

****This is a sample agreement and is subject to change upon selection of vendor**

**AGREEMENT BETWEEN LAKE COUNTY, FLORIDA
AND
FOR
ITB# or RFP#**

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, herein referred to as COUNTY, and _____, a _____ corporation, its successors and assigns, herein referred to as CONTRACTOR.

WITNESSETH:

WHEREAS, the COUNTY publicly submitted an Invitation to Bid (ITB) or Request for Proposal (RFP) #_____ seeking firms or individuals qualified to _____; and

WHEREAS, CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

WHEREAS, the provision of such services will benefit the parties and the residents of Lake County, Florida.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

1. The foregoing recitals are true and correct and incorporated herein.

Article 2. Purpose

2. The purpose of this Agreement is for CONTRACTOR to _____, hereinafter referred to as the "Project/Service."

Article 3. Scope of Professional Services

3.1 Scope: On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONTRACTOR to and CONTRACTOR agrees to provide all labor, materials and equipment to complete the project or service ("Project/Service") in accordance with the Scope of Services, attached hereto and incorporated herein as **Attachment A**, as modified or clarified by any addendums, attached hereto and incorporated herein by reference as **Attachment B**. It is understood that the Scope of Services may be modified by change order as the Service progresses, but to be effective and binding, any such change order must be in writing, executed by the parties, and in accordance with the COUNTY's Purchasing Policies and Procedures.

- 3.2 Term:** The term of this Agreement shall be as follows:

3.3 Licenses and Permits: CONTRACTOR shall be solely responsible for obtaining all necessary approvals and permits to complete the Project/Service. CONTRACTOR shall remain appropriately licensed throughout the course of the Project/Service. Failure to maintain all required licenses shall entitle the COUNTY to terminate this Agreement. CONTRACTOR shall be registered with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes.

3.4 Conditions: CONTRACTOR acknowledges that it has sufficient understanding of the nature and conditions of the work, including but not limited to, those bearing upon transportation, disposal, handling and storage of materials, availability of water, electric power, and roads, uncertainties of weather, physical conditions, character of equipment and facilities, quality and quantity of surface and subsurface materials, obstacles or conditions of the site. Any failure by CONTRACTOR to acquaint itself with any aspect of the work or with any of the applicable conditions shall not relieve CONTRACTOR from responsibility for adequately evaluating the difficulty or cost of successfully performing the work required, nor shall it be considered a basis for any claim for additional time or compensation.

Article 4. Payment

4.1 Payment: COUNTY shall pay and CONTRACTOR shall accept as full and complete payment for the timely and complete performance of its obligations hereunder as provided in the Pricing Schedule which is attached as **Attachment C** to this Agreement and which is made a part of this Agreement by reference. The COUNTY shall make payment on all undisputed invoices in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

4.2 Rates: All incidental parts and materials that have a cost of \$25.00 or less, needed to complete the work as specified within the Scope of Service, shall be considered part of overhead and shall be included in CONTRACTOR's hourly labor rate. At no time shall there be a charge less than \$25.00 showing on an invoice.

4.3 Rental: In the event that the CONTRACTOR needs to rent a piece of equipment to complete the work being assigned, prior approval from the Project Manger shall be required. The cost of the rental shall be indicated on the estimate and the invoice. A copy of the invoice for the rental equipment shall be included with the invoice. CONTRACTOR shall be allowed to assess a percentage of up to fifteen percent (15%) over the cost of the rental. A copy of the rental invoice to CONTRACTOR shall accompany the invoice being submitted to the COUNTY. There will be no allowance for rental if it is reasonably ascertained that the equipment is needed to complete the work as outlined in the scope of work.

4.4 Invoice: CONTRACTOR shall submit an original invoice to the COUNTY after each service has been completed. Submittal of these invoices shall not exceed ten (10) calendar days beyond the date the service was completed. Under no circumstances shall the invoices be submitted to the COUNTY in advance of the delivery and acceptance of the service. All invoices shall be accompanied by the PDF documentation required in the record keeping portion of this Scope of Services. The pricing section shall include the hours of labor, labor rate (based on the bid price), and total cost for the hours worked. CONTRACTOR shall be allowed to charge a minimum of one (1) hour of labor time whether or not the technician is on site for the entire first hour. Time after the first hour shall be calculated into fifteen (15) minutes increments. The invoice shall also include the price of the part to the CONTRACTOR, the percentage of markup, the total percentage markup cost, and the total of the part.

4.5 Reports: CONTRACTOR shall submit progress invoice no later than the _ of each month to the Office of Facilities Management, 32400 C.R. 473, Leesburg, Florida 34788. All invoices shall contain the bid number, date and location of delivery or service, purchase order number, confirmation of acceptance of the goods or services by the COUNTY, and a detailed description of services provided. If parts/materials of a value of more than the \$25.00 minimum allowable charge are used as part of the Project/Service and are shown on the invoice, they shall be accompanied with a copy of the invoice to CONTRACTOR from its supplier. A service ticket shall be included showing the name of the technician(s), the date the work was completed, the start and completion time of the service, the service rendered, the parts/materials (if any) installed. CONTRACTOR shall also submit with their invoice a completed "Certification of Payment to Subcontractors and Suppliers" form. Failure to submit invoices in the prescribed manner will delay payment, and CONTRACTOR may be considered in default of contract and this Agreement may be terminated. Final invoices shall include an original, completed "Certification of Payment to Subcontractors and Suppliers" form, if applicable.

A. *Project/Service \$25,000 and Under:* The COUNTY shall provide a lump sum payment when all Project/Service tasks are completed by the CONTRACTOR and approved by the COUNTY. In order for the COUNTY to provide payment, the CONTRACTOR shall submit a fully documented invoice that provides the basic information set forth herein. If requested, the COUNTY may allow progress payments, but is under no obligation to do so and the specifics of the progress payments shall be at the sole discretion of the COUNTY; or

B. *Project/Service Greater than \$25,000:* The CONTRACTOR may receive periodic payments on a thirty (30) day interval for Project/Service tasks completed during that period by the CONTRACTOR and approved by the COUNTY's Project Manager. Retention of funds shall be held in accordance with Florida Prompt Payment Act. In order for the COUNTY to provide payment, the CONTRACTOR shall submit a fully documented invoice that provides the basic information set forth below.

4.6 Funding: In the event any part of this Agreement or the Project/Service, is to be funded by federal, state, or other local agency monies, the CONTRACTOR hereby agrees to cooperate with the COUNTY in order to assure compliance with all requirements of the funding entity applicable to the use of the monies, including providing access to and the right to examine relevant documents related to the Project/Service and as specifically required by the Federal or state granting agency, and receiving no payment until all required forms are completed and submitted. A copy of the requirements shall be supplied to the CONTRACTOR by the COUNTY upon request.

Article 5. County Responsibilities

5.1 Project Manager: The COUNTY will designate a COUNTY staff member to act as COUNTY's Project Manager. It is agreed to by the parties that the COUNTY's Project Manager will decide all questions, difficulties, or disputes, of whatever nature, which may arise relative to the interpretation of the plans, construction, prosecution and fulfillment of the Scope of Services, and as to the character, quality, amount and value of any work done, and materials furnished, under or by reason of this Agreement. The COUNTY's Project Manager may appoint representatives as desired that will be authorized to inspect all work done and all materials furnished.

5.2 The COUNTY shall pay in accordance with the provisions set forth in this Agreement.

5.3 The COUNTY retains the right to inspect all work to verify compliance with the contract documents. Such inspection may extend to all or any part of the work and to the manufacture, preparation or fabrication of the materials to be used.

Article 6. Contract Documents

6.1 Definitions: For purposes of this Agreement, the term “contract documents” includes all bid documents, drawings, the Scope of Services, attachments to this Agreement, and provisions within this Agreement, along with any change orders or amendments to this Agreement. It is the intent of the contract documents to describe a functionally complete Project/Service which defines the scope of work. Any work, materials, or equipment that may reasonably be inferred from the contract documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe work, material or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project/Service, whether such reference be specified or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the work performed, unless specifically stated otherwise herein.

6.2 Contract Documents: The contract documents and all referenced standards cited therein are essential parts of the contract requirements. A requirement occurring in one is binding as though occurring in all. Drawings and specifications are intended to agree and be mutually complete. Any item not contained within the drawings, but contained in the specifications, or vice-versa, shall be provided and/or executed as shown in either the drawing or specification at no extra costs to the COUNTY. Should anything not included in either the drawing and/or the specifications be necessary for the proper construction and/or operation of the Project/Service as herein specified, or should any error or disagreement between the specifications and drawings exist or appear to exist, CONTRACTOR shall not derive unjust benefit thereby, or use such disagreement counter to the best interests of the COUNTY. CONTRACTOR shall immediately notify the COUNTY’s Project Manager of any discrepancy and await the Project Manager’s direction before proceeding with the work in question.

6.3 Completion of the Scope of Services: CONTRACTOR shall give the work the attention necessary to assure the scheduled progress and shall cooperate fully with the COUNTY and with other contractors on the job site. All work shall be done in accordance with the contract documents. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval of the COUNTY.

6.4 Errors and Omissions: CONTRACTOR shall not take advantage of any apparent error or omission in the contract documents. If any error or omission appears in the contract documents, CONTRACTOR shall immediately notify the COUNTY in writing of such errors or omissions. In the event CONTRACTOR knows or should have known of any error or omission and failed to provide such notification, CONTRACTOR shall be deemed to have waived any claim for increased time or compensation CONTRACTOR may have had and CONTRACTOR shall be responsible for the results and the costs of rectifying any such error or omission.

Article 7. Contractor Personnel

7.1 Personnel: CONTRACTOR shall assure that all personnel are competent, careful and reliable. All personnel must have sufficient skill and experience to perform their assigned task properly and satisfactorily and to operate any equipment involved and shall make due and proper effort to execute the work in the manner prescribed in the contract documents. When the COUNTY determines that any person is incompetent, unfaithful, intemperate, disorderly or insubordinate, such person shall be immediately discharged from the Project/Service and shall not again be employed on the Project/Service without the written consent of the COUNTY. Should the CONTRACTOR fail to remove such person or persons, the COUNTY may withhold all payments which are or may become due or may suspend the work with approval of the COUNTY until such orders are complied with. No alcoholic beverages or drugs are permitted on any COUNTY properties. Evidence of alcoholic beverages or drug use by an individual will result in immediate termination from the job site.

7.2 E-Verify: CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of this Agreement; and shall expressly require any contractor and subcontractors performing work or providing services pursuant to this Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

7.3 Employment: CONTRACTOR acknowledges and agrees that, in accordance with Section 255.099, Florida Statutes, if the Project/Service assigned to CONTRACTOR is being supported in whole or in part by State funding CONTRACTOR shall give preference to the employment of state residents in the performance of the work on the Project/Service if state residents have substantially equal qualifications to those of non-residents. If CONTRACTOR is required to employ state residents, CONTRACTOR shall contact the Department of Economic Opportunity to post the employment needs in the State's job bank system. However, in work involving the expenditure of federal aid funds, this section may not be enforced in such a manner as to conflict with or be contrary to federal law prescribing a labor preference to honorably discharged soldiers, sailors, or marines, or prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

7.4 Superintendent: CONTRACTOR shall at all times have at the Project/Service site as its agent a competent superintendent capable and thoroughly experienced in the type of work being performed, who shall receive instructions from the COUNTY. The superintendent shall supervise all trades, direct all Project/Service activities, establish and maintain installation schedules, and provide the COUNTY's Project Manager with progress reports as requested. The superintendent shall have full authority to execute the orders or directions of the COUNTY, and if applicable to supply promptly any materials, tools, equipment, labor and incidentals which may be required. Such superintendent shall be furnished regardless of the amount of work sublet. The CONTRACTOR's superintendent shall speak, write, and understand English and shall be on the job site during all working hours.

7.5 Dress Code: CONTRACTOR shall maintain a dress code for their employee's with a minimum of shirts, pants, and work shoes/boots, in decent condition, at all times while the work is being performed. In the event the COUNTY determines ID badges are necessary, the COUNTY will provide CONTRACTOR with ID badges and CONTRACTOR agrees to enforce that its employees, whether employed by CONTRACTOR or a subcontractor, wear such ID badge while working on site for the Project/Service.

7.6 Employee Documentation: If required by the COUNTY for a Project and/or Service, CONTRACTOR shall provide the COUNTY's Project Manager with all requested documentation for all personnel, subcontractors, and representatives of CONTRACTOR that will be utilized for the Project and/or Service. Documentation shall be provided within five working days of request and shall be submitted electronically in PDF format. This information shall also be provided when new personnel, subcontractors, and representatives of CONTRACTOR are hired at any time during the contract period for the Project and/or Service. The information supplied will be used to run background checks and to provide identification badging, proximity cards, and keys. All documentation required below shall be supplied in (1) one PDF attachment that shall be titled with the Company's name, the person's name, and the person's birthdate. Example: ACME Plumbing - John H. Smith - 10/10/96. The documentation shall include the following: Full name, Address, Email address, Telephone number, Copy of driver's license/state of Florida identification card/valid passport/valid work visa, current color photo (head shot) taken with a plain background, Building name(s) and address(s) of the facilities where the individual will be working, and any additional information that may be requested by the Lake County Sheriff's Office.

7.7 Criminal Justice Information Services (CJIS): When advised by the COUNTY's Project Manager, CONTRACTOR's personnel, subcontractors, and representatives shall be required to complete an online training class that includes testing in order to have access to some secure areas of COUNTY facilities. Finger printing may also be required and shall be performed by the Lake County Sheriff's Office at no expense to the CONTRACTOR.

7.8 Background Check: Background checks may be performed by the Lake County Sheriff's Office for projects and/or services being done at the Lake County Courthouse at no expense to CONTRACTOR. On sites other than the Lake County Courthouse, all personnel, subcontractors, and representatives of the Contractor shall be required to submit to the Florida Department of Law Enforcement (1-850-410-8109) for a "Certified Background Check". CONTRACTOR will be responsible for all costs associated with the "Certified Background Check". A copy of the "Certified Background Check" shall be supplied to the COUNTY's Project Manager prior to any work starting. The COUNTY's Project Manager shall notify the CONTRACTOR electronically of approved and/or denied background checks. Reasons for denials will not be provided.

7.9 Identification Badging / Proximity Cards / Keys: CONTRACTOR's personnel, subcontractors, and representatives that are approved to work in restricted areas will receive an identification badge which will also act as a proximity card. All approved personnel, subcontractors, and representatives of CONTRACTOR shall be issued identification badge(s) and shall be required to wear them at all times while on COUNTY property. At no time shall personnel, subcontractors, and representatives of the CONTRACTOR be allowed to work on COUNTY property prior to being given approval by the Office of Facilities Management and the assignment of a CONTRACTOR identification badge. For facilities that do not have proximity card readers, keys will be issued to approved personnel, subcontractors, and representatives of CONTRACTOR. The Office of Facilities Management will notify CONTRACTOR that identification badges, proximity cards, and/or keys are ready for pickup, and shall have CONTRACTOR complete a release form(s) and then distribute them to CONTRACTOR for disbursement to their personnel, subcontractors, and representatives.

7.10 Lost/Stolen/Damaged Identification Badges / Proximity Cards / Keys: In the event that an identification badge, proximity card or key is lost, stolen or damaged, CONTRACTOR shall immediately notify the COUNTY's Project Manager. Personnel, subcontractors, and representatives of the CONTRACTOR shall be temporarily substituted by CONTRACTOR until a new identification badge/proximity card is provided. CONTRACTOR will be assessed a \$25.00 fee for each lost, stolen, or damaged card and/or key. All fees due shall be deducted from the CONTRACTOR's next invoice.

7.11 Reports: CONTRACTOR shall provide an initial report within 30 business days of the start date and then a quarterly report due the first week of the month in January, April, July, and October for all employees currently being utilized for Projects and/or Services for the COUNTY. All additions and/or changes shall be highlighted in yellow. The COUNTY's Project Manager will provide a standardized excel form at contract initiation that shall be used. Reports shall be provided for the duration of the Project and/or Service. The report shall be delivered electronically in PDF format to the Lake County Sheriff's Office Representative, the Facilities Maintenance Division Manager, and the COUNTY's Project Manager. Reports shall include the following information Individual's name, birthdate, and driver's license number, Identification badge/proximity card number, All facilities where the employee works, All facilities accessible by proximity card or key, The date the identification badge/proximity card was issued, Dates of subsequently issued identification badges/proximity cards due to loss, theft, or damage, and The date that the individual left employment of the contractor and the identification badge/proximity card was returned.

7.12 Leave Reporting and Project Completion: CONTRACTOR shall immediately contact the COUNTY's Project Manager upon the dismissal or permanent leave of any personnel, subcontractors, and/or representatives of CONTRACTOR that are utilized for Project/Service for the COUNTY. CONTRACTOR shall contact the COUNTY's Project Manager to arrange to drop off identification badge(s), proximity card(s), and key(s) of a dismissed worker(s) within three (3) business days of dismissal or leave. At the completion of the Project and/or Service the CONTRACTOR shall, within 3 business days, arrange to meet with the Facilities Maintenance Division Manager to return all identification badges, proximity cards, and keys.

7.13 Subcontractors:

A. In the event that CONTRACTOR needs to hire a subcontractor to complete the work being assigned, prior approval from the Project Manger shall be required. The cost of the subcontractor shall be indicated on the estimate and the invoice. CONTRACTOR shall be allowed to assess a percentage of up to fifteen percent (15%) above the actual cost of the subcontractor. A copy of the subcontractor's invoice to CONTRACTOR shall accompany the invoice being submitted to the COUNTY. Within five (5) calendar days after the award of any subcontract, CONTRACTOR shall deliver to the COUNTY a statement setting forth the name and address of the subcontractor, a summary description of the work subcontracted and a copy of the subcontract.

B. CONTRACTOR shall be fully responsible to the COUNTY for the acts and omissions of CONTRACTOR's subcontractors and of persons either directly or indirectly employed by them.

C. All subcontractors, for as long as the subcontractor is working on the job site, shall have at least one supervisor/foreman on the job site that shall speak and understand English.

D. CONTRACTOR shall cause its subcontractors and suppliers to comply with the Project/Service schedule and applicable sub-schedules.

E. CONTRACTOR shall include with the final invoice a completed CONTRACTOR's FINAL PAYMENT AFFIDAVIT, which will be provided by the COUNTY to the CONTRACTOR. A copy of the Affidavit may be provided by request to the COUNTY.

7.14 Emergency Contact: CONTRACTOR shall have a responsible person available at, or reasonably near, the Project/Service on a twenty-four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to handle any problem that might arise. CONTRACTOR shall submit to the COUNTY's Project Manager, the phone numbers and names of personnel designated to be contacted in cases of emergencies. This list shall contain the name of their supervisors responsible for work pertaining to this Agreement.

7.15 Notification of Emergency: In the event of an emergency affecting the safety or protection of persons, or the work or property at the Project/Service site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the COUNTY, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall contact the COUNTY as soon as possible by telephone and with written notice as soon as feasible thereafter, but no later than twenty-four (24) hours after the occurrence of the emergency, if CONTRACTOR believes that any significant changes in the work or variations from the contract documents has occurred. If the COUNTY determines that a change in the contract documents is required because of the action taken in response to an emergency, a change order request shall be issued to document the consequences of the changes or variations. If CONTRACTOR fails to provide written notice within the twenty-four (24) hour limitation noted above, CONTRACTOR shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the contract amount or an extension to the contract time.

7.16 Safety:

A. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and for complying with all requirements of the Occupational Safety and Health Administration (OSHA) and any other industry, federal, state or local government standards, including the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA). CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to persons or property. CONTRACTOR shall be aware that while working for the COUNTY, representatives from agencies such as OSHA are invitees and need not have warrants or permission to enter the work site. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by CONTRACTOR.

B. CONTRACTOR certifies that all material, equipment, etc. to be used in an individual Project/Service meets all Occupational Safety and Health Administration (OSHA) requirements. CONTRACTOR further certifies that if any of the material, equipment, etc. is found to be deficient in any OSHA requirement in effect on the date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by CONTRACTOR. All standard equipment, work operations, safety equipment, personal protective equipment, and lighting required or mandated by State, Federal, OSHA, or Americans with Disabilities Act (ADA) regulations must be provided and used by CONTRACTOR and its employees.

C. All safety devices installed by the manufacturer on equipment utilized by CONTRACTOR on the jobsite shall be in place and in proper working order at all times. If COUNTY determines that the equipment is deficient in safety devices, CONTRACTOR shall be notified immediately. CONTRACTOR shall immediately repair, or remove the equipment from service until the deficiency is corrected to the satisfaction of the COUNTY.

D. The COUNTY may periodically monitor the work site for safety. Should there be safety and/or health violations, the COUNTY shall have the authority, but not the duty, to require CONTRACTOR to correct the violation in an expeditious manner. If there is any situation that is deemed unsafe by the COUNTY, the Project/Service will be shut down immediately upon notice and will not resume work until the unsafe condition has been remedied.

E. Should the work site be in a hazardous area, the COUNTY shall take reasonable actions to furnish CONTRACTOR with information concerning hazards such as the types or the identification of known toxic material, machine hazards, Material Safety Data Sheets, or any other information that would assist CONTRACTOR in the planning of a safe work site. CONTRACTOR retains the ultimate responsibility to ensure all work is performed in a manner consistent with all applicable safety standards and directives.

F. CONTRACTOR shall erect and maintain, as required by existing conditions and contract performance, safeguards for safety and protection such as barricades, danger signs, a construction fence, and other warnings against hazardous conditions.

G. CONTRACTOR shall be responsible for the removal of all surplus material and debris from the Project/Service site at the end of each work day. All costs associated with clean-up and debris removal shall be included in the lump sum price stated elsewhere herein. CONTRACTOR shall leave the site clean and neat. All work must be cleaned up prior to the next day of business. At no time shall the specified work interfere with the regular operating hours of Lake County. CONTRACTOR must have ample cleaning supplies and a minimum of two (2) vacuum cleaners on-site for clean-up. At no time shall CONTRACTOR use COUNTY cleaning supplies or equipment. Upon final completion, CONTRACTOR shall thoroughly clean-up all areas where work has been involved as mutually agreed with the COUNTY's Project Manager. ***PLEASE NOTE: If at any time the CONTRACTOR fails to clean up the work area to acceptable levels the COUNTY shall retain outside cleaning services and the actual costs for this service shall be deducted from the CONTRACTOR's final payment with the minimum cost of \$50.00 to offset COUNTY time for securing services to properly clean and inspect the site.***

H. CONTRACTOR shall confine all equipment, materials and operations to the Project/Service site and areas identified in the contract documents. CONTRACTOR shall assume all responsibility for any damage to any such area resulting from the performance of the work.

I. CONTRACTOR is responsible for notifying the COUNTY of any hazardous materials used on the work site and providing the COUNTY a copy of the Material Safety Data Sheets (MSDS). Any spillage of hazardous chemicals and/or wastes by the CONTRACTOR shall be reported immediately to the COUNTY and cleaned up in accordance with all State and Federal Regulations. The cost of cleanup of any spillage of hazardous chemicals and/or wastes caused by CONTRACTOR shall be the sole responsibility of CONTRACTOR and the COUNTY shall share no responsibility of these costs. A copy of the complete report showing compliance with local, state, and federal agencies shall be given to the COUNTY. If any hazardous chemicals or conditions are discovered during the normal operation, it is the responsibility of CONTRACTOR to immediately contact the COUNTY with a description and location of the condition. The MSDS shall include the following information:

- 1) The chemical name and the common name of the toxic substance
- 2) The hazards or other risks in the use of the toxic substance, including the potential for fire, explosion, corrosiveness, and reactivity.
- 3) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by the exposure to the toxic substances.
- 4) The primary route of entry and symptoms of exposure.
- 5) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure;
- 6) The emergency procedure for spills, fire, disposal and first aid.
- 7) A description in lay terms of the known specified potential health risks posed by the toxic substance intended to alert any person reading this information.
- 8) The year and month, if available, that the information was compiled, and the name, address and emergency telephone number of the manufacturer responsible for preparing the information.

Article 8. Facilities Provisions

8.1 Underground Utilities: Any required ground digging or subsurface work shall be done in accordance with Chapter 556, Florida Statutes. It shall be the responsibility of CONTRACTOR to have all underground utilities located before any work begins (Sunshine State One Call 1-800-432-4770). The repairs of any damaged underground utilities as a result of the work being performed by CONTRACTOR shall be the responsibility of CONTRACTOR. The proper utility company shall be contacted immediately to expedite the repairs, if damage has occurred. CONTRACTOR will notify the COUNTY and provide a written explanation of the incident within two (2) days of the damage to any underground utilities.

8.2 General Inspection Requirements:

A. CONTRACTOR shall furnish the COUNTY with every reasonable accommodation for ascertaining whether the work performed and materials used are in accordance with the requirements and intent of the contract documents. If the COUNTY so requests, the CONTRACTOR shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, CONTRACTOR shall restore the uncovered portions of the work to the standard required by the specifications. Should the work so exposed or examined prove unacceptable to the COUNTY, the uncovering or removal, and the replacing of the covering or making good of the parts removed, shall be at CONTRACTOR's expense. However, should the work exposed or examined prove acceptable in the opinion of the COUNTY, the uncovering or removing and the replacing or the covering or making good of the parts removed, shall be paid for as unforeseen work.

B. If the COUNTY fails to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject shall in no way prevent the COUNTY's later rejection when such defect is discovered, nor obligate the COUNTY to final acceptance or payment, and CONTRACTOR shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

C. If, during or prior to construction operations, the COUNTY rejects any portion of the work on the grounds that the work or materials are defective, the COUNTY will give CONTRACTOR notice of the defect, which notice may be confirmed in writing. The CONTRACTOR will then have seven (7) calendar days from the date the notice is given to correct the defective condition. If CONTRACTOR fails to correct the deficiency within the seven (7) calendar days, the COUNTY may take any action necessary, including correcting the deficient work utilizing another contractor, returning any non-compliant goods to CONTRACTOR at CONTRACTOR's expense or terminating this Agreement. CONTRACTOR shall not assess any additional charges for any conforming action taken by the COUNTY. The COUNTY will not be responsible to pay for any product or service that does not conform to the contract documents. Should CONTRACTOR fail to remove and renew any defective materials used or work performed, or to make any necessary corrections in an acceptable manner and in accordance with the contract documents, within the time indicated in writing, the COUNTY may direct CONTRACTOR to correct the unacceptable or defective materials or work at CONTRACTOR's expense. Any expense incurred by the COUNTY, whether direct, indirect or consequential, in making said repairs, removals, or renewals shall be paid for out of any monies due or which may become due to CONTRACTOR. A change order shall be issued, incorporating the necessary revisions to the contract documents, including an appropriate decrease to the contract amount. Such costs shall include, but not be limited to, costs of repair and replacement of work destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective work and additional compensation due the COUNTY. CONTRACTOR shall not be allowed an extension of the term of this Agreement because of any delay in performance of the Project/Service attributable to the exercise by the COUNTY of the COUNTY's rights and remedies hereunder. If CONTRACTOR fails to honor the change order, the COUNTY may terminate this Agreement.

D. In the event the COUNTY's Project Manager finds the materials or the finished product in which the materials are used and not within reasonably close conformity to the specifications, the COUNTY's Project Manager will then make a determination if the work shall be accepted and remain in place. In this event, the COUNTY's Project Manager will document the basis of acceptance by a change order that will provide for an appropriate deduction as needed in the contract price for such work or materials necessary to conform to the determination based on the COUNTY's Project Manager's professional judgment.

E. When all or a portion of the cost of Project/Services is to be paid by federal, state or another governmental agency, the work will be subject to such inspection by federal, state, or other governmental agency representative, but such inspections will not make the government or agency a party to this Agreement.

8.3 Project/Service Materials and Storage:

A. Unless otherwise specified within the contract documents, all materials to be used to complete the Project/Service, except where recycled content is specifically requested, shall be new, unused, of recent manufacture, and suitable for its intended purpose. All goods shall be assembled, fully serviced and ready for operation when delivered. In the event any of the materials supplied by CONTRACTOR are found to be defective or do not conform to specifications: (1) the materials may be returned to CONTRACTOR at CONTRACTOR's expense and this Agreement may be terminated or (2) the COUNTY may require CONTRACTOR to replace the materials at CONTRACTOR's expense.

B. Materials shall be placed to permit easy access for proper inspection and identification of each shipment. Any material which has deteriorated, become damaged, or is otherwise unfit for use, as determined by the COUNTY, shall not be used in the work, and shall be removed from the site by CONTRACTOR at CONTRACTOR's expense. Until incorporated into the work, materials shall be the sole responsibility of CONTRACTOR and CONTRACTOR shall not be paid for such materials until incorporated into the work. If any chemicals, materials or products containing toxic substances are to be used at any time, CONTRACTOR shall furnish a Material Safety Data Sheet to the COUNTY prior to commencing such use.

C. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose.

D. All unusable materials and debris shall be removed from the premises at the end of each workday and disposed of in an appropriate manner.

8.4 Time for Completion and Extensions:

A. Purchase orders shall be issued for Project/Services to CONTRACTOR. Issuance of a purchase order is not a directive to begin work unless otherwise specified. A written notice to proceed is required for the CONTRACTOR to schedule or begin work. CONTRACTOR shall diligently pursue the completion of the work and coordinate the work being done on the Project/Service by its subcontractors and material suppliers, as well as coordinate CONTRACTOR's work with the work of other contractors so that CONTRACTOR's work or the work of others shall not be delayed or impaired. CONTRACTOR shall be solely responsible for all means, methods, techniques, sequences and procedures, as well as coordination of all portions of the work under the contract documents.

B. Should CONTRACTOR be obstructed or delayed in the completion of the work as a result of unforeseeable causes beyond the control of CONTRACTOR, and not due to CONTRACTOR's fault or neglect, CONTRACTOR shall notify the COUNTY in writing within twenty-four (24) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which CONTRACTOR may have had to request a time extension.

C. If CONTRACTOR complies with the twenty-four (24) hour notice requirement, the COUNTY shall ascertain the facts and the extent of the delay being claimed and recommend an extension to the contract time when, in the COUNTY's sole judgment, the findings of fact justify such an extension. CONTRACTOR shall cooperate with the COUNTY's investigation of the delays by providing any schedules, correspondence or other data that may be required to complete the findings of fact. Extensions to the contract time may be granted only for those delays which impact CONTRACTOR's construction schedule. Extensions of contract time, if approved by the COUNTY, must be authorized by written change order.

8.5 Changes in the Scope of Services:

A. The COUNTY may at any time, by written change order, in accordance with the COUNTY's Purchasing Policy and Procedures, modify the Scope of Services. For changes requested by CONTRACTOR, CONTRACTOR will prepare and submit change order requests for COUNTY approval. Each change order shall include time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the Project/Service. Both the COUNTY and CONTRACTOR shall execute the change order.

B. The value of such extra work or change shall be determined by the contract unit values, if applicable unit values are set forth in this Agreement. The amount of the change shall be computed from such values and added to or deducted from the contract price.

C. If the COUNTY and CONTRACTOR are unable to agree on the change order for a requested change, CONTRACTOR agrees to promptly perform the change as directed in writing by the COUNTY. If CONTRACTOR disagrees with the COUNTY's adjustment determination, CONTRACTOR must make a claim pursuant to the Claims and Disputes section herein, or else be deemed to have waived any claim on this matter CONTRACTOR might have otherwise had.

D. For work not contemplated by the original Agreement, the amount of an increase shall be limited to CONTRACTOR's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten percent (10%) markup for all overhead and profit, unless otherwise agreed to in writing by the COUNTY. In such case, CONTRACTOR shall keep and present to the COUNTY an itemized accounting together with appropriate supporting data. In the event such changed work is performed by a subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by CONTRACTOR for all of its overhead and profit, for a total overall maximum markup of fifteen percent (15%) of the amount of changed work. All compensation due CONTRACTOR and any subcontractor or sub-subcontractor for field and home office overhead is included in the markups listed above.

E. The COUNTY shall not be liable to CONTRACTOR for any increased compensation in the absence of a written change order executed in accordance with COUNTY policy. The payment authorized by such a change order shall represent full and complete compensation to CONTRACTOR for labor, materials, incidental expenses, overhead, profit, costs and time associated with the work authorized by such change order.

F. Execution by CONTRACTOR of a properly authorized change order shall be considered a waiver of all claims or requests for additional time or compensation for any activities prior to the time of execution related to items included in the change order.

G. Upon receipt of an approved change order, changes in the Scope of Services shall be promptly performed. All changes in work shall be performed under the terms and conditions of this Agreement.

H. Change orders shall not be issued for incidental items or tasks that should have been reasonably construed to be part of the project by the CONTRACTOR.

8.6 Claims and Disputes:

A. Claims by CONTRACTOR shall be made in writing to the COUNTY within two (2) business days after the commencement of the event giving rise to such claim or CONTRACTOR shall be deemed to have waived the claim. All claims shall be priced in accordance with the section in this document entitled "Changes in Work".

B. CONTRACTOR shall proceed diligently with its performance as directed by the COUNTY, regardless of any pending claim, action, suit, or administrative proceeding, unless otherwise agreed to by the COUNTY in writing. The COUNTY shall continue to make payments on the undisputed portion of the contract in accordance with the contract documents during the pendency of any claim.

C. Claims by CONTRACTOR shall be resolved in the following manner:

- 1) Upon receiving the claim and supporting data, the COUNTY shall within fifteen (15) calendar days respond to the claim in writing stating that the claim is either approved or denied. If denied, the COUNTY shall specify the grounds for denial. The CONTRACTOR shall then have fifteen (15) calendar days in which to provide additional supporting documentation, or to notify the COUNTY that the original claim stands as is.
- 2) If the claim is not resolved, the COUNTY may, at its option, choose to submit the matter to mediation. A mediator shall be mutually selected by the parties and each party shall pay one-half (1/2) the expense of mediation. If the COUNTY declines to mediate the dispute, CONTRACTOR may bring an action in a court of competent jurisdiction in and for Lake County, Florida.

D. Claims by the COUNTY against CONTRACTOR shall be made in writing to the CONTRACTOR as soon as the event leading to the claim is discovered by the COUNTY. CONTRACTOR shall respond in writing within fifteen (15) calendar days of receipt of the claim. If the claim cannot be resolved, the COUNTY shall have the option to submit the matter to mediation as set forth in (C)(2) above.

E. Arbitration shall not be considered as a means of dispute resolution.

F. NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work shall relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the COUNTY. CONTRACTOR expressly acknowledges and agrees that CONTRACTOR shall receive no damages for delay. This provision shall not preclude recovery or damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the COUNTY. Otherwise, CONTRACTOR shall be entitled to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

8.7 Acceptance of the Work and Final Payment: The work and services rendered under this Agreement shall remain the property of the CONTRACTOR and shall not be deemed complete until a physical inspection and actual usage of the product(s) and/or service(s) is (are) accepted by the COUNTY and shall be in compliance with the terms herein, fully in accord with the specifications and of the highest quality. Any goods and/or services purchased under this Agreement may be tested/inspected for compliance with the specifications listed.

8.8 Final Inspection: When all materials have been furnished, all work has been performed, and the construction contemplated by this Agreement has been satisfactorily completed, the COUNTY shall make the final inspection. The final inspection shall be completed within five (5) business days of receipt of notification from the CONTRACTOR that the Project/Service is ready. The COUNTY shall notify CONTRACTOR if necessary of any deficiencies with the Project/Service, and CONTRACTOR shall correct all deficiencies before final acceptance and payment is made.

8.9 Maintenance of Work: CONTRACTOR shall maintain all work in as-new condition until the final inspection is completed and the work is accepted by the COUNTY. All insurance shall be maintained until final acceptance by the COUNTY.

8.10 Final Acceptance: When the Project/Service or any portion thereof, as designated by the COUNTY, is ready for its intended use, the COUNTY and any other invited parties shall make an inspection of the Project/Service, to verify its completeness and develop a punch list of items needing completion or correction before final payment will be made. CONTRACTOR shall have ten (10) calendar days to correct all deficiencies. An eighty-dollar (\$80.00) re-inspection fee shall be applied for the third inspection and any required re-inspection thereafter. The COUNTY shall have the right to exclude CONTRACTOR from those portions of the work designated as complete after the inspection; provided, however, that CONTRACTOR will have reasonable access for the time allotted by the COUNTY to complete or correct items on the punch list. When the work provided for under this Agreement has been completely performed by CONTRACTOR, and the final inspection has been made by the COUNTY, a final invoice will be prepared by the CONTRACTOR. The amount of this invoice, less any sums that may have been deducted or retained under the provisions of this Agreement, will be paid to CONTRACTOR in accordance with this Agreement, and after CONTRACTOR has agreed in writing to accept the balance due, as determined by the COUNTY, as full settlement of the account under the contract and of all claims in connection therewith. Occupancy by the COUNTY alone does not constitute final acceptance.

8.11 Waiver of Claims: CONTRACTOR's acceptance of final payment shall constitute a full waiver of any and all claims by the CONTRACTOR against the COUNTY arising out of the contract or otherwise related to the Project/Service, except those previously made in writing and identified by CONTRACTOR as unsettled at the time the final estimate is prepared. Neither the acceptance of the work nor payment by the COUNTY shall be deemed a waiver of the COUNTY's rights to enforce any continuing obligations of CONTRACTOR or to the recovery of damages for defective work not discovered by the COUNTY at the time of final inspection.

8.12 Termination of Contractor's Responsibilities: This Agreement will be considered complete when all work has been completed and accepted by the COUNTY and all warranty periods have expired. CONTRACTOR will then be released from further obligation except as set forth in this Agreement.

8.13 Recovery Rights Subsequent to Final Payment: The COUNTY reserves the right, should an error be discovered in the invoice, or should proof of defective work or materials used by or on the part of CONTRACTOR be discovered after the final payment has been made, to claim and recover from CONTRACTOR by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials, including any fees or costs associated with the additional services of the COUNTY.

8.14 Warranties:

A. All warranties shall begin on the date of the COUNTY's acceptance and shall last for a period of twelve (12) months unless otherwise specified in the Scope of Services, plans or specifications. CONTRACTOR shall obtain and assign to the COUNTY all express warranties given to CONTRACTOR or any subcontractors by any material suppliers, equipment or fixtures to be incorporated into the Project/Service. CONTRACTOR warrants to the COUNTY that any materials and equipment furnished under the contract documents shall be new unless otherwise specified, and that all work shall be of good quality, free from defects and in conformance with the contract documents. CONTRACTOR further warrants to the COUNTY that all materials and equipment furnished under the contract documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for the contract documents. This warranty requirement shall remain in force for the full period identified above, regardless of whether CONTRACTOR is still under contract at the time of the defect. These warranties are in addition to those implied warranties to which the COUNTY is entitled as a matter of law.

B. If sod is used as part of an individual Project/Service, it shall be warranted to be free of noxious and invasive weeds, disease, and insects. If pests and/or noxious weeds manifest themselves within sixty (60) days of placement of the sod, CONTRACTOR shall treat the affected areas. The process for treating these areas shall be approved by the COUNTY. If the sod does not meet any of the required specifications, CONTRACTOR shall be responsible to replace it at no expense to the COUNTY. It shall be the responsibility of CONTRACTOR to insure the sod is sufficiently established as described as specified in the scope of services, plans, or specifications. This shall include watering the sod on a regular basis as needed to keep it alive until established. Established shall be considered as being sufficiently rooted, as determined by the Project Manager, into the surface that it was installed. If the sod dies or does not become established CONTRACTOR shall be responsible for the replacement at no cost to the COUNTY.

C. CONTRACTOR shall be responsible for promptly correcting any deficiency, at no cost to the COUNTY, within five (5) calendar days after the COUNTY notifies CONTRACTOR of such deficiency in writing. If CONTRACTOR fails to honor the warranty and/or fails to correct or replace the defective work or items within the period specified, the COUNTY may, at its discretion, notify CONTRACTOR in writing that CONTRACTOR may be debarred as a COUNTY vendor, and/or become subject to contractual default if the corrections or replacements are not completed to the satisfaction of the COUNTY within five (5) calendar days of receipt of the notice. If CONTRACTOR fails to satisfy the warranty within the period specified in the notice, the COUNTY may (a) place CONTRACTOR in default of its contract and/or (b) procure the products or services from another source and charge CONTRACTOR for any additional costs that are incurred by the COUNTY for this work or items, either through a credit memorandum or through invoicing.

8.15 Liquidated Damages: If the deficiencies have been noted and the remedies have not been completed within the contracted time, the COUNTY may send out a notification notifying CONTRACTOR of an assessment of Liquidated Damages. The COUNTY and CONTRACTOR recognize that, since time is of the essence for this Agreement, the COUNTY will suffer financial loss if the work is not completed within the time specified. The COUNTY will be entitled to assess, as Liquidated Damages, but not as a penalty, for each calendar day. The Project/Service shall be deemed to be completed on the date the work is considered complete to the satisfaction of the COUNTY. CONTRACTOR hereby expressly waives and relinquishes any right which it may have to seek to characterize the Liquidated Damages as a penalty. The parties agree that the Liquidated Damages sum represents a fair and reasonable estimate of the COUNTY's actual damages at the time of contracting if CONTRACTOR fails to complete the work in a timely manner. The Liquidated Damages shall be as set forth in the following table:

| Service/Project Amount | Daily Charge (Per Calendar Day) |
|---|--|
| \$5,000 and under | \$25 |
| Over \$5,000 but less than \$10,000 | \$65 |
| \$10,000 or more but less than \$20,000 | \$91 |
| \$20,000 or more but less than \$30,000 | \$121 |
| \$30,000 or more but less than \$40,000 | \$166 |
| \$40,000 or more but less than \$50,000 | \$228 |
| \$50,001 or more | \$250 |

The COUNTY shall retain from the compensation to be paid to the CONTRACTOR the above described sum. If CONTRACTOR is in default for not completing the Project/Service within the time specified, the COUNTY may require CONTRACTOR to stop work on any other project or service to the COUNTY until the Project/Service specific in this Agreement is complete and the Liquidated damages Sum is satisfied.

8.16 Sanitation: If the Project/Service does not involve interior work, CONTRACTOR shall be required to provide and maintain adequate sanitary conveniences for the use of persons employed for the Project/Service. These conveniences shall be maintained at all times without nuisance, and their use shall be strictly enforced. The location of these conveniences shall be subject to the COUNTY's Project Manager's approval. All such facilities shall be installed and maintained by CONTRACTOR in accordance with applicable federal, state, and local laws.

8.17 Submittals and Equal Products:

A. Submittals of products required for the Project/Service assigned to CONTRACTOR hereunder, shall be supplied to the COUNTY for pre-approval prior to the start of the work. These documents shall be provided to the COUNTY at least one (1) week before the installation.

B. If a product or service requested by the COUNTY for the Project/Service has been identified in the specifications by a brand name and has not been notated as a “No Substitute” item, such identification is intended to be descriptive and not restrictive, and is to indicate the quality and characteristics of product or service that will be acceptable. If CONTRACTOR offers an alternate product or service for consideration, such product must be clearly identified by CONTRACTOR to the COUNTY. The COUNTY shall make a determination whether the alternate meets the salient characteristics of the specifications. An alternate product will not be considered for any item notated “No Substitute.”

C. Unless CONTRACTOR clearly indicates in its response that it is proposing an alternate product, the response shall be considered as offering the same brand name referenced in the specifications. If CONTRACTOR proposes to furnish an alternate product or service, the brand name of the product or service to be furnished shall be clearly identified. A formal submittal for the alternate/shop drawings shall be submitted. The evaluation of the alternate and the determination as to acceptability of the alternate product or service shall be the responsibility of the COUNTY and will be based upon information furnished by CONTRACTOR. The COUNTY will not be responsible for locating or securing any information which is not included in CONTRACTOR’s response. To ensure that sufficient information is available, CONTRACTOR shall furnish as part of the bid or proposal all descriptive material by providing the manufacturer specification sheets so the COUNTY can make an informed determination whether the product offered meets the salient characteristics required by the specifications. Failure to do so will require the use of the specified products.

8.18 Fees: The following is a list of fees that may be assessed to CONTRACTOR during the term of this Agreement. These fees are assessed to help offset the additional costs associated with the COUNTY’s labor and vehicle usage required for unnecessary inspections or missed appointments. The eighty-dollar (\$80.00) fee shown below is a re-inspection fee for uncorrected workmanship. The fee shall be applied to the third inspection and for any subsequent inspections. Any re-inspection fee charged to the COUNTY by other agencies having jurisdiction over the Project/Service, shall additionally be charged back to CONTRACTOR. The fees, if any, shall be deducted from the final invoices.

| | |
|--|-------------------------|
| Missing scheduled appointments | \$70.00 each occurrence |
| Failure to respond to emergency calls | \$250.00 per day |
| Late to emergency calls | \$36.00 per hour |
| Inspected unacceptable workmanship | \$80.00 each inspection |
| Failure to provide any and all required documentation or reports | \$75.00 per day |
| Failure to pass all inspecting authority re-inspections (within 30 days of initial inspection) | \$250.00 per day |

Article 9. Special Terms and Conditions

9.1 Termination: This Agreement may be terminated by the COUNTY upon ten (10) calendar days advance written notice to the other party; but if any work, service or task hereunder is in progress but not completed on the date of termination, then this Agreement may be extended upon written approval of the COUNTY until said work, service or task is completed and accepted.

A. Termination for Convenience: In the event this Agreement is terminated or cancelled upon the request and for the convenience of the COUNTY with the required ten (10) calendar day advance written notice, the COUNTY shall reimburse CONTRACTOR for actual work satisfactorily completed.

B. Termination for Cause: Termination by the COUNTY for cause, default, or negligence on the part of CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The ten (10) calendar day advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years: When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled, and CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/Tasks delivered under this Agreement.

9.2 Assignment of Agreement: This Agreement shall not be assigned except with the written consent of the COUNTY's Procurement Services Director. No such consent shall be construed as making the COUNTY a party to the assignment or subjecting the COUNTY to liability of any kind to any assignee. No assignment shall under any circumstances relieve CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through CONTRACTOR. Additionally, unless otherwise stipulated herein, CONTRACTOR shall notify and obtain prior written consent from the COUNTY prior to being acquired or subject to a hostile takeover. Any acquisition or hostile takeover without the prior consent of the COUNTY may result in termination of this Agreement for default.

9.3 Insurance:

A. CONTRACTOR shall purchase and maintain at all times during the term of this Agreement, without cost or expense to the COUNTY, policies of insurance as indicated below, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring the CONTRACTOR against any and all claims, demands, or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of the CONTRACTOR under the terms and provisions of the Agreement. An original certificate of insurance, indicating that CONTRACTOR has coverage in accordance with the requirements of this section, shall be furnished by CONTRACTOR to the COUNTY's Project Manager and Procurement Services Director within five (5) working days of such request and must be received and accepted by the COUNTY prior to contract execution and/or before any work begins. The parties agree that the policies of insurance and confirming certificates of insurance shall insure the CONTRACTOR is in accordance with the following minimum limits:

- 1) General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate \$1,000,000/2,000,000

Products-Completed Operations \$2,000,000
Personal & Adv. Injury \$1,000,000
Fire Damage \$50,000
Medical Expense \$5,000
Contractual Liability Included

- 2) Automobile liability insurance, including owned, non-owned, and hired autos with the minimum Combined Single Limit of \$1,000,000
- 3) Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc.). If not required by law to maintain workers compensation insurance, the CONTRACTOR must provide a notarized statement that if he or she is injured, he or she will not hold the COUNTY responsible for any payment or compensation.
- 4) Employers Liability with the following minimum limits and coverage:
 - Each Accident \$1,000,000
 - Disease-Each Employer \$1,000,000
 - Disease-Policy Limit \$1,000,000
- 5) Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) insurance as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

B. Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear all applicable policies. Certificates of insurance must identify the RFP or ITB number in the Description of Operations section on the Certificate.

C. Certificates of insurance must provide for a minimum of thirty (30) days prior written notice to the County of any change, cancellation, or nonrenewal of the required insurance. It is CONTRACTOR's specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

D. Certificates of insurance must evidence a waiver of subrogation in favor of the COUNTY, that coverage must be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium by the COUNTY.

E. CONTRACTOR must provide a copy of all policy endorsements, reflecting the required coverage, with Lake County listed as an additional insured along with all required provisions to include waiver of subrogation. Contracts cannot be completed without this required insurance documentation. (*Note: A simple COI WILL NOT be accepted in lieu of the policy endorsements*).

F. Certificate holder must be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA, AND THE BOARD OF COUNTY
COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

G. All self-insured retentions shall appear on the certificates and will be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions; or CONTRACTOR shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

H. The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR and/or subcontractor providing such insurance.

I. CONTRACTOR shall be responsible for subcontractors and their insurance. Subcontractors are to provide Certificates of Insurance to the COUNTY evidencing coverage and terms in accordance with the Contractor's requirements.

J. Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

K. Neither approval by the COUNTY of any insurance supplied by CONTRACTOR, nor a failure to disapprove that insurance, shall relieve CONTRACTOR of full responsibility of liability, damages, and accidents as set forth herein.

9.4 Indemnity: The CONTRACTOR shall indemnify and hold the COUNTY and its agents, officers, commissioners or employees harmless for any damages resulting from failure of CONTRACTOR to take out and maintain the above insurance. Additionally, CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to indemnify, and hold the Board of County Commissioners, Lake County, Florida, and its officers, commissioners, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities resulting from the negligent act, error or omission of CONTRACTOR, its agents, employees or representative, in the performance of CONTRACTOR's duties set forth in this Agreement.

9.5 Independent Contractor: CONTRACTOR, and all its employees, agree that they shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venturer, or partner of the COUNTY. CONTRACTOR shall have no authority to contract for or bind the COUNTY in any manner and shall not represent itself as an agent of the COUNTY or as otherwise authorized to act for or on behalf of the COUNTY. Additionally, CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon on resulting from the award or making of this Agreement.

9.6 Return of Materials: Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to CONTRACTOR by the COUNTY pursuant to this Agreement.

9.7 Public Entity Crimes: A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

9.8 Conflict of Interest: CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement, or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government. Further, CONTRACTOR hereby certifies that no officer, agent, or employee of the COUNTY has any material interest either directly or indirectly in the business of CONTRACTOR conducted here and that no such person shall have any such interest at any time during the term of this Agreement unless approved by the COUNTY.

9.9 Retaining Other Contractors: Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement. While the COUNTY has listed all major items which are utilized by the COUNTY's offices and departments in conjunction with their operations, there may be similar or ancillary items that must be purchased by the COUNTY during the term of this Agreement. Under these circumstances, a County representative will contact CONTRACTOR to obtain a price quote for the similar or ancillary items. The COUNTY reserves the right to award these ancillary items to CONTRACTOR, another vendor or to acquire the items through a separate solicitation.

9.10 Accuracy: CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in resulting from the services provided herein.

9.11 Right to Audit: The COUNTY reserves the right to require the CONTRACTOR to submit to an audit, by any auditor of the COUNTY's choosing. The CONTRACTOR shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. The CONTRACTOR shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for three (3) complete calendar years following expiration of the Agreement. The CONTRACTOR agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards.

If the CONTRACTOR provides technology services, the CONTRACTOR must provide Statement of Standards for Attestations Engagements (SSAE) 16 or 18 and System and Service Organization Control (SOC) reports upon request by the County. The SOC reports must be full Type II reports that include the CONTRACTOR's description of control processes, and the independent auditor's evaluation of the design and operating effectiveness of controls. The cost of the reports will be paid by the CONTRACTOR.

If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by the CONTRACTOR to the COUNTY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the COUNTY's audit must be reimbursed to the COUNTY by the CONTRACTOR. Any adjustments or payments which must be made as a result of any such audit or inspection of the CONTRACTOR's invoices or records must be made within a reasonable amount of time, but in no event may the time exceed ninety (90) calendar days, from presentation of the COUNTY's audit findings to the CONTRACTOR.

This provision is hereby considered to be included within, and applicable to, any subcontractor agreement entered into by the CONTRACTOR in performance of any work under this Agreement.

9.12 Force Majeure: The parties will exercise every reasonable effort to meet their respective obligations hereunder, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any Government law or regulation, acts of nature, acts or omissions of the other party, Government acts or omissions, fires, strikes, national disasters, wars, riots, **transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties.** Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

9.13 Business Hours of Operation: Unless otherwise specified in the technical specifications, all work performed shall be accomplished between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, and no work shall be performed on Saturdays, Sundays, or County Holidays, unless permission to work has been requested in writing by the CONTRACTOR and approval, in writing, has been granted by the COUNTY. Request for permission to work must be received by the COUNTY no less than two (2) days prior to the requested workday. The exception to this pre-approval requirement would be in the case of an emergency in which the emergency specification as outlined in General Terms and Conditions, Section 3, Emergencies, would apply. County Holidays are as follows: New Year's Day; Martin Luther King, Jr. Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Day after Thanksgiving; and Christmas Day. Special schedules may be established if necessary because of problems with noise or similar difficulties affecting other County facilities, County operations, or citizens in homes or buildings/rooms adjacent to the work being completed. When the CONTRACTOR requests and is approved for Saturday, Sunday or Holiday work, the COUNTY may assess the CONTRACTOR the sum of Two Hundred Fifty Dollars (\$250.00) per man per day for each Saturday, Sunday or recognized Holiday worked or planned to work. These fees will be deducted from the final invoice.

9.14 Minimum Wage: The wage rate paid to all laborers, mechanics and apprentices employed by the CONTRACTOR for the work under the Agreement shall not be less than the prevailing wage rates for similar classifications of work as established by the federal government and enforced by the U.S. Department of Labor, Wages and Hours Division, and Florida's Minimum Wage requirements in Article X, Section 24(f) of the Florida Constitution and enforced by the Florida Legislature by statute or the State Agency for Workforce Innovation by rule, whichever is higher.

9.15 Protection of Property:

A. All existing structures, utilities, services, roads, trees, shrubbery and property in which the COUNTY has an interest shall be protected against damage or interrupted services at all times by the CONTRACTOR during the term of this contract, and CONTRACTOR shall be held responsible for repairing or replacing damaged property to the satisfaction of the COUNTY which is damaged by reason of the CONTRACTOR's operation on the property. In the event the CONTRACTOR fails to comply with these requirements, the COUNTY reserves the right to secure the required services and charge the costs of such services back to the CONTRACTOR. All items damaged as a result of CONTRACTOR or subcontractor operations belonging to third parties, such as but not limited to: sidewalks, irrigation, curbs, pipes, drains, water mains, pavement, mail boxes, turf, signs, or other property shall either be repaired or replaced by the CONTRACTOR, at the CONTRACTOR'S expense, in a manner prescribed by, and at the sole satisfaction of the COUNTY.

B. Furthermore, if the Project/Service is to be completed within COUNTY facilities, CONTRACTOR shall be responsible for repairing or replacing any portion of any COUNTY facility, whether interior or exterior, damaged by reason of CONTRACTOR's operation within the property. In the event the CONTRACTOR fails to comply with these requirements, the COUNTY reserves the right to secure the required services and charge the costs of such services back to CONTRACTOR. All items within a facility belonging to third parties, or to commissioners, officers, employees, leasees, invitees, or agents of the COUNTY, including but not limited to personal items and/or furniture shall either be repaired or replaced by CONTRACTOR, at CONTRACTOR'S expense, in a manner prescribed by, and at the sole satisfaction of the COUNTY.

C. CONTRACTOR shall be responsible for re-grading and re-sodding any areas that are disturbed by CONTRACTOR during the course of the work being completed.

9.16 Risk of Loss: CONTRACTOR assumes the risk of loss of damage to the COUNTY's property during possession of such property by CONTRACTOR, and until delivery to and acceptance of that property to the COUNTY. CONTRACTOR shall immediately repair, replace or make good on the loss or damage without cost to the COUNTY, whether the loss or damage results from acts or omissions, negligent or otherwise, of CONTRACTOR or a third party.

9.17 Accident Notification: If in the course of completing work as part of this Agreement there is an accident that involves the public, CONTRACTOR shall as soon as possible inform the COUNTY of the incident by telephone. CONTRACTOR shall follow up in writing within two (2) business days of the incident. If Law Enforcement was involved and has written a report, CONTRACTOR shall forward a copy of the report to the COUNTY.

9.18 Public Records:

A. All electronic files, audio and video recordings, and all papers pertaining to any activity performed by the contractor for or on behalf of the COUNTY will be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONTRACTOR's office or facility. The CONTRACTOR shall maintain the files and papers for not less than three (3) complete calendar years after the Service has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of the contract, the CONTRACTOR shall appoint a records custodian to handle any records request and provide the custodian's name and telephone numbers to the COUNTY's Project Manager.

B. Pursuant to Section 119.0701, Florida Statutes, CONTRACTOR shall comply with the Florida Public Records' laws, and shall:

- 1) Keep and maintain public records required by the COUNTY to perform the services identified herein.
- 2) Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law.
- 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the COUNTY.

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

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT LAKE COUNTY PROCUREMENT, 315 WEST MAIN STREET, P.O. BOX 7800, TAVARES, FL 32778 OR AT 352-343-9424 OR VIA EMAIL AT purchasing@lakecountyfl.gov.

Failure to comply with this subsection shall be deemed a breach of the contract and enforceable as set forth in Section 119.0701, Florida Statutes.

Article 10. Miscellaneous Provisions

10.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida.

10.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

10.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

10.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

10.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

10.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

10.7 During the term of this Agreement the CONTRACTOR assures the COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that the CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discrimination in any form or manner against the CONTRACTOR employees or applicants for employment. The CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

10.8 The CONTRACTOR shall at all times comply with all Federal, State and local laws, rules and regulations.

10.9 Any individual, corporation, or other entity that attempts to meet its contractual obligations with the COUNTY through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years. The COUNTY as a further sanction may terminate or cancel any other contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

10.10 With the consent of the CONTRACTOR, other agencies may make purchases in accordance with the contract. Any such purchases shall be governed by the same terms and conditions as stated herein with the exception of the change in agency name. In addition, although this Agreement is specific to a COUNTY Department, it is agreed and understood that any COUNTY department may avail itself of this Agreement and purchase any and all items specified herein at the contract price(s) established herein. A contract modification shall be issued by the COUNTY identifying the requirements of the additional COUNTY department(s).

10.11 The CONTRACTOR shall act as the prime contractor for all required items and services and shall assume full responsibility for the procurement and maintenance of such items and services. The CONTRACTOR shall be considered the sole point of contact with regards to all stipulations, including payment of all charges and meeting all requirements of this Agreement. All subcontractors will be subject to advance review by the COUNTY in terms of competency and security concerns. No change in subcontractors shall be made without consent of the COUNTY. Even if the subcontractor is self-insured, the COUNTY may require the CONTRACTOR to provide any insurance certificates required by the work to be performed.

10.12 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

10.13 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

10.14 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile, addressed as follows:

If to CONTRACTOR:

If to COUNTY:

Lake County Manager
315 West Main Street
P.O. Box 7800
Tavares, Florida 32778

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman and by CONTRACTOR through its duly authorized representative.

ATTEST:

COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

Gary J. Cooney, Clerk
Board of County Commissioners of
Lake County, Florida

Leslie Campione, Chairman

Approved as to form and legality:

This ____ day of _____, 2019.

Melanie Marsh, County Attorney

CONTRACTOR

By:_____

Printed Name:_____

License #:

This ____ day of _____, 2019.