial substantial completion to allow FKAA to place segments of the Project into operation as construction of other segments are being completed. When the Proposer feels the Project, or a segment of the Project, has reached Substantial Completion, the Proposer will notify FKAA. Upon notification, FKAA will review the progress of the Project to determine if such partial segment is complete and can be fully placed into full time uninterrupted service. Following the final review and verification that the construction work is performed according to the plans and specifications, and that the requirements defined in the Agreement are satisfied, the Project will be deemed to have achieved Substantial Completion.

Final Completion will be as defined in the General Conditions. After Substantial Completion is achieved, the Design-Builder will perform all close-out activities. Close-out activities shall

include, but not be limited to, the completion of all punch list items defined at the point of substantial completion, final permit acquisition and closeout, completion of all record documentation.

#### 3.6.11 As-Built Drawings and Documents

The Design-Builder shall maintain a set of as-built Documents during the construction of the Project. FKAA will review the as-built drawings monthly as part of the pay application process. The as-built drawings shall be used for preparing final record drawings for the Project.

#### 3.6.12 Record Documents

After substantial completion and prior to final completion, the Design-Builder shall prepare record drawings based upon the as-built drawings maintained during construction. The record drawings shall be an update and revision to all construction drawings prepared during the Design Period of the Project, including all revisions and addenda. The record drawings shall be stamped and certified by the design professional for the Project as an accurate and complete representation of the final as-constructed conditions.

Additional requirements for the Record Drawings are included in Volume 2, Design Criteria Package, included with this RFP.

All QA/QC documentation prepared during the Construction Period and other testing and investigative reports (including actual raw data) shall be organized and submitted to FKAA prior to final completion.

#### 3.6.13 Safety Plan

Prevention of accidents on or near the construction site is the responsibility of the Design-Builder. Design-Builder shall take all necessary precautions to ensure the safety of all persons and property during construction and will protect Design-Builder's Work and adjacent property from damage caused by Design-Builder's operations. Design-Builder will conform to all laws and regulations relating to health and safety and with site-specific health and safety plans, which shall be developed for the Project. Proposer shall designate a qualified representative responsible for safety at the Project site. The Proposer shall submit a draft Health and Safety Plan and safety organization chart delineating project safety procedures and responsibilities respectively, to FKAA. FKAA's review of the Safety Plan shall in no way relieve the Design-Builder for maintaining site safety.

Design-Builder shall at all times be solely responsible for all aspects of safety in connection with Design-Builder's Work, including initiating, maintaining, and supervising all safety precautions and plans. Such responsibility includes, without limitation, the obligations set forth in the remainder of this section. Proposer shall perform Design-Builder's Work or ensure that it is performed, in a manner to avoid risk of injury to persons or damage to property and shall continuously inspect Work, which includes all of Design-Builder's materials, equipment and lower tier subcontractors, to discover the existence of any conditions that impose a risk of bodily injury or damage to property.



Proposer agrees to perform health and safety pre-qualification of all lower-tiered subcontractors prior to subcontract award. Lower-tiered subcontractors must show their ability to comply with health and safety requirements by completing a written questionnaire outlining their health and safety program components, incident history, and training programs for the previous 3 years. Proposer shall not accept lower-tiered subcontractors that have incident statistics or workers' compensation experience modification rates (EMR) exceeding industry average for the industry specific to that lower-tiered subcontractor's work. Proposals shall include incident histories and EMR rates for all team member firms and lower-tiered subcontractors for the previous three 3 years.

Design-Builder's employees and those of its lower-tiered subcontractors shall receive appropriate training before beginning work at the Project site. Design-Builder shall hold regularly scheduled project safety meetings to instruct its personnel and employees of its subcontractors on safety practices. Design-Builder shall furnish appropriate safety equipment for Work in progress, train appropriate personnel in the use of the equipment, and enforce the use of such equipment by its employees and those of its lower-tiered subcontractors.

Design-Builder shall comply with and secure the compliance of its employees, lower-tiered subcontractors, suppliers and agents with applicable Laws, its Safety Plan and those of FKAA, and with the reasonable recommendations of insurance companies having an interest in the Project.

Design-Builder shall notify FKAA immediately following any accident and promptly confirm the notice in writing. A detailed written report shall be furnished as required by Laws or as requested by FKAA.

FKAA may stop any part of the Work that they deem unsafe until corrective measures satisfactory to FKAA have been taken. FKAA's review of Proposer's Health and Safety Plan, its observations or failure to stop Design-Builder's unsafe practices shall not relieve Design-Builder of its sole responsibility for safety, limit Design-Builder's obligation to undertake any action necessary to maintain a safe environment, or create an obligation for FKAA. Design-Builder shall indemnify FKAA for fines, damages, or expenses incurred by FKAA because of Design-Builder's (including any lower-tiered subcontractor's) failure to comply with safety requirements.

#### 3.6.14 Emergency Action and Recovery Plan during the Construction Period

The Design-Builder shall be responsible for planning and specific response actions to be taken during an emergency that may impact the integrity of work in progress or completed and existing utilities and facilities. The Design-Builder shall prepare an Emergency Action and Recovery Plan that will protect construction areas from damage, protect employees, minimize disruption to the public, and protect stockpiled material and equipment. The Emergency Action and Recovery Plan shall be project specific and comprehensively address specific emergency situations that could arise during construction of the Project. The Plan shall identify the

anticipated emergency situations, and shall include all procedures, checklists, and contact information for the Project.

The Design-Builder shall conduct planning, staffing, and implementation for hurricane response, disaster recovery, and business continuity as addressed in the Plan. The Design-Builder shall provide orientation to all employees, including subcontractors and vendors, regarding various procedures and requirements to be followed in an emergency situation.

Design-Builder shall provide contact information of the persons to be notified in the case of an emergency. A minimum of two individuals shall be identified to respond to an emergency event. Should the contact information change during the Project, the Design-Builder shall immediately notify FKAA and update the Emergency Action and Recovery Plan. During an actual event, should the designated individuals not respond, FKAA may take the action appropriate to address the situation. Costs incurred by FKAA in these situations shall be deducted from retainage payments to the Design-Builder.

Proposers shall submit an outline of their Emergency Action and Recovery Plan with the Proposal. The final Plan shall be prepared and submitted to FKAA for review and approval prior to starting construction.

#### **3.6.15 Warranty**

Design-Builder shall warranty the Project for two (2) years from date of Substantial Completion. Design-Builders shall obtain and pay for manufacturers' warranties for material and equipment as necessary to provide full warranty of the project for the 2 year period. Manufacturers' warranties shall be transferred to FKAA at the completion of the Project.

### **3.7 Project Management**

The Design-Builder shall provide overall project management for design, development, construction, outfit, start-up, performance testing, and obtaining of governmental approvals for the Project. The Design-Builder shall designate a single individual (the Design-Build Project Manager) assigned full time for the duration of the Project for overall direction and coordination of the design team, construction team and all subconsultants and subcontractors.

#### **3.7.1 Communications**

The Design-Builder shall direct all communications for the Project through FKAA's designated Project Manager and/or designated representatives. Requests for information, clarifications or changes shall be made by the Design-Builder on approved forms. The Design-Builder shall not represent FKAA in the press without expressed written consent from FKAA.

Formal communications for the Project will be documented as described in this section. Informal communications by phone and e-mail which occur routinely have no documentation requirements associated with them. However, communication regarding the technical or administrative aspects of the Project shall be formalized and documented as described in this section.

The Design-Builder shall develop a Project communications plan that describes the key positions of the proposed team members including names and contact information. It will incorporate the requirements included in this section. The Project communications plan shall establish and maintain a system to track formal communications. The Project communications plan shall also describe the emergency communications protocol.

### 3.72 Meetings

In addition to the meetings and workshops provided as part of other tasks, the Design-Builder is required to participate in monthly progress meetings with FKAA. If deemed necessary by FKAA, at FKAA's sole discretion, progress meetings may be held weekly until such time that it is determined that the Project warrants return to monthly meetings. Within five (5) working days after any meeting, the Design-Builder will prepare draft meeting notes, including major discussion items, action items, commitments, and list of participants and distribute to meeting participants for review and comments. Two working days after distributing the draft, the Design-Builder shall incorporate review comments and distribute the final notes to participants.

### 3.73 Monthly Progress Reports

Each month, the Design-Builder shall submit a Monthly Progress Report to FKAA. This Report will include the following items as a minimum:

- Brief narrative of design and construction progress and deliverables made by the Design-Builder since the last Monthly Progress Report
- Progress photos
- Health and safety summary including monthly and project to date OSHA recordable and first aid incidents
- Procurement summary and log
- Change order summary and log
- QA/QC
- Anticipated progress over the next period including an updated list of deliverables, meetings, construction progress, and other anticipated Design-Builder activities
- Update on all permitting and environmental activities
- Updated list of action items, any outstanding items and decisions needing action
- A list of concerns and/or potential issues
- An updated critical path method (CPM) Project Schedule and synopsis of critical task progress and narrative of whether Project is on schedule and if not what is being done to correct any issues

Monthly Progress Reports will be electronically distributed within five working days after the end of each month to provide FKAA with adequate time to review the information. Each Monthly Progress Report will be concisely written and will include a one-page executive summary and a one-page summary progress schedule to facilitate the presentation of the materials to FKAA.

### **3.8 Easements**

Some portions of the Project will require construction on private property. This may include residential and business properties as well as private roadways for construction of pipelines, pump stations and laterals. The Design-Builder shall be responsible for identifying specific easement needs. The FKAA will obtain the easements for properties upon which the design described in the DCP is based. If the Design-Builder chooses to alter the design and locate piping or equipment on private property that is not shown in the DCP, the Design-Builder will be responsible for obtaining any needed easements for those properties. The Design-Builder shall also be responsible for any surplus property needed from FDOT to construct within the current FDOT right-of-way.

The Design-Builder will include in the Project schedule, reasonable and sufficient time for FKAA to obtain the necessary easements. FKAA will endeavor to obtain all easements in a timely fashion to avoid delays in construction, however, the Design-Builder will need to include contingency plans and alternate construction sequencing as needed to continue construction progress in the event some easements are delayed. No additional compensation will be made to the Design-Builder for delays in obtaining easements.

During design, permitting and construction, the Design-Builder must respect private property areas and exercise caution when access to these areas is needed. All liability for damage to private property resulting from this Project shall be the responsibility of the Design-Builder.

### **3.9 Public Outreach**

Construction of the Project will take place in neighborhoods along public and private roads, rights-of-way, and on privately owned property. It is FKAA's intention to maintain good communications and relationships with property owners, residents, businesses and public officials throughout the Project. The FKAA will lead the public outreach activities for the Project. The Design-Builder will support FKAA in public outreach activities.

FKAA will be responsible for overall communications with individuals impacted by the Project. This includes holding public meetings to keep property owners, residents, business owners and public officials informed of the development and construction progress of the Project. The Design-Builder will participate in public meetings and assist FKAA in communicating with the public as directed by FKAA.

During construction, the Design-Builder will provide near-term notification to residents and businesses when work will be performed near or on their property or when access to property is restricted due to construction activities. This will be done through the use of door hangers, signs and verbal communications as necessary to keep residents and business owners informed of construction work that will affect them.

The Design-Builder will assign a full time representative who will be present in the field when construction activities are being performed. This individual will be responsible for addressing questions, concerns and issues local residents and business owners may have when construction is proceeding that may impact or be in proximity of their property. The field

representative will keep the FCAA project manager informed at all times as issues arise in the field.

Proposers shall include in their Proposal, identification of their proposed field representative and a description of their approach for supporting the Public Outreach needed to ensure a successful project.

## 4. Requirements for Submittal of Proposals

### 4.1 Overview of Proposal Submittal Requirements

Proposers shall submit a fully developed Proposal in accordance with the instructions provided in this section of the RFP. In addition to text discussions, Proposers shall submit design drawings, diagrams, and the Proposal Forms included with this RFP. Text discussions should include references to the design drawings, diagrams, and Proposal Forms.

Proposers shall provide the information requested in this RFP in accordance with the format and content requirements outlined below. Failure of the Proposer to provide all of the requested information and to provide it in the requested format may result in the FCAA, at its sole discretion, determining that its Proposal is non-responsive to the requirements of the RFP.

### 4.2 Proposal Format

The Proposal shall consist of a Technical Proposal and a Price Proposal that will each be evaluated separately.

#### 4.2.1 Technical Proposal

The Technical Proposal shall be organized into the following sections, with page limits as indicated, containing the content further described below:

Section 1.0 - Transmittal Letter and Executive Summary

Section 2.0 – Table of Contents

Section 3.0 - Proposal Security and Proposal Forms

Section 4.0 - Project Management Approach

Section 5.0 - Design Approach

Section 6.0 – Permitting Approach

Section 7.0 – Construction Approach

#### 4.2.2 Price Proposal

The Price Proposal shall be organized and contain the information as required in Section 4.14. The Price Proposal shall include clear identification of any exceptions that the Proposer may have to the terms of the agreement as presented in the RFP.

#### 4.2.3 Other Requirements

Proposers are encouraged to reduce the repetition of identical information within several sections of the Proposal by making appropriate and specific cross-references to other sections of their Proposal.

Narrative pages shall be 8-½ inches by 11 inches and shall be bound into the volume. A minimum 11-point font size and 1.25 line spacing is required for text in the body of the Proposal. All descriptive text on diagrams and figures must be easily readable. A clear and

concise presentation of information is encouraged within the size limitations established for the Proposal.

Proposals shall be in the English language and shall use English units of measurement. Proposers shall incorporate graphics (e.g., process flow diagrams and drawings) as necessary to clearly present their Proposals. The use of graphics at an 8-½-inch by 11-inch size and an 11-inch by 17-inch size is allowed.

Sales brochures are not desired unless directly related to the Proposal and referenced in the text.

Audiovisual materials will not be accepted.

### **4.3 Proposal Deadline and Address for Submittal**

Proposals shall be submitted on or before 3:00 PM, EST time on Friday, November 16, 2012, or as otherwise may be amended by addendum to this RFP. Proposals received after this deadline will not be considered and shall be returned unopened to the Proposer. Sealed Proposals shall be addressed and submitted to the FKAA representative identified in Section 2.4.

### **4.4 Number of Copies and Packaging of Proposals**

Proposals shall be submitted in hardcopy and electronic format in accordance with the following:

- One (1) original and nine (9) hardcopies of the Proposal shall be submitted. All Proposals shall be complete, with all requested information, data, and attachments. One copy of the Proposal documents must be clearly marked as the original and must contain original signatures and other original documents. The original document should be presented 'un-bound' for ease of copying. The remaining 9 copies of the Technical Proposals and 9 copies of the Price Proposals shall be bound reproductions. Proposers shall number each copy of the documents in sequential order on the upper right corner of each cover.
- Two (2) CD-ROMs each of the Technical Proposal and Cost Proposal shall be included with the submittal with all files in Microsoft® Word or PDF format, as appropriate, with drawings presented in PDF format. The information provided on the CD-ROM shall be arranged in the same manner as the hardcopies of the Proposal. In the event of a discrepancy, the hardcopy submittal of the Proposal marked "original" shall take precedence over the CD-ROM version or other copies.

Proposers shall submit the Technical Proposal in sealed boxes, and a Price Proposal in a single, separate, sealed envelope, duly labeled. Proposers shall present the Technical Proposal in bound form.

The Proposals shall be marked with the following information on the outside of the box/envelope.

*Name of Proposer*

*“Proposal for the Cudjoe Regional Wastewater System Outer Islands Design-Build Project”*

#### **4.5 Technical Proposal Content/Details**

The Proposer shall provide the appropriate information in accordance with the content requirements set forth in this RFP. Proposers are advised that, if selected, as part of the contract preparation phase, portions of the information contained in the successful Proposer’s Proposal will be included or integrated in the Agreement. The FKAA reserves the right to include (or exclude) any information submitted in the Proposal in the final Agreement.

#### **4.6 Section 1.0 - Transmittal Letter and Executive Summary**

##### **4.6.1 Proposal Transmittal Letter**

Together with its Proposal, FKAA must receive one original, fully executed Proposal Transmittal Letter from the Proposer acknowledging, among other things, that the Proposer has completely reviewed, understands, and agrees to be bound by the requirements of this RFP including all addenda. The transmittal letter should briefly summarize the Proposer's understanding of the scope of work, make a positive commitment to perform the work in a timely manner and shall list the principal contact person for the Proposer, their phone number, email address, and street address. The proposal letter shall clearly state that the Proposal price is valid for 120 days from the due date of the Proposal. The Proposal Transmittal Letter shall be executed by a representative of the Proposer who is empowered to sign it and to commit the Proposer to the obligations contained in the Proposal. If the Proposer is a partnership, the Proposal shall be signed by one or more of the general partners. If the Proposer is a corporation, an authorized officer shall sign his or her name and indicate his or her title beneath the full corporate name. Anyone signing the Proposal as an agent shall file with it legal evidence of his or her authority to execute such Proposal.

In the Transmittal Letter the Proposer shall clearly identify any changes to project team, subcontracting arrangements or financial information as included in the SOQ submitted previously for the Project.

##### **4.6.2 Executive Summary**

The Proposer shall submit an Executive Summary detailing the key aspects of the Proposal. The Executive Summary shall present a comprehensive overview of the Proposal. The Proposer's organizational structure should be described and how this structure addresses the design, permitting and construction components of the Project. The Executive Summary should include an overview of the Proposer’s project approach, including phasing and strategies to minimize risk, and the advantages it provides for the long-term benefit of FKAA.



## **4.7 Section 2.0 – Table of Contents**

Provide a Table of Contents for the Proposal.

## **4.8. Section 3.0 - Proposal Security and Proposal Forms**

### **4.8.1 Proposal Security**

No Proposal will be reviewed unless a Proposal guarantee is included in the form of a certified check, cashier's check, or surety bond for an amount of \$2,000,000 as a guarantee that the Proposer will enter into the Agreement under the terms and conditions in the Agreement issued by the FKAA as modified by that portion of the proposed changes to the Agreement offered by the Proposer which FKAA deems acceptable. Notwithstanding any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in the State of Florida and having an A.M. Best rating of at A- or higher. The Proposal security of the Successful Proposer and the other Proposers will be retained by FKAA until seven days after FKAA executes the Agreement with the successful Proposer. Proposals not in compliance with the foregoing Proposal security requirements shall be rejected by FKAA.

### **4.8.2 Financial Information**

Proposers shall update the financial information requested in the RFQ under the following subheadings:

- Financial Statements
- Direct and Indirect Fixed, or Contingent Obligations
- Credit Ratings
- Litigation
- Insurance

This information shall be subject to the same conditions stipulated in the RFQ, unless the FKAA, in its sole election, allows the Proposer to cure an unacceptable condition. If the financial information has not changed from the SOQ submitted previously for this Project, each item shall explicitly state “NO CHANGE” in the appropriate Proposal section(s). If the Proposer, or any participating firm is not a public company, it shall provide independently audited financial statements and may request that the information be treated confidentially by FKAA. FKAA reserves the right to request such financial information from any members of the Proposer’s Project team if such a request is determined to be in the best interest of FKAA.

### **4.8.3 Proposal Forms**

Proposal Forms included as attachments to this RFP shall be completed and included with the Proposal. Proposal Form 1 shall acknowledge receipt of all addenda issued for the Project. Proposal Form 2 shall be completed for each key staff member including the:

- Design-Build Project Manager
- Design Manager

- Construction Manager/Project Site Superintendents
- Health and Safety Manager
- Field Engineer(s)
- Lead Piping Design Engineer/Engineer of Record
- Lead Pump Station Design Engineer/Engineer of Record
- Quality Manager(s)
- List of Subcontractors and any known sub tier subcontractors

The form shall indicate the full time commitment of each key staff member.

Proposal Form 3 shall be completed to certify a drug free workplace for the Proposer's team.

Proposal Form 4 is the Price Proposal form. It shall be properly completed and submitted in a separate sealed envelope as described above.

All proposal forms shall be completely filled in and signed by an authorized representative of the firm as indicated on the form.

#### **4.9 Section 4.0 - Project Management Approach**

Except where resubmittals are specifically required, the project experience requested in this Section may refer to the appropriate and specific portions of a Proposer's previously submitted SOQ if such information was previously provided in the Proposer's SOQ and has not materially changed since the submittal. Any voluntary changes to the information submitted as part of the Proposer's SOQ shall include a description of the proposed change and how the change differs from the previously submitted information. In the case that information has not changed, the Proposer shall explicitly state "NO CHANGE" in the appropriate Proposal section(s) and/or Proposal Forms. Proposers should recognize that the information provided in the SOQ was used as a basis for qualifying respondents thereto. Therefore, any changes to the Proposer's relevant project experience, key assigned employees, Significant Subcontractors and their key employees or financial capability of the Proposer found to be unacceptable by the FKAA may result in disqualification of the Proposer. Therefore, changes to the Proposer's project team, particularly the Proposer, major subcontractors, and key employees, unless it is viewed by the FKAA as an enhancement to the Project Team, shall not be allowed in the Proposal stage except for extenuating circumstances, such as corporate takeovers, buyouts, and other unforeseen changes. Proposers may enhance their teams at any time prior to submission of Proposals by adding additional personnel and subcontractor members. The FKAA shall have the right to determine, in its sole discretion, the acceptability of any changes in the Proposer's financial standing or capability, and, if unacceptable, the conditions, if any, under which the Proposer might cure the unacceptable condition. Proposers shall have the option of pursuing a cure if offered by FKAA, within the timeframe defined by FKAA.

##### **4.9.1 Project Team Qualifications and Experience**

As part of their SOQs, Proposers submitted a list of relevant projects that the Proposer has been involved with as a designer or builder. If any of the information provided in the Proposer's

SOQ has changed, it shall be revised and resubmitted in this section. It is not intended that Proposers resubmit information simply to update an existing project's status.

Key team members shall be identified and their role on the Project specified therein. The key team members shall be as proposed in the SOQ or Proposer shall provide an explanation of the change. FKAA reserves the right to reject Proposals where changes have been made as described in Section 2.10 of this RFP. A complete list of key project staff indicating name of individual and their role. A copy of Proposal Form 2 for each key Project staff person shall be provided as indicated above in Section 4.8.3. The Agreement will incorporate key Project staff information provided in Proposal Form 2.

The Proposal shall include the incident histories and EMR rates for all firms, including subcontractors, identified as part of the Proposer's team.

#### 4.9.2 Organization Chart

An organization chart(s) and written descriptions of the lines of responsibilities shall be presented in a clear and concise manner. Project organization for design, permitting and construction functions should be clearly identified. Include an organization chart defining all reporting/approval responsibilities and note any changes to your staff or included positions.

#### 4.9.3 Risk Matrix

Using the Preliminary Responsibility and Risk Matrix included in Appendix B of this RFP, Proposers should expand upon the matrix to identify all anticipated risks associated with the design, permitting and construction of the Project. The matrix should include identification of the risks associated with each phase of the Project, the potential consequence or effect that the risk will have on the Project schedule, cost and quality, the means by which the risk will be managed and mitigated, and Proposer's proposed allocation of each risk item to the responsible party. Proposer's should add additional risk items to the matrix provided but may not shift risk currently allocated to the Design-Builder or identified as a shared risk, to FKAA. A copy of the updated Preliminary Responsibility and Risk Matrix shall be included with the Proposal.

#### 4.9.4 Public Outreach

A description of the Proposer's approach for supporting Public Outreach activities shall be provided, including identification of Proposer's public information representative.

### **4.10 Section 5.0 - Design Approach**

Proposers must include their Design Approach that demonstrates an understanding of the Project and how it relates to other work being performed on the Cudjoe Regional Wastewater System, and the Proposer's overview of the integration of the project management, design, permitting and construction approaches. The Design Approach section of the Proposal is intended to be a summary and should discuss how the Proposer will accommodate input from the owner, subcontractors and approving agencies. The Design Approach should address how the Design-Builder will prepare the detailed design, conduct internal and external reviews, coordinate with permitting agencies, perform Quality Control and prepare design deliverables.

This section of the Proposal shall also include a discussion of design issues associated with construction of conveyance systems in the area of the Florida Keys.

Specific information that should be included in the Design Approach and Attachments is summarized below.

- Overall project approach to be used by the Proposer to complete the project.
- The Proposal design must clearly define compliance with the RFP design criteria.
- Demonstrate an understanding of the existing conditions, provide a long term solution, be constructible and permissible.
- Describe integration of the designers and constructors during the design process.
- Quality Assurance/Quality Control ("QA/QC") approach identifying the Design Quality Manager assigned to the Project and the key elements to be implemented during the design phase. The QA/QC approach shall describe the processes followed to ensure the final design is sound, accurate, and complete, and that analyses, calculations, and documents to be submitted have been properly reviewed and checked. An outline of the Design QA/QC Plan shall be included with the proposal.
- Resource needs and allocation to provide the survey, engineering and production needed to meet the size and schedule of the Project.

Proposals shall include preliminary drawings for the design. The preliminary drawings shall include horizontal alignment of transmission piping with pipe sizes, locations and configurations of neighborhood and master lift stations, and points of interconnection of the outer island transmission main with the central transmission main being constructed by others. Preliminary drawings shall be included for the primary service areas, additive service areas, outreach areas and the Long Beach Road area as identified in the DCP. Numbers of pumps and horsepower shall be indicated for all lift (pump) stations. All parcels being served by the proposed collection system shall be identified, including identification of property parcels being served by gravity sewers and by low pressure sewer collection systems (E-one). It is anticipated that Proposers' design use the layouts and arrangements provided in the DCP. Any deviations from the DCP shall be clearly identified in the Proposal.

Subsequent to award of the contract, FKAA and the Design-Builder will participate in a value engineering process to optimize the final price and scope of the Project. The value engineering process shall be as outlined in Section 4.4.3. The Proposer's design approach shall include discussion of the process including implementation of approved VECPs into the design, permitting and construction tasks of the Project.

#### **4.11 Section 6.0 – Permitting Approach**

The Proposal shall include a description of the governmental approvals needed to construct, acceptance test, and place the transmission mains and collection systems in operation. The Proposer shall include a Permitting Plan in the Proposal that identifies all permits required for the Project, the name of each applicable governmental agency, the Proposer's estimated calendar time required to submit a complete governmental approval application, total time

estimated to obtain the governmental approval and each instance where coordination or assistance from either FKAA or others in obtaining such governmental approvals is required.

#### **4.12 Section 7.0 – Construction Approach**

The Construction Approach section of the Proposal should include the Proposer's conceptual Plan of Construction. The Plan of Construction shall define, in a conceptual manner, all elements of the Proposer's plan for the construction, including the constructability considerations and the design features considered to mitigate construction risks. The interaction of the design and construction organizational components of the Proposer's team to support the constructability of the Project should be specifically described. The interaction of the design deliverables and permitting elements of the project schedule should be described.

The Plan of Construction shall provide a narrative describing the general approach to completing construction activities. Proposer must address the following components as a minimum:

- Construction Schedule (see Section 4.13, below)
- General plan of staging the work, utility location, sequencing the work, controlling access, erosion control, excavation, dewatering, storing materials, any special construction activities and managing traffic and workers.
- Health and safety approach and outline of the plan that conforms to OHSA standards to achieve a zero injury rate.
- QA/QC plan for the construction phase (outline format) and the QA/QC organization and interaction with the design and construction components of the Proposer's organizational structure.
- Approach for maintaining schedule and controlling cost.
- Change management plan (Outline Format).
- Procurement Plan
- Emergency action and recovery plan (Outline Format).

A detailed Plan of Construction will be required from the selected Proposer prior to the start of construction.

#### **4.13 Section 8.0 – Project Schedule and Schedule of Values**

Proposers shall include a cost and resource loaded overall Project schedule meeting the requirements of Sections 3.4.3 and 3.6.7. The schedule shall include design, permitting and construction activities, with interrelationships between the various activities. The schedule shall incorporate the phasing requirements for the various basins and segments of the transmission main as defined in the DCP.

The Proposal shall include a proposed Schedule of Values for review by FKAA. The Schedule of Values shall be tied to the cost loaded schedule.

#### **4.14 Price Proposal**

A Proposal submitted in response to this RFP must contain a Price Proposal that fully conforms with and satisfies the format and content requirements described herein. The Price Proposal shall be submitted in a sealed envelope separate from the Technical Proposal.

##### **4.14.1 Lump Sum Price**

The Price Proposal shall include a lump sum fixed Design-Build price for the Project allocated as indicated on Proposal Form 4, Price Proposal. Pricing shall be provided for the base Project consisting of design, permitting and construction of the primary service areas and transmission main as described in the DCP. Pricing shall be provided for the primary service areas and transmission main on an island by island basis as shown in the Proposal Pricing form.

Additional pricing shall be provided as additive alternates for several items as follows:

- Provide pricing for the additive service areas as defined in the DCP.
- Provide pricing for the outreach areas as defined in the DCP.
- Provide pricing for the Long Beach Road area as defined in the DCP.
- Provide alternate pricing for construction of the Niles Channel crossing by directional drilling in the event that placement of the transmission main through the bridge crossing Niles Channel cannot be permitted. The alternate pricing shall include design, permitting and installation of casing pipe by HDD and pulling an HDPE line through the casing pipe. The alternate pricing shall represent the difference in cost for constructing the water crossing using horizontal directional drilling (HDD) in lieu of installation of the piping within the bridge as currently shown on the preliminary plans in the DCP.
- Provide pricing for constructing the water crossings using 316 stainless steel pipe in lieu of ductile iron pipe as currently shown in the DCP. Alternate pricing shall be provided for each water crossing except for the Niles Channel crossing. All exposed piping for the water crossings shall be bare 316 stainless steel pipe segments of 20 linear feet each connected by flanges with expansion joints a minimum of 60 feet apart, including all fittings, valves, hangers and appurtenances. Pricing shall be provided for crossings associated with each area of the transmission main as included in the Price Proposal form. The pricing shall represent the difference in cost for constructing the crossings of stainless steel in lieu of ductile iron.

The base Design-Build price for the collection systems and transmission main for each island shall be totaled and indicated on the Price Proposal form. The additive alternative prices shall be totaled and indicated on the Price Proposal form. The totals of the base price and the alternate pricing added to provide the Total Project Lump Sum Price.

The lump sum prices included on the Price Proposal Form shall include a warranty for two (2) years from Substantial Completion.

#### 4.14.2 Unit Prices

With the Price Proposal the Proposer shall also submit unit prices without quantities. The unit prices will be used in the event of a change order during completion of the Project. The unit prices will be used for both additive and deductive change orders.

Unit prices provided shall include but not be limited to: price per linear foot including fittings of each pipe material and size anticipated to be used in the Project, valves of each type, size and material, manholes, sanitary laterals, low pressure sewer pump stations, lift stations (duplex/triplex), horizontal direction drilling under roadways, pavement restoration, and other items that may reasonably be anticipated to be needed.

#### 4.14.4 Duration of Proposal Pricing

The Lump Sum Price Proposal shall be valid for 120 days after the due date for submittal of the Proposal. Upon award the final Project price will be fixed without indexing. Unit prices provided with the Proposal shall be valid until final completion of the Project is achieved, or until January 31, 2016, whichever occurs last.

## 5. PROPOSAL EVALUATION

### 5.1 Evaluation Committee

The FKAA will assemble an Evaluation Committee to evaluate the Proposals, thereby determining the Proposer with whom the FKAA will then enter into negotiations. Once negotiations are complete, the Evaluation Committee will formalize its recommendation for action and submit it to the Board of Directors for approval.

The FKAA endeavors to maintain strict confidentiality and objectivity throughout this procurement process. Thus, Proposers shall in no way attempt to communicate with FKAA staff, Board members, County staff, or other key Project stakeholders except as outlined in the Communications Protocol in this RFP. Failure to adhere to this requirement will result in disqualification of a Proposer's submittal.

### 5.2 Initial Technical Proposal Evaluation

Upon receipt, the Technical Proposals will be distributed to the Evaluation Committee members to begin their review. Price Proposals, to be submitted in separate sealed envelopes, will not be opened with Technical Proposals.

The Evaluation Committee members' initial review will consist primarily of becoming familiar with each Proposer's Technical Proposal and to verify compliance with the RFP, completeness of the Proposal and to determine if interviews will be needed. Nothing related to this review will exempt the Design-Builder from meeting all the requirements of the Agreement and performance guarantees.

### 5.3 Proposer Interviews

At FKAA's sole discretion each Proposer may be asked to participate in an up to 2-hour interview with the FKAA Evaluation Committee members. If needed, interviews will be held on the date indicated in Section 1.2. Interview times for the Proposers will be announced after receipt of the Proposals.

The interviews will include a technical presentation by the Proposer and a discussion (question and answer) session with the Evaluation Committee. Proposers may bring up to six (6) individuals to the interview, which shall include at a minimum key project staff, including the:

- Design-Build Project Manager
- Design Manager
- Construction Manager
- Lead Piping Design Engineer
- Lead Pump Station Design Engineer

### 5.4 Technical Proposal Clarifications

The Evaluation Committee members will determine if any additional clarifications regarding the Technical Proposals received from any of the Proposers are necessary. If in the opinion of



the Selection Committee, additional clarification is deemed necessary, these clarification requests will be submitted to the Proposers in writing. Proposers will have a minimum of 5 business days to provide a response to the clarification request correspondence. Failure to respond within this time period may result in a Proposer being considered non-responsive to this RFP.

Proposers are notified that responses to the clarification requests will be considered in the final Technical Proposal evaluations and, thus, may be included in the final Agreement.

## **5.5 Detailed Technical Proposal Evaluations**

After the initial review and if necessary, interviews and receipt of clarification responses, the Evaluation Committee will complete an evaluation of the Technical Proposals. It is expected that the Evaluation Committee will complete the evaluations by the date indicated in Section 1.2. Rankings previously completed as part of the RFQ process will have no bearing on the evaluation of the Technical and Price Proposals.

Technical Proposals will be evaluated on a pass/fail basis. Proposals must be responsive to all requirements of this RFP, including submittal of the required proposal security, to be considered for evaluation. The Proposal will be evaluated to determine that the Proposal is complete, presents a full understanding of the Project, commits the necessary resources, includes a fair and reasonable allocation of project risks, and has a well developed plan for executing the Project. The Evaluation Committee will evaluate the Technical Proposals as described below.

### **5.5.1 Proposal Section 1.0 - Transmittal Letter and Executive Summary**

A Transmittal Letter and Executive Summary of the Proposal that clearly identifies the Proposer's understanding of the Project, acknowledges review of the RFP requirements and agrees to be bound by those requirements including all addenda, provides a commitment to perform the work in a timely manner, states that the lump sum prices submitted are valid for 120 days after the due date of the Proposal, identifies any changes to the Project team from that submitted previously in the SOQ, and is properly executed by a representative of the Proposer's team who is empowered to sign it and to commit the Proposer to the obligations contained in the Proposal, is required with the submittal. The Transmittal Letter and Executive Summary will be determined to either pass or fail depending upon whether or not they have met the requirements of this RFP.

If the Transmittal Letter and Executive Summary fails to meet the requirements of this RFP, the Proposal will not be further reviewed or evaluated.

### **5.5.2 Proposal Section 3.0 - Proposal Security and Proposal Forms**

Proposals must include a Proposal guarantee in the form of a certified check, cashier's check, or surety bond for an amount specified in Section 4.8.1 as a guarantee that the Proposer will enter into the Agreement under the terms and conditions in the Agreement issued by the FKAA as modified by that portion of the proposed changes to the Agreement offered by the Proposer which FKAA deems acceptable. The Evaluation Committee will also consider any changes

between the financial information submitted with the Proposer's SOQ and the updated information submitted in the Proposal.

If the proposal security is not included with the Proposal or if it fails to meet the requirements of this RFP, or if in FKAA's sole discretion the Proposer's financial qualifications have been downgraded significantly, the Proposal will be considered to have failed this criteria and will not be further reviewed or evaluated.

Proposal forms 1 through 3 required by Section 4.8.3 shall be completed and submitted with the Proposal. Failure to fully complete and include all forms required by Section 4.8.3 shall be cause for rejection of the Proposal.

### 5.5.3 Proposal Section 4.0 - Project Management Approach

This section of the Proposal will be evaluated based on the strength of the proposed design and construction team, experience of the team with respect to performing similar projects in which they worked together, qualifications of the Proposer, its subcontractors, any additional team members with key experience related to the Project, and individual team members related to the design, construction, acceptance, and obtaining of governmental approvals for the Project. Organizational alignment of individuals and definition or responsibilities of key team members will be evaluated. At FKAA's option, FKAA may contact representatives for any of the referenced projects listed in Proposer's SOQ, or updated or supplemented in the Proposal.

Changes in Project staff from that previously submitted in the SOQ will result in re-evaluation of the strength of the team and, if unacceptable to FKAA, will be cause for rejection of the Proposal.

Proposal Form 2, Key Project Staff Experience/Commitment, will be reviewed for each key member of the team. Staff experience, licenses, registrations, time commitment to the Project will be evaluated to determine if, in FKAA's opinion, the Project staffing is acceptable.

The risk matrix submitted with the Proposal will be evaluated for completeness, reasonableness of proposed mitigation strategies and allocation of risks to the appropriate party. Proposed risk matrices that, in FKAA's sole discretion, unacceptably shift risks to FKAA, shall be cause for rejection of the Proposal.

The Evaluation Committee will consider and evaluate the use of DBEs and local businesses on the Proposers' teams against the established goals for the Project.

The incident histories and EMR rates for all firms on the Proposer's team, including named subcontractors, will be evaluated against the criteria included in this RFP.

Proposer's approach to supporting Public Outreach activities will be considered and evaluated.

### 5.5.4 Proposal Section 5.0 - Design Approach

Proposals will be evaluated based on Proposer's description of their understanding of the Project, anticipated design issues associated with construction of conveyance projects in the Keys in general and specifically this Project, integration of the design and construction staff, use

of innovative design to reduce project risk and cost, and their approach to internal quality reviews.

#### 5.5.5 Proposal Section 6.0 – Permitting Approach

Proposals will be evaluated based on Proposer's complete identification of all permits needed for the Project, description of their plan to obtain governmental approvals needed to construct, acceptance test and place the transmission mains and collection systems in operation, reasonableness of durations for obtaining permits, construction schedule and construction sequencing, and coordination with the design and construction of the Project.

#### 5.5.6 Proposal Section 7.0 – Construction Approach

The construction approach described for the Project will be evaluated based on Proposer's description of constructability considerations and the design features considered to mitigate construction risks, the interaction of the design and construction staff to support the constructability of the Project, approach for tracking and maintaining schedule, health and safety approach, incident histories and EMR rates of all firms listed on the Proposer's team, construction QC plan, change management plan and emergency action and recovery plan.

#### 5.5.7 Proposal Section 8.0 – Project Schedule and Schedule of Values

The overall project schedule will reviewed to evaluate coordination of design, permitting and construction activities, and sequencing of construction to meet Project needs. The schedule will be evaluated to determine if completion durations are reasonable, linkage of activities are appropriate to minimize risk, and resources allocated to activities are appropriate for supporting and completing the Project on time. The proposed Schedule of Values included with the Proposal, along with the Project schedule will be used to evaluate overall cash flow for completing the Project. Project schedules that in FKAA's sole discretion, are incomplete, do not provide adequate detail to properly evaluate the Proposer's approach for completing the Project, or do not include appropriate allocation of resources, shall be cause for rejection of the Proposal.

### 5.6 Price Proposal Evaluations

After evaluation of the Technical Proposals, the Price Proposals will be opened and reviewed for those Proposals where FKAA at their sole discretion, has determined the Technical Proposal is acceptable. Price Proposals will not be opened if in FKAA's opinion the Proposal has failed to meet the technical requirements.

Price proposals will be reviewed for completeness, accuracy, compliance with the RFP requirements and consistency with the technical proposal.

The FKAA will review any exceptions to the draft agreement included with this RFP that the Proposer may have included in their Price Proposal. The FKAA will evaluate the exceptions and, if considered sufficiently substantial such that in FKAA's sole opinion an acceptable contract agreement cannot be reached, the risks to FKAA are increased or it is not in line with the Project goals, the FKAA at its sole discretion, may reject the Proposal.

## **5.7 Selection of Recommended Proposer**

The Proposal with the lowest Total Design-Build Base Price as indicated in the Price Proposal that has met all technical requirements and does not include contract exceptions which in FKAA's opinion cannot be successfully negotiated, will be selected as the recommended Proposer. Once a Recommended Proposer has been identified, the Evaluation Committee will make a recommendation to the FKAA Board of Directors for approval. Once a Recommended Proposer is approved by the Board of Directors, the Proposers will be notified of the selection in writing.

## **5.8 Negotiation of Agreement**

The FKAA will select a Negotiating Team to negotiate on behalf of FKAA. This Negotiating Team will submit a formal clarification request, if necessary, to the Recommended Proposer based on a preliminary review of the Price Proposals.

The FKAA's Negotiating Team will then schedule a meeting with the Recommended Proposer to begin negotiations of the Agreement. The Negotiating Team will negotiate in good faith to reach an acceptable Agreement with the Recommended Proposer. Several negotiation meetings may be required.

Should the Negotiating Team determine, in its sole discretion, that a successful negotiation cannot be reached with the Recommended Proposer, then the Negotiating Team will eliminate the Recommended Proposer from further consideration, and begin negotiations with the second technically acceptable lowest price Proposer.

## **5.10 Recommendation to the Board of Directors**

Once negotiations are complete with the Recommended Proposer, the Evaluation Committee will submit a written report to the FKAA Board of Directors with a request to finalize the Agreement with the Recommended Proposer.

Upon Board approval, the FKAA will begin development of the final Agreement incorporating all negotiated changes to the Recommended Proposer's Technical and Cost Proposal.

## 6. LIST OF REFERENCE DOCUMENTS

1. Cudjoe Regional Wastewater Inner Islands Collection System and Transmission System, FCAA Project No. 4052-12, Drawings and Specifications, August 2012
2. Cudjoe Key Advanced Water Reclamation Facility, FCAA Project No. 4028-09, Drawings and Specifications (available on [www.fcaa.com](http://www.fcaa.com) website)
3. Report of Geotechnical Exploration Cudjoe Waste Water Transmission Main, Summerland Key to Lower Sugarloaf Key, Florida, Nutting Engineers of Florida, June 2012
4. Report of Geotechnical Exploration Central Cudjoe Regional Wastewater Collection System Summerland Key, FCAA Project No. 4024-09, Nutting Engineers of Florida, March 2010
5. Report of Geotechnical Exploration Central Cudjoe Regional Wastewater Collection System Upper Sugarloaf Key, FCAA Project No. 4024-09, Nutting Engineers of Florida, February 2010
6. Report of Geotechnical Exploration Central Cudjoe Regional Wastewater Collection System Cudjoe Key, Florida, FCAA Project No. 4024-09, Nutting Engineers of Florida, November 2009
7. Core Boring Report for Niles Channel, 1976
8. Load and Resistance Factor Rating (LRFR) Niles Channel Bridge, Coven Engineering, June 3, 2009

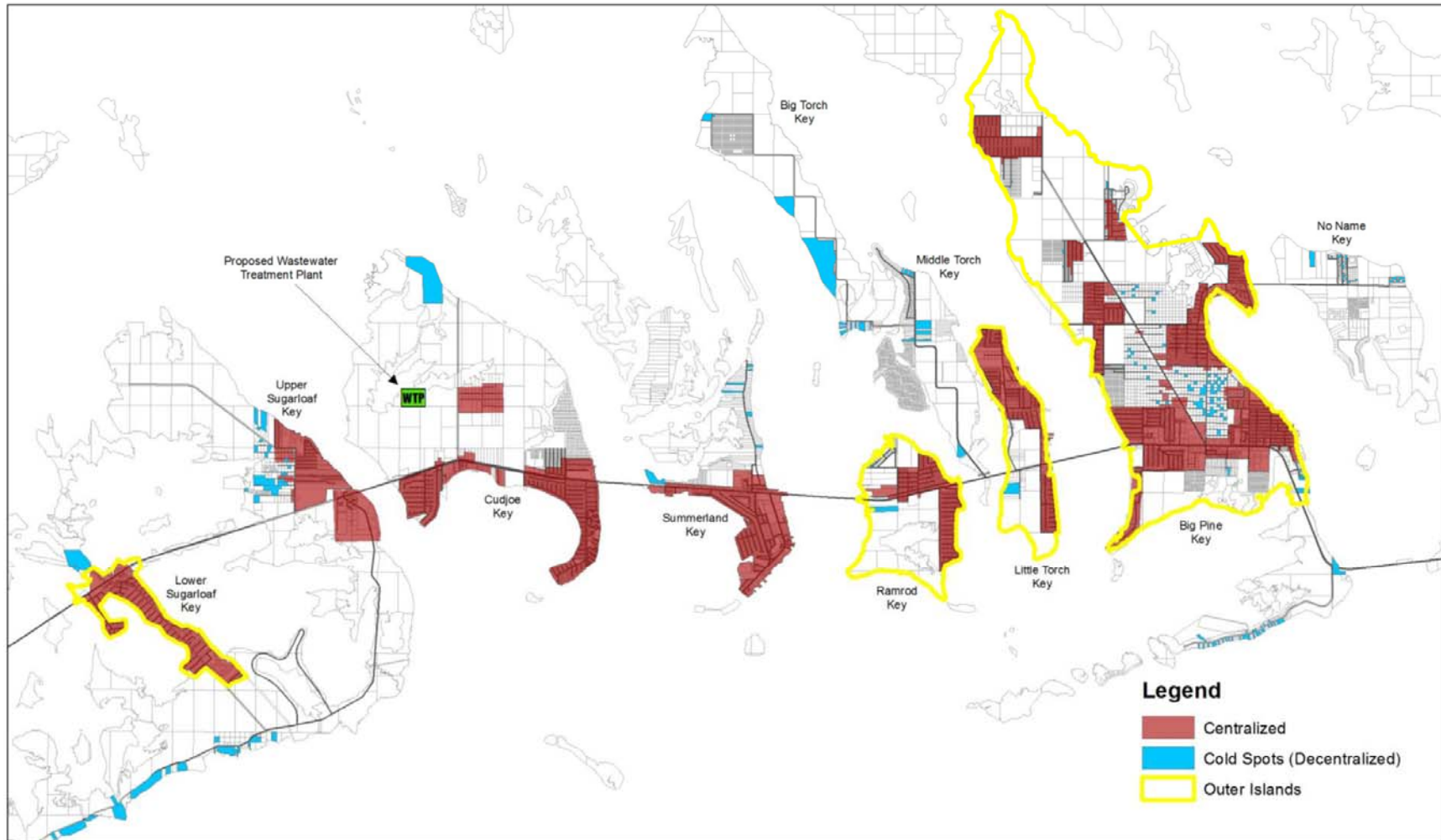
## **ATTACHMENTS:**

- A. Location and Site Map
- B. Preliminary Responsibility and Risk Matrix
- C. Proposal Form 1 – Acknowledgement of Addenda
- D. Proposal Form 2 – Key Project Staff Experience/ Commitment
- E. Proposal Form 3 – Drug Free Workplace Certification
- F. Proposal Form 4 – Price Proposal
- G. General Conditions of Contract Between Owner and Design-Builder
- H. Agreement Between Owner and Design-Builder – Lump Sum
- I. Florida Department of Environmental Protection, Bureau of Water Facilities Funding, Supplementary Conditions for Formally Advertised Construction Procurement

# **Attachment A**

## **Location and Site Map**

## ATTACHMENT A – LOCATION AND SITE MAP





## **Attachment B**

# **Preliminary Responsibility and Risk Matrix**

## Attachment B

### PRELIMINARY RESPONSIBILITY AND RISK MATRIX

Responsibility/Risk	Risk Allocation			Comments
	FKAA	Design-Builder	Shared	
Design Issues:				
1. Design Schedule (circumstances Controllable by Design-Builder)		✓		Adhere to design schedule in the absense of circumstances beyond the control of the Design-Builder
2. Design schedule (circumstances not controllable by Design-Builder)	✓			Examples: FKAA, County and Florida DEP reviews.
3. System Capacity			✓	
4. Obtaining required permits			✓	Design-Builder will be required to coordinate, provide technical information, submit required permits.
5. Compliance with permit conditioins and DCP.			✓	
6. Community impacts (landscaping, site design)		✓		DCP defines minimum landscape and site design issues.
7. Interface with other facilities and systems			✓	Design-Builder responsible for interface and connections. FKAA responsible for making connections available.
8. Building standards and safety factors.		✓		As required in DCP and local/state/federal law.
9. Obtain easements for properties identified in DCP	✓			
10. Obtain easements for additional properties needed due to changes by Design-Builder		✓		

Responsibility/Risk	Risk Allocation			Comments
	FKAA	Design-Builder	Shared	
Construction Issues:				
11. Construction schedule (circumstances controllable by Design-Builder)		✓		
12. Construction schedule (circumstances not controllable by Design-Builder)	✓			
13.Site access			✓	
14.Site security		✓		
15. Construction price		✓		
16. Construction price escalation		✓		
17. Compliance with permit conditions		✓		
18.Subsurface conditions (if unforeseen)			✓	Proposer may review available geotechnical information; and obtain additional data.
19. Construction quality		✓		
20. Utilities during construction		✓		
21. Completeness of system to meet use		✓		
22.Site health and safety issues		✓		

Responsibility/Risk	Risk Allocation			Comments
	FKAA	Design-Builder	Shared	
23. Start-up utilities, chemicals, debugging		✓		
24. Testing and acceptance		✓		
Operations Issues:				
25. Operational system capacity			✓	
26. Compliance with performance guarantees		✓		
27. Compliance with life-cycle cost guarantees		✓		

**Attachment C**  
**Proposal Form 1**  
**Acknowledgement of Addenda**

**PROPOSAL FORM 1  
ACKNOWLEDGEMENT OF ADDENDA**

**Instructions:** Complete Part I or Part II, whichever is applicable.

**PART I:** Listed below are the dates of issue for each Addendum received in connection with the RFP.

Addendum # 1, Dated \_\_\_\_\_, 2012

Addendum # 2, Dated \_\_\_\_\_, 2012

Addendum # 3, Dated \_\_\_\_\_, 2012

Addendum # 4, Dated \_\_\_\_\_, 2012

Addendum # 5, Dated \_\_\_\_\_, 2012

**PART II:**

☐ **No Addendum was received in connection with this RFP.**

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

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm Name:

\_\_\_\_\_

**Attachment D**  
**Proposal Form 2**  
**Key Project Staff Experience/Commitment**

**PROPOSAL FORM 2  
KEY PROJECT STAFF EXPERIENCE/COMMITMENT**

**General Information**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

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

Years employed by current firm: \_\_\_\_\_ years

Total Professional Experience years: \_\_\_\_\_ years

Professional Registration and  
Licenses (type/state/year/license  
number): \_\_\_\_\_

**Assignment for Cudjoe Regional Wastewater Collection System D-B Project:**

\_\_\_\_\_

Description of Role/Responsibilities:

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

Expected Time Commitment to Project, based on 40 hours per week:

Permitting/Design: \_\_\_\_\_% Construction/Startup: \_\_\_\_\_%

**Client Reference (List client contact reference information for two (2) recent projects)**



**Attachment E**  
**Proposal Form 3**  
**Drug Free Workplace Certification**

**PROPOSAL FORM 3  
DRUG FREE WORKPLACE CERTIFICATION**

The SIGNED PROPOSER (Below) CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are included on the Project a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are included on the Project, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, drug abuse assistance or rehabilitation program if such is available in employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

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

Company: Name: \_\_\_\_\_  
(Typed or Printed)

Address: \_\_\_\_\_

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

E-Mail: \_\_\_\_\_

Phone No.: \_\_\_\_\_

**Attachment F**  
**Proposal Form 4**  
**Price Proposal**

**PROPOSAL FORM 4**

**PRICE PROPOSAL**

<u>Project Construction</u>	<u>Design and Permitting Price</u>	<u>Construction Price</u>	<u>Base Design- Build Price</u>	<u>Additive Alternate Design-Build Price</u>
<b>A. Lower Sugarloaf Key</b>				
1. Lower Sugarloaf Key Collection System				
2. Lower Sugarloaf Key Transmission Main from Lower Sugarloaf Pump Station to tie in point on the inner island transmission main at the Upper Sugarloaf Pump Station (provided by others), including Lower Sugarloaf Pump Station				
3. Additive Alternate - Lower Sugarloaf Additive Services Areas				
4. Additive Alternate – 316 Stainless Steel Piping for bridge crossings				
<b>B. Ramrod Key</b>				
1. Ramrod Key Collection System				
2. Ramrod Key Transmission Main from Ramrod Pump Station to tie in point on the inner island transmission main at the Summerland Pump Station (provided by others), including the Ramrod Pump Station				
3. Additive Alternate - Lower Sugarloaf Additive Services Areas				
4. Additive Alternate – 316 Stainless Steel Piping for bridge crossings				
5. Additive Alternate - Directional Drilling for Niles Channel crossing				

**PROPOSAL FORM 4**

**PRICE PROPOSAL**

**C. Little Torch Key**

1. Little Torch Key Collection System	<hr/>	<hr/>	<hr/>	
2. Little Torch Key Transmission Main from Barry Avenue to Ramrod Pump Station	<hr/>	<hr/>	<hr/>	
3. Additive Alternate - Little Torch Additive Services Areas	<hr/>	<hr/>	<hr/>	<hr/>
4. Additive Alternate – 316 Stainless Steel Piping for bridge crossings	<hr/>	<hr/>	<hr/>	<hr/>

**D. Big Pine Key South**

1. Big Pine Key South Collection System	<hr/>	<hr/>	<hr/>	
2. Big Pine Key South Transmission Main from Big Pine South Pump Station to Barry Avenue including Big Pine South Pump Station	<hr/>	<hr/>	<hr/>	
3. Additive Alternate - Big Pine Key South Additive Services Areas	<hr/>	<hr/>	<hr/>	<hr/>
4. Additive Alternate - Big Pine Key South Outreach Areas	<hr/>	<hr/>	<hr/>	<hr/>
5. Additive Alternate - Long Beach Road Area including connection to Big Pine Key South Pump Station	<hr/>	<hr/>	<hr/>	<hr/>
6. Additive Alternate – 316 Stainless Steel Piping for bridge crossings	<hr/>	<hr/>	<hr/>	<hr/>

**E. Big Pine Key North**

1. Big Pine Key North Collection System	<hr/>	<hr/>	<hr/>
2. Big Pine Key North Transmission Main from Big Pine North Pump Station to South Pine Pump Station including North Pine Pump Station	<hr/>	<hr/>	<hr/>

**PROPOSAL FORM 4**  
**PRICE PROPOSAL**

3. Additive Alternate - Big Pine Key North Additive Services Areas	_____	_____	_____
4. Additive Alternate - Big Pine Key North Outreach Areas	_____	_____	_____
<b>Total Design-Build Base Price (Basis of Award)</b>			_____
<b>Total Additive Alternate DB Price</b>			_____
<b>Total Project Lump Sum Price (including Base Price and Additive Alternates)</b>			_____

- Notes:
- 1. All prices shall be entered in whole dollars.
  - 2. The Total of the Engineering and Permitting Price shall not exceed 8% of the Total Project Price.
  - 3. Price for Preconstruction, Bonds, Insurance, General Conditions, Mobilization and Demobilization shall not exceed 10% of the Total Construction Price.
  - 4. The Project Fixed Design/Build Price is binding and will be incorporated directly into the final Agreement.
  - 5. The Total Construction Price shall be used for determining the amount of the Payment and Performance Bonds under the Agreement.
  - 6. The Total Lump Sum Project Price will be used as the Contract Price for the design, permitting, construction, procurement, testing, start up, commissioning and warranty of the Project as further described in the RFP and the Contract Documents.

**Note:** Proposer shall clearly identify any exceptions that are taken to the draft contract agreement attached to this RFP or indicate that no exceptions have been taken, by checking one of the boxes below:

- ☐ **No Exceptions to draft contract agreement.**
- ☐ **Exceptions to draft contract agreement – attach to this Price Proposal Form.**  
(Owner may or may not agree to exceptions noted by Design-Builder.)

**Attachment G**

**GENERAL CONDITIONS OF CONTRACT  
BETWEEN OWNER AND DESIGN-BUILDER**

**(TO BE PROVIDED LATER)**

**Attachment H**  
**AGREEMENT BETWEEN OWNER AND DESIGN-  
BUILDER**  
**LUMP SUM**  
  
**(TO BE PROVIDED LATER)**



**Attachment I**

**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION  
BUREAU OF WATER FACILITIES FUNDING  
SUPPLEMENTARY CONDITIONS FOR  
FORMALLY ADVERTISED CONSTRUCTION  
PROCUREMENT**

Florida Department of Environmental Protection

Bureau of Water Facilities Funding

Supplementary Conditions

for

Formally Advertised

Construction Procurement

**TABLE OF CONTENTS FOR THE FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION  
SUPPLEMENTARY CONDITIONS**

<b>Article Number</b>	<b>Article Title</b>	<b>Page</b>
1	DEFINITIONS	FDEP-1
2	PRIVITY OF AGREEMENT/CONTRACT	FDEP-3
3	PROCUREMENT REQUIREMENTS	FDEP-3
4	RESOLUTION OF PROTESTS AND CLAIMS/DISPUTES	FDEP-3
5	CHANGES TO THE BIDDING AND CONTRACT DOCUMENTS	FDEP-3
6	BONDS AND INSURANCE	FDEP-4
7	AWARD OF AGREEMENT/CONTRACT	FDEP-4
8	ITEMIZED CONSTRUCTION COST BREAKDOWN; CONSTRUCTION AND PAYMENT SCHEDULES	FDEP-5
9	FDEP/USEPA ACCESS TO RECORDS AND PROJECT SITE	FDEP-5
10	DISADVANTAGED BUSINESS ENTERPRISES	FDEP-5
11	DEBARMENT AND SUSPENSION (EXECUTIVE ORDER 12549)	FDEP-6
12	EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)	FDEP-7
13	IMMIGRATION REFORM AND CONTROL ACT OF 1986 STATE OF FLORIDA EXECUTIVE ORDER 11-116)	FDEP-14
14	ENVIRONMENTAL COMPLIANCE	FDEP-14
15	FEDERAL LABOR STANDARDS PROVISION	FDEP-14

<b>Appendix</b>	<b>Appendix Title</b>	<b>Page</b>
A	CERTIFICATION OF COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SUPPLEMENTARY CONDITIONS	FDEP-15
B	GOALS AND TIMETABLES FOR MINORITIES AND FEMALES	FDEP-16
C	FEDERAL LABOR STANDARDS PROVISION	FDEP-17

## **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SUPPLEMENTARY CONDITIONS**

The intent of the Florida Department of Environmental Protection (FDEP) Supplementary Conditions is to complement and supplement other provisions of the Bidding Documents. However, if there is any conflict between the FDEP Supplementary Conditions and other provisions of the Bidding Documents, the FDEP Supplementary Conditions shall take precedence over the other provisions except when the other provisions are similar to, but more stringent than, the FDEP Supplementary Conditions. When other provisions of the Bidding Documents are similar to, but more stringent than, the FDEP Supplementary Conditions, the more stringent provisions shall apply.

### ARTICLE 1 - DEFINITIONS

1.1. Wherever used in these Supplementary Conditions (except in the appendices to these Supplementary Conditions), the following terms have the meanings indicated, which are applicable to both the singular and plural thereof.

1.1.1. Addendum - A written or graphic instrument that is issued prior to the opening of bids and that clarifies, corrects, or changes the Bidding Documents.

1.1.2. Agreement or Contract - The written agreement between the Owner and the Contractor covering the Work to be performed and furnished; these Supplementary Conditions and other Contract Documents are attached to the Agreement/Contract and made a part thereof as provided therein.

1.1.3. Bid - The offer or proposal of a bidder submitted on the prescribed form and setting forth the price(s) for the Work to be performed and furnished.

1.1.4. Bidder - Any person, firm, or corporation that submits a bid directly to the Owner.

1.1.5. Bidding Documents - The Advertisement for Bids or the Invitation to Bid, the Instructions to Bidders or the Information for Bidders, the Bid Form, the proposed Contract Documents, and all addenda.

1.1.6. Bond - An instrument of security.

1.1.7. Change Order - A document that is recommended by the Engineer and signed by the Contractor and the Owner; that authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Time; and that is issued on or after the Effective Date of the Agreement/Contract.

1.1.8. Contract Documents - The Agreement/Contract; the Contractor's Bid when attached as an exhibit to the Agreement/Contract; the Performance and Payment Bond(s); the General Conditions; the Supplementary Conditions (including these Supplementary Conditions); the Specifications (written technical descriptions of material, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto); the Drawings (drawings that show the character and scope of the Work to be performed and furnished); all addenda that pertain to the Contract Documents; and all change orders.

1.1.9. Contract Time - The number of days or the date stated in the Contract Documents for completion of the Work.

1.1.10. Contractor - The person, firm, or corporation with whom or which the Owner enters into the Agreement/Contract.

1.1.11. Effective Date of the Agreement/Contract - The date indicated in the Agreement/Contract on which the Agreement/Contract becomes effective, or if no such date is indicated in the Agreement/Contract, the date on which the Agreement/Contract is signed and delivered by the last of the two parties to sign and deliver the Agreement/Contract.

1.1.12. Engineer - The person, firm, or corporation named as such in the Contract Documents.

1.1.13. Minority Business Enterprise (MBE) - A historically Black college or university or a business that is (a) certified as socially and economically disadvantaged by the Small Business Administration, (b) certified as an MBE by a state or Federal agency, or (c) an independent business concern which is at least 51-percent owned and controlled by minority group members. (A minority group member is an individual who is a citizen of the United States and one of the following: [i] Black American; [ii] Hispanic American [with origins from Puerto Rico, Mexico, Cuba, or South or Central America]; [iii] Native American [American Indian, Eskimo, Aleut, or native Hawaiian]; or [iv] Asian-Pacific American [with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, or the Indian Subcontinent].)

1.1.14. Notice to Proceed - The written notice given by the Owner to the Contractor fixing the date on which the Contract Time will commence to run and on which the Contractor shall start to perform its obligations under the Contract Documents.

1.1.15. Owner - The local government (municipality, county, district, or authority; or any agency thereof; or a combination of two or more of the foregoing acting jointly) with which the Florida Department of Environmental Protection (FDEP) may execute, or has executed, a State revolving fund loan agreement and for which the Work is to be provided.

1.1.16. Project - The total construction or facilities described in a State revolving fund loan agreement between the FDEP and the Owner, of which the Work to be provided under the Contract Documents may be the whole or a part.

1.1.17. Subcontract - A direct contract between a subcontractor and the Contractor, or any other subcontractor at any tier, for the furnishing of goods (material and equipment) or the performance of services (including construction) necessary to complete the Work.

1.1.18. Subcontractor - A person, firm, or corporation having a direct contract with the Contractor, or any other subcontractor at any tier, for the furnishing of goods (material and equipment) or the performance of services (including construction) necessary to complete the Work.

1.1.19. Successful Bidder - The lowest responsive, responsible bidder to whom or which the Owner intends to award the Agreement/Contract.

1.1.20. Women's Business Enterprise (WBE) - A business that is (a) certified as a WBE by a state or Federal agency or (b) an independent business concern which is at least 51-percent owned and controlled/operated by women. (Determination of whether a business is at least 51-percent owned by women shall be made without regard to community property laws [e.g., an otherwise qualified WBE that is 51-percent owned by a married woman in a community property state will not be disqualified because the married woman's husband has a 50-percent interest in the married woman's share of the business; similarly, a business that is 51-percent owned by a married man and 49-percent owned by women will not become a qualified WBE by virtue of the married man's wife having a 50-percent interest in the married man's share of the business].)

1.1.21. Work - The entire completed construction or the various separately identifiable parts thereof required to be performed and furnished under the Contract Documents; Work is the result of performing services, furnishing labor, furnishing material and equipment, and incorporating material and equipment into the construction as required by the Contract Documents.

## ARTICLE 2 - PRIVACY OF AGREEMENT/CONTRACT

2.1. The Owner expects to finance this Agreement/Contract with assistance from the FDEP, which administers a State revolving fund loan program supported in part with funds directly made available by grants from the United States Environmental Protection Agency (USEPA). Neither the State of Florida nor the United States (nor any of their departments, agencies, or employees) will be a party to this Agreement/Contract or any lower-tier subcontract.

## ARTICLE 3 - PROCUREMENT REQUIREMENTS

3.1. This Agreement/Contract and the Owner's solicitation and award of this Agreement/Contract are subject to requirements contained in Chapter 62-503 (Revolving Loan Program), Florida Administrative Code.

## ARTICLE 4 - RESOLUTION OF PROTESTS AND CLAIMS/DISPUTES

### **Resolution of Protests Concerning the Owner's Solicitation and/or Award of this Agreement/Contract:**

4.1. Protests concerning the Owner's solicitation and/or award of this Agreement/Contract must be filed in writing with the Owner to be considered.

4.2. All timely written protests concerning the Owner's solicitation and/or award of this Agreement/Contract are to be resolved in accordance with the Owner's dispute resolution process. A copy of the ordinance(s), resolution(s), or written policy (policies) that set forth the Owner's dispute resolution process is included elsewhere in the Bidding Documents or is to be made available by the Owner upon request.

4.3. Neither the (FDEP) nor the USEPA will become a party to, or have any role in resolving, protests concerning the Owner's solicitation and/or award of this Agreement/Contract. Protest decisions made by the Owner cannot be appealed to the FDEP or the USEPA.

### **Resolution of Claims and Disputes Between the Owner and the Contractor:**

4.4. Unless otherwise provided in the Contract Documents, all claims and disputes between the Owner and the Contractor arising out of, or relating to, the Contract Documents or the breach thereof are to be decided by arbitration (if the Owner and the Contractor mutually agree) or in a court of competent jurisdiction within the State of Florida.

4.5. Neither the FDEP nor the USEPA will become a party to, or have any role in resolving, claims and disputes between the Owner and the Contractor.

## ARTICLE 5 - CHANGES TO THE BIDDING AND CONTRACT DOCUMENTS

5.1. All changes to the Bidding Documents made subsequent to the FDEP's acceptance of the Bidding Documents and prior to the opening of bids are to be documented via addendum (addenda) to the Bidding Documents; all changes to the Contract Documents made after the opening of bids are to be documented by change order(s) to the Contract Documents. The Owner shall submit all addenda and change orders to the FDEP.

## ARTICLE 6 - BONDS AND INSURANCE

### **Bid Guarantees:**

6.1. Each bidder's bid is to be accompanied by a bid guarantee made payable to the Owner in an amount at least equal to five percent of the bidder's maximum bid price and in the form of a certified check or bid bond.

### **Performance and Payment Bond(s):**

6.2. The Contractor shall furnish a combined performance and payment bond in an amount at least equal to 100 percent of the Contract Price (or, if required elsewhere in the Contract Documents, the Contractor shall furnish separate performance and payment bonds, each in an amount at least equal to 100 percent of the Contract Price) as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. This(these) bond(s) are to be delivered to the Owner by the Contractor along with the executed Agreement/Contract. The Owner shall forward a copy of this (these) bond(s) to the FDEP.

### **Insurance:**

6.3. The Owner and/or the Contractor (as required elsewhere in the Contract Documents) shall purchase and maintain, during the period of construction, such liability insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims that may arise out of, or result from, the Contractor's performance and furnishing of the Work (whether the Work is to be performed or furnished by the Contractor or any subcontractor at the Work site) and the Contractor's other obligations under the Contract Documents. This insurance is to include workers' compensation insurance, comprehensive general liability insurance, comprehensive automobile liability insurance, and contractual liability insurance applicable to the Contractor's indemnification obligations and is to be written for not less than the limits of liability and coverages determined by the Owner or required by law, whichever is greater.

6.4. The Owner and/or the Contractor (as required elsewhere in the Contract Documents) shall purchase and maintain, during the period of construction, property insurance upon the Work at the Work site in an amount equal to the full replacement cost of the Work or the full insurable value of the Work. This insurance is to include the interests of the Owner, the Contractor, and all subcontractors at the Work site (all of whom are to be listed as insured or additional insured parties); is to insure against the perils of fire and extended coverage; and is to include "all-risk" insurance for physical loss or damage due to theft, vandalism and malicious mischief, collapse, water damage, and/or all other risks against which coverage is obtainable.

6.5. Before any Work at the Work site is started, the Contractor shall deliver to the Owner certificates of insurance that the Contractor is required to purchase and maintain in accordance with Paragraphs 7.3 and 7.4 of this Article and other provisions of the Contract Documents, and the Owner shall deliver to the Contractor certificates of insurance that the Owner is required to purchase and maintain in accordance with Paragraphs 7.3 and 7.4 of this Article and other provisions of the Contract Documents.

## ARTICLE 7 - AWARD OF AGREEMENT/CONTRACT

7.1. If this Agreement/Contract is awarded, it is to be awarded to the lowest responsive, responsible bidder. A fixed price (lump sum or unit price or both) agreement/contract is to be used. A clear explanation of the method of evaluating bids and the basis for awarding this Agreement/Contract are included elsewhere in the Bidding Documents. All bids may be rejected when in the best interest of the Owner. After the contract has been awarded, the Owner shall give the Contractor a notice to proceed fixing the date on which the Contract Time will commence to run. The Owner shall forward a copy of this notice to proceed to the FDEP.

## ARTICLE 8 - ITEMIZED CONSTRUCTION COST BREAKDOWN; CONSTRUCTION AND PAYMENT SCHEDULES

8.1. The Contractor shall submit to the Owner, within ten calendar days after the Effective Date of this Agreement/Contract, an itemized construction cost breakdown and construction and payment schedules.

8.1.1. The itemized construction cost breakdown, or schedule of values, is to include quantities and prices of items aggregating the Contract Price and is to subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices are to include an appropriate amount of overhead and profit applicable to each item of Work.

8.1.2. The construction, or progress, schedule is to indicate the Contractor's estimated starting and completion dates for the various stages of the Work and is to show both the projected cost of Work completed and the projected percentage of Work completed versus Contract Time.

8.1.3. The payment schedule is to show the Contractor's projected progress and final payments cumulatively by month.

## ARTICLE 9 - FDEP/USEPA ACCESS TO RECORDS AND PROJECT SITE

9.1. Authorized representatives of the Owner, the FDEP, and the USEPA shall have access to, for the purpose of inspection, the Work site(s), any books, documents, papers, and records of the Contractor that are pertinent to this Agreement/Contract at any reasonable time. The Contractor shall retain all books, documents, papers, and records pertinent to this Agreement/Contract for a period of three years after receiving and accepting final payment under this Agreement/Contract.

## **NOTE: ARTICLE 10 ONLY APPLIES TO FEDERAL CAP GRANT PROJECTS**

## ARTICLE 10 - DISADVANTAGED BUSINESS ENTERPRISES

10.1. A goal of nine percent of the Contract Price is established for Minority Business Enterprise (MBE) participation in the Work, and a goal of three percent of the Contract Price is established for Women's Business Enterprise (WBE) participation in the Work. If bidders or prospective contractors (including the Contractor) intend to let any lower-tier goods or services (including construction) subcontracts for any portion of the Work, they shall physically include these percentage goals for MBE and WBE participation in all solicitations for subcontracts and shall take good faith efforts to assure that MBEs and WBEs are utilized, when possible, as sources of goods and services. Good faith efforts are to include the following:

10.1.1. Require Disadvantaged Business Enterprises (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

10.1.2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

10.1.3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements



when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

10.1.4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

10.1.5. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

10.1.6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs 10.1.1 through 10.1.5 of this section.

10.2. Within ten calendar days after being notified of being the apparent Successful Bidder, the apparent Successful Bidder shall submit to the Owner documentation of the affirmative steps it has taken to utilize Minority and Women's Business Enterprises (MBEs and WBEs) in the Work and documentation of its intended use of MBEs and WBEs in the Work. The Owner shall keep this documentation on file and shall forward to the FDEP a copy of the apparent Successful Bidder's documentation concerning its intended use of MBEs and WBEs in the Work.

#### ARTICLE 11 - DEBARMENT AND SUSPENSION (EXECUTIVE ORDER 12549)

##### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

11.1. The bidder 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 department or agency.

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

11.3. The bidder also certifies that it and its principals:

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

11.3.2. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 11.3.1 of this certification; and

11.3.3. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default. Where the bidder is unable to certify to any of the above, such owner shall attach an explanation to this proposal.

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

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

11.3.5. The bidder shall incorporate the foregoing requirements 11.1 through 11.3 in all subcontracts.

#### ARTICLE 12 - EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

##### **12.1. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) . (Applicable to contracts/subcontracts exceeding \$10,000)**

12.1.1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

12.1.2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in Florida, are as follows:

Goal for female participation: 6.9 percent statewide

Goal for minority participation: (See Appendix B at FDEP-20 for goals for each county)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

12.1.3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

12.1.4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the State of Florida.

12.1.5. Contractors shall incorporate the foregoing requirements in all subcontracts.

##### **12.2. Equal Opportunity Clause (Applicable to contracts/subcontracts exceeding \$10,000)**

During the performance of this contract, the contractor agrees as follows:

12.2.1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, 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.

12.2.2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The notice can be obtained online at [http://www.eeoc.gov/employers/upload/eeoc\\_self\\_print\\_poster.pdf](http://www.eeoc.gov/employers/upload/eeoc_self_print_poster.pdf). The Contractor shall state that all qualified applicants be considered without regard to race, color, religion, sex or national origin.

12.2.3. 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.

12.2.4. The contractor will send to each labor union or representative of workers with which he 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.

12.2.5. 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.

12.2.6. 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.

12.2.7. 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.

12.2.8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs 12.2.1 through 12.2.8 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.

**12.3. The Standard Federal Equal Employment Opportunity Construction Contract Specifications**  
(Executive Order 11246)

12.3.1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:
  - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

12.3.2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

12.3.3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

12.3.4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

12.3.5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

12.3.6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

12.3.7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 12.3.7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with

all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

12.3.8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (12.3.7a through 12.3.7p). The efforts of a contractor association,

joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

12.3.9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

12.3.10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

12.3.11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12.3.12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

12.3.13. The Contractor, in fulfilling its obligation under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

12.3.14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

12.3.15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

12.4. Pursuant to 41 CFR 60-1.7, if the price of this bid exceeds \$10,000, the bidder, by signing and submitting this proposal, certifies the following:

- 12.4.1. Affirmative action programs pursuant to 41 CFR 60-2 have been developed and are on file;
- 12.4.2. Documentation of a previous contract or subcontract subject to the equal opportunity clause is available;
- 12.4.3. All reports due under the applicable filing requirements have been filed with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission; and
- 12.4.4. Each prospective construction subcontractor that may be awarded a lower-tier construction subcontract with a price exceeding \$10,000 shall meet the above requirements 12.4.1 through 12.4.3.

12.5. Pursuant to 41 CFR 60-1.8, if the price of this bid exceeds \$10,000, the bidder, by signing and submitting this proposal, certifies the following:

- 12.5.1. That he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments;
- 12.5.2. That he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained;
- 12.5.3. That he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments;
- 12.5.4. That he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained;
- 12.5.5. That a breach of this certification is violation of the Equal Opportunity Clause of this contract; and
- 12.5.6. That he/she will obtain identical certifications from proposed Subcontractors prior to the award of Subcontract exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his/her files.

As used in this certification, the term "segregated facilities" means any waiting rooms, work eating areas, time clocks, locker rooms, and other storage or dressing areas, transportation and housing facilities provided for employees which are in fact segregated on the basis of race, color, religion, or otherwise.

12.6. If the price of this Agreement/Contract exceeds \$10,000, the Owner shall give written notice to the Director of the Office of Federal Contract Compliance Programs within ten working days of award of this Agreement/Contract. The notice is to include the name, address, and telephone number of the Contractor; the employer identification number of the Contractor; the dollar amount of this Agreement/Contract; the estimated starting and completion dates of this Agreement/Contract; the number of this Agreement/Contract; and the geographical area in which the Work is to be performed.

12.7. If the price of this Agreement/Contract equals or exceeds \$50,000 and if the Contractor has 50 or more employees, the Contractor shall electronically file Standard Form 100 (EEO-1) online at <https://egov.eeoc.gov/eeo1/eeo1.jsp> within 30 calendar days after the award of this Agreement/Contract. ,



unless the Contractor has submitted such a report within 12 months preceeding the date of award of this Agreement/Contract. In addition, the Contractor shall ensure that each construction subcontractor having 50 or more employees and a lower-tier construction subcontract with a price equaling or exceeding \$50,000 also electronically files this form within 30 calendar days after the award to it of the lower-tier construction subcontract, unless the construction subcontractor has submitted such a report within 12 months preceding the date of award of the lower-tier construction subcontract.

#### ARTICLE 13 - IMMIGRATION REFORM AND CONTROL ACT OF 1986 (STATE OF FLORIDA EXECUTIVE ORDER 11-116)

The Immigration Reform and Control Act of 1986 prohibits employers from knowingly hiring illegal workers. The Contractor shall only employ individuals who may legally work in the United States – either U.S. citizens or foreign citizens who are authorized to work in the U.S. The Contractor shall use the U.S. Department of Homeland Security’s E-Verify Employment Eligibility Verification system (<http://www.uscis.gov/portal/site/uscis>) to verify the employment eligibility of:

- all new employees, during the term of this Agreement, to perform employment duties within Florida; and,
- all new employees (including subcontractors and subrecipients) assigned by the Contractor to perform work pursuant to this Agreement.

The Contractor shall include this provision in all subcontracts/subgrants it enters into for the performance of work under this Agreement.

#### ARTICLE 14 - ENVIRONMENTAL COMPLIANCE

The Contractor, and all subcontractors at any tier, shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 (Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans), and 40 CFR Part 15.

#### ARTICLE 15 - FEDERAL LABOR STANDARDS PROVISION

The Project to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance. (Appendix C)

**APPENDIX A TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
SUPPLEMENTARY CONDITIONS**

**CERTIFICATION OF COMPLIANCE WITH THE FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION SUPPLEMENTARY CONDITIONS**

This certification relates to a construction contract proposed by \_\_\_\_\_,  
(insert the name of the Owner)

which expects to finance the proposed construction contract with assistance from the Florida Department of Environmental Protection (which administers a State revolving fund loan program supported in part with funds directly made available by grants from the United States Environmental Protection Agency). I am the undersigned prospective construction contractor or subcontractor.

I certify that I have read the Florida Department of Environmental Supplementary Conditions and agree to incorporate the following articles into the bid and/or contract:

ARTICLE 11 DEBARMENT AND SUSPENSION (EXECUTIVE ORDER 12549)

ARTICLE 12 EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

ARTICLE 13 IMMIGRATION REFORM AND CONTROL ACT OF (STATE OF FLORIDA EXECUTIVE ORDER 11-116)

ARTICLE 14 - ENVIRONMENTAL COMPLIANCE

ARTICLE 15 - FEDERAL LABOR STANDARDS PROVISION

I agree that I will obtain identical certifications from prospective lower-tier construction subcontractors prior to the award of any lower-tier construction subcontracts with a price exceeding \$10,000. I also agree that I will retain such certifications in my files.

\_\_\_\_\_  
(Signature of Authorized Official)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Name and Title of Authorized Official [Print or Type])

\_\_\_\_\_  
(Name of Prospective Construction Contractor or Subcontractor [Print or Type])

\_\_\_\_\_  
(Address and Telephone Number of Prospective Construction Contractor or Subcontractor [Print or Type])

\_\_\_\_\_  
(Employer Identification Number of Prospective Construction Contractor or Subcontractor)

## APPENDIX B TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SUPPLEMENTARY CONDITIONS

### GOALS AND TIMETABLES FOR MINORITIES AND FEMALES

[Note: These goals and timetables are the goals and timetables referred to in Paragraph 2 of the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)"; these goals and timetables are to be included in all FDEP-assisted construction contracts and subcontracts with a price exceeding \$10,000 and in all solicitations for such contracts and subcontracts.]

#### Appendix A

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

Area covered: Goals for Women apply nationwide.

#### Goals and Timetables

Timetable	Goals (percent)
Indefinite	6.9

#### Appendix B-80

Goals for minority utilization can be found in the Department of Labor's Technical Assistance Guide for Federal Construction Contractors (May 2009), available on the internet at <http://www.dol.gov/ofccp/TAguides/consttag.pdf>. These goals shall be included for each craft and trade in all Federal or federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical areas. The goals are applicable to each nonexempt contractor's total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, federally assisted or nonfederally related project, contract or subcontract.

Construction contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the applicable SMSA or EA goal contained in this Appendix B-80.

**APPENDIX C**  
**TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**SUPPLEMENTARY CONDITIONS**

**Davis Bacon Requirements**

**FEDERAL LABOR STANDARDS PROVISIONS**

**(Davis-Bacon Act, Copeland Act, and Contract Works Hours & Safety Standards Act)**

The Project to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**1 Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. EPA shall approve an additional classification and wage rate and fringe benefits; therefore, only when the following criteria have been met:

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and EPA or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by EPA or its designee to the Administrator of the Wage and Hour Division, employment Standards Administration, U. S. Department of Labor, Washington, D. C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise EPA or its designee or will notify EPA or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event that the Contractor, the laborers or mechanics to be employed in the Classification or their representatives, and EPA or its designee do not agree on the proposed classification and wage rate (including the amount designed for fringe benefits, where appropriate), EPA or its designee shall refer the questions, including the views of all interested parties and the recommendation of EPA or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise EPA or its designee or will notify EPA or its designee within the 30-day period that the additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

## **2. Withholding.**

EPA or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, EPA, or its designee may, after written notice to the contractor, sponsor, applicant, or owners, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. EPA or its designee may, after written notice to the contractor, disburse such amounts

withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

### **3. Payrolls and Basic Records.**

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017).

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to EPA or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owners, as the case may be, for transmission to EPA or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(I). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U. S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149).

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

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete;

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(I) of this section available for inspection, copying, or transcription by authorized representatives of EPA or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, EPA or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

#### **4. Apprentices and Trainees.**

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program, shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman=s hourly rate) specified in the contractor=s or subcontractor=s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice=s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with the determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U. S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee=s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that

there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program the contract will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

#### **5. Compliance with Copeland Act Requirements.**

The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

#### **6. Subcontracts.**

The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as EPA or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contract shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

#### **7. Contract Termination, Debarment.**

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

#### **8. Compliance with Davis-Bacon and Related Act Requirements.**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3 and 5 are herein incorporated by referenced in this contract.

#### **9. Disputes Concerning Labor Standards.**

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

#### **10. Certification of Eligibility.**

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded EPA contracts or participate in EPA programs pursuant to Executive Order 12549.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded EPA contracts or participate in EPA programs pursuant to Executive Order 12549.



(iii) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U. S. C. 1001. Additionally, U. S. Criminal Code, Section 1010, Title 18, U. S. C., Federal Housing Administration transactions, provides in part Whoever, for the purpose of . . .influencing in any way the action of such Administration. . .makes, utters or publishes any statement, knowing the same to be false. . .shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

#### **11. Complaints, Proceedings, or Testimony by Employees.**

**A.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this contract are applicable shall be discharged or in any other manner discriminated against by the contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** As used in the paragraph, the terms laborers and mechanics include watchmen and guards.

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

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

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

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

#### **C. Health and Safety**

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54.83 State 96).

(3) The contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## **12. Guidance to Contractor for Compliance with Labor Standards Provisions**

### **a) Contracts with Two Wage Decisions**

If the contract includes two wage decisions, the contractor, and each subcontractor who works on the site, must submit either two separate payrolls (one for each wage decision) or one payroll which identifies each worker twice and the hours worked under each wage decision. One single payroll, reflecting each worker once, may be submitted provided the Contractor uses the higher rate in the wage decisions for each identical job classification. However, where a job classification is not listed in a wage decision and is needed for that portion of the work, the classification **must** be added to the wage decision. A worker may not be paid at the rate for a classification using the hourly rate for that same classification in another wage decision. After the additional classification is approved, the contractor may pay the higher of the two rates and submit one payroll, if desired.

### **b) Complying with Minimum Hourly Amounts**

1) The minimum hourly amount due to a worker in each classification is the total of the amounts in the

Rates and Fringe Benefits (if any) columns of the applicable wage decision.

2) The contractor may satisfy this minimum hourly amount by any combination of cash and bona fide fringe benefits, regardless of the individual amounts reflected in the Rates and Fringe Benefits columns.

3) A contractor payment for a worker which is required by law is not a fringe benefit in meeting the minimum hourly amount due under the applicable wage decision. For example, contractor payments for FICA or unemployment insurance are not a fringe benefit; however, contractor payments for health insurance or retirement are a fringe benefit. Generally, a fringe benefit is bona fide if (a) it is available to most workers and (b) involves payments to a third party.

4) The hourly value of the fringe benefit is calculated by dividing the contractor's annual cost (excluding any amount contributed by the worker) for the fringe benefit by 2080. Therefore, for workers with overtime, an additional payment may be required to meet the minimum hourly wages since generally fringe benefits have no value for any time worked over 40 hours weekly. (If a worker is paid more than the minimum rates required by the wage decision, this should not be a problem. As long as the total wages received by a worker for straight time equals the hours worked times the minimum hourly rate in the wage decision, the requirement of the Davis-Bacon and Related Acts has been satisfied.)

### **c) Overtime**

For any project work over 40 hours weekly, a worker generally must be paid 150% of the actual hourly cash rate received, not the minimum required by the wage decision. (The Davis-Bacon and Related Acts only establishes minimum rates and does not address overtime; the Contract Work Hours Act contains the overtime requirement and uses basic rate of pay as the base for calculation, not the minimum rates established by the Davis-Bacon and Related Acts.)

### **d) Deductions**

Workers who have deductions, not required by law, from their pay must authorize these deductions in writing. The authorization must identify the purpose of each deduction and the amount, which may be a specific dollar amount or a percentage. A copy of the authorization must be submitted with the first payroll containing the deduction. If deducted amounts increase, another authorization must be submitted. If deducted amounts decrease, no revision to the original authorization is needed. Court-ordered deductions, such as child support, may be identified by the responsible payroll person in a separate document. This document should identify the worker, the amount deducted and the purpose. A copy of the court order should be submitted.

e) Classifications Not Included in the Wage Decision

If a classification not in the wage decision is required, please advise the owner's representative in writing and identify the job classification(s) required. In some instances, the State agency may allow the use of a similar classification in the wage decision.

Otherwise, the contractor and affected workers must agree on a minimum rate, which cannot be lower than the lowest rate for any trade in the wage decision. Laborers (including any subcategory of the laborer classification) and truck drivers are not considered a trade for this purpose. If the classification involves a power equipment operator, the minimum cannot be lower than the lowest rate for any power equipment operator in the wage decision. The owner will provide forms to document agreement on the minimum rate by the affected workers and contractor.

The U.S. Department of Labor (USDOL) must approve the proposed classification and rate. The contractor may pay the proposed rate until the USDOL makes a determination. Should the USDOL require a higher rate, the contractor must make wage restitution to the affected worker(s) for all hours worked under the proposed rate.

f) Supervisory Personnel

Foremen and other supervisory personnel who spend at least 80% of their time supervising workers are not covered by the Davis-Bacon and Related Acts. Therefore, a wage decision will not include such supervisory classifications and their wages are not subject to any minimums under the Davis-Bacon and Related Act or overtime payments under the Contract Work Hours and Safety Standards Act. However, foremen and other supervisory personnel who spend less than 80% of their time engaged in supervisory activities are considered workers/mechanics for the time spent engaged in manual labor and must be paid at least the minimum in the wage decision for the appropriate classification(s) based on the work performed.

g) Sole Proprietorships / Independent Contractors / Leased Workers

The nature of the relationship between a prime contractor and a worker does not affect the requirement to comply with the labor standards provisions of this contract. The applicability of the labor standards provisions is based on the nature of the work performed.

If the work performed is primarily manual in nature, the worker is subject to the labor standards provisions in this contract. For example, if John Smith is the owner of ABC Plumbing and performs all plumbing work himself, then Mr. Smith is subject to the labor standards provisions, including minimum wages and overtime. His status as owner is irrelevant for labor standards purposes.

If a worker meets the IRS standards for being an independent contractor, and is employed as such, this means that the worker must submit a separate payroll as a subcontractor rather than be included on some other payroll. The worker is still subject to the labor standards provisions in this contract, including minimum wages and overtime.

If a contractor or subcontractor leases its workers, they are subject to the labor standards provisions in this contract, including minimum wages and overtime. The leasing firm must submit payrolls and these payrolls must reflect information required to determine compliance with the labor standards provisions of this contract,

including a classification for each worker based on the nature of the work performed, number of regular hours worked, and number of overtime hours worked.

#### h) Apprentices / Helpers

A worker may be classified as an apprentice **only if participating in a federal or state program**. Documentation of participation must be submitted. Generally, the apprentice program specifies that the apprentice will be compensated at a percentage of journeyman rate. For Davis-Bacon Act purposes, the hourly rate cannot be lower than the percentage of the hourly rate for the classification in the applicable wage decision.

If the worker does not participate in a federal or state apprentice program, then the worker must be classified according to duties performed. This procedure may require classification in the trade depending on tools used, or as a laborer if specialized tools of the trade are not used. The contractor may want to consult with the Wage and Hour Division of the U.S. Department of Labor located in most large cities regarding the appropriate classification.

Presently, no worker may be classified as a helper. As with apprentices not participating in a formal apprentice program, the worker must be classified according to duties performed and tools used.