

## **EXHIBIT 1 GENERAL TERMS AND CONDITIONS**

1. Enough detail is given in the bid to describe the item being bid, although not written, full manufacturer's specifications are implied. Manufacturer's specifications take precedent over information within this bid if any discrepancy exists.
2. Plans, Drawings, Specifications, Special Provisions and other documents shall be considered a part of the Bid Form whether attached or not.
3. Prospective Bidders must be able to show that they are capable of performing each of the various items of work upon which they bid and that the equipment necessary for the prosecution of the work is available. The Bidder shall be licensed as a Contractor when required by state law. Such license shall be in effect prior to the date and time specified for receipt of bids by the County.
4. Should the bidder to whom the award of contract was made, fail to execute any of the required and acceptable bonds, the award of contract shall be annulled and the Bid Bond posted by the bidder shall be retained by the County, not as penalty, but as liquidated damages. Award will then be given to the bidder selected by the County with a qualified bid.

### **5. The Work**

- a. Intent is for the Contractor to provide for construction, completion in every detail of the work, furnishing all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the Contract Documents.
- b. The County's Designated Representative shall have the right to make alterations in the drawings or specifications as considered necessary or desirable during the progress of the work for satisfactory completion of the work. No alterations shall be made which will result in a substantial change in the general plan, character, or basic scope of the work.
- c. Upon completion of the work, before acceptance by the Engineer or Architect of Record and before final payment, the Contractor shall remove all equipment, surplus, discarded materials, rubbish and temporary structures and shall restore, in an acceptable manner, all property, both public and private, damaged during the performance of the work.
- d. This contract requires compliance with the "Trench Safety Act" Chapter 553.60-553.64 of Florida Statutes.

### **6. Control of the Work**

- a. The County will furnish the Contractor a maximum of three (3) sets of reproducible copies of the drawings and specifications as required for the particular project.
- b. At project completion, the Contractor shall furnish, on sheets not larger than 24 inches by 36 inches, as-built drawings of utility lines, stormwater pipes, and structures showing any deviation from the plans and specifications that exceed 0.1 feet in vertical elevation and 1 foot in horizontal location and any change to the type of construction material and size. The as-built drawings shall be signed and sealed by a Florida licensed professional land surveyor or professional engineer.
- c. The Contractor shall take no advantage of any apparent error or omission which he might discover in the drawings or specifications. In the event that an error or omission is discovered by the Contractor, he shall, within 24 hours of such discovery, notify the County's Designated Representative who shall then make such corrections and interpretations deemed necessary for reflecting the actual spirit, intent, and scope of the drawings and specifications.
- d. The Bay County Public Works Director shall have the final say on all questions, difficulties, and disputes, of whatever nature, which may arise relative to the interpretation of the drawings and specifications.
- e. The County Surveyor shall furnish the project bench marks and horizontal and vertical controls.

f. The Contractor shall furnish and set slopes stakes, rough grade stakes and all other stakes necessary for construction of the project.

g. Failure to remove or refusal by the Contractor to remove defective materials or work, or make necessary repairs to damaged work shall be cause for the County's Designated Representative to make the necessary corrections at the expense of the Contractor with such monies being deducted from the contract amount or charged against the bonds.

h. The Contractor shall notify the County's Designated Representative when the project is substantially complete. If the County's Designated Representative determines the project is substantially complete, a "Certificate of Substantial Completion" will be issued by the County.

i. The Contractor shall maintain all work in first-class condition until it has been completed as a whole and accepted by the County's Designated Representative. The Contractor shall be responsible for the security and protection of all materials used in the project until a "Notice of Completion" is issued by the County.

j. Any written claim for compensation due to delays, additional, or extra work shall include the following:

i. for delay claims, provide a critical path schedule showing the delay is due to a controlling item of work and the early start, late start, early finish, late finish and the critical path;

ii. a detailed factual statement providing dates, locations, and items of work affected in each claim;

iii. the date on which actions or conditions resulting in the claim became evident.

iv. all pertinent documents and substance of any material oral communications relating to the claim and the name of the persons making the oral communications;

v. the written claim shall identify the provisions of the contract which support the claim along with a detailed explanation as to why these provisions support the claim;

vi. a detailed breakdown of compensation sought for labor expenses, additional material and supplies, listing of each piece of equipment and cost, any direct damages and any indirect damages and all documentation in support thereof.

vii. equipment rental rates that are based on Blue Book Rental rates.

k. The County will not compensate the Contractor for any delays for any reason unless five days (excluding Saturdays, Sundays and holidays) have elapsed from the start of work stoppage. The first day of any claims shall be on day six of the work stoppage. This shall apply to each work stoppage.

l. The County expects the Contractor to use forces and equipment on any item of work that can be completed during the delay. The Contractor's claim must show the delay is due to the controlling item of work as shown on the critical path method schedule. After five work days if the County deems the delay claim to be valid, the Contractor's claim shall only be for labor, equipment and materials that are delayed due to the controlling work item. If the County Engineer determines the Contractor forces and equipment can be used on other work items during the delay, no compensation will be given for these forces and equipment.

m. Unless otherwise stated in the plans or specifications, the term "install" shown in the plans and specifications shall be interpreted by the contractor to mean the same as "furnish and install", which means the contractor shall provide all materials, equipment and labor to completely install the item shown in the plans or specifications.

## **7. Material Control**

a. Only materials conforming to the requirements and intent of the drawings and specifications will be used and all such materials not specifically identified in the plans and specifications will be approved by the Engineer or Architect of Record prior to use to perform the work. For road and stormwater projects, unless otherwise approved by the Engineer of Record, the County will limit the Contractor's procurement and use of products required by the FDOT Specifications to only those items listed in the Florida Department of Transportation's Qualified

Products List (QPL) or Approved Products List (APL). Reference in the contract documents to a proprietary device, product, material or fixture to establish a quality standard is not intended to limit competition. The Contractor may use any proprietary device, product, material or fixture that in the Engineer of Record's judgment is equal, for the purpose intended.

b. The Contractor shall ensure that County personnel have entry at all times to the construction site in order to inspect and evaluate any or all materials used for performing the work. The County's Designated Representative shall have the right to sample and test any or all materials used in performing the work. Copies of any tests accomplished by the County's Designated Representative will be provided to the Contractor.

c. Materials shall be stored as specified in the contract documents or as per the material manufacturer's recommendations. The protection of stored materials shall be the responsibility of the Contractor and the County shall not be liable for any loss, theft or damage to stored materials.

d. Any materials found to be defective by the Contractor or the County's Designated Representative shall be removed from the work or place of storage at the Contractor's expense and replaced at the Contractor's expense. Failure or refusal by the Contractor to accomplish the removal and replacement of defective materials from the work or place of storage shall be grounds for the County's Designated Representative to do same at the expense of the Contractor and such expense deducted from the contract amount or from the bond.

e. The Contractor shall, at all times during construction, provide and maintain proper equipment and facilities to remove promptly and dispose of properly all water entering excavations and keep such excavations dry so as to obtain a satisfactory undisturbed sub-grade foundation condition until the fill, structure, or pipes to be built thereon have been completed to such extent that they will not be floated or otherwise damaged by allowing water levels to return to natural elevations.

f. The Contractor shall furnish all materials and equipment and perform all work required to install and maintain the drainage systems for handling groundwater and surface water encountered during construction of structures, pipelines and compacted fills. The Contractor shall obtain FDEP and NWFLWMD permits for all dewatering operations. During dewatering operations all engines shall be equipped in a manner to keep pump noise to a minimum. If dewatering is required after 10:00 PM near residences and business, pump noise shall not create a nuisance to the property owners. The Contractor is solely responsible for any damages to private or public property caused by Contractor's dewatering operations. During dewatering operations, the Contractor shall notify all business and residences within a minimum of 300 feet of the dewatering operations to turn off all irrigation pumps. The 300 foot limit is a minimum, and the Contractor is responsible for any damage to private property, to include, but not limited to loss of plants, burned out pumps, building, pavement, sidewalk or any other structural settlement, etc. that can be attributed to the dewatering operations. The County will assume no liability nor pay for any claims; arising from the Contractor's dewatering operation.

## **8. Contractor Responsibilities**

a. The Contractor shall relieve the County from any and all claims arising from claims by holders of trademarks, patents or copyrights used or incurred by the Contractor in performing the work.

b. The Contractor shall not permit his equipment to interfere with traffic while such equipment is on or traversing an existing road without coordination with and approval of appropriate officials of the State, County, or City.

c. The Contractor shall be responsible for all damages arising out of his use of explosives when deemed necessary in the performance of the work.

d. The Contractor shall preserve from damage all public and private property along the line of construction and adjacent to the work. If the Contractor fails to restore such property, the

County's Designated Representative, upon written notification, as deemed necessary, may proceed to repair the damaged property and the cost deducted from the contract sum.

e. Arrangements for utilities to the site shall be accomplished by the Contractor and in doing same he shall coordinate with the appropriate utilities for the just and proper utilization of any space where construction shall entail the joint use of area under this work and the utility construction.

f. Final acceptance will not be given nor will bond be released unless any and all claims against the Contractor are paid or the Contractor has otherwise been relieved of the claim.

g. Until acceptance of the work by the County's Designated Representative, the work shall be under charge and custody of the Contractor and he shall take every precaution against injury or damage to the work by the action of the elements or from other causes.

## **9. Prosecution and Progress**

a. The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the contract or subsequent agreements of the contract without written consent of the County.

b. The Contractor shall commence work on or after the Notice to Proceed date and shall provide sufficient resources to insure completion of the work within the time limit set forth. Should the Contractor fail to provide sufficient resources to assure timely progress and if he fails to perform the work within the specified time, the County shall have ground to claim default.

c. The Contractor shall schedule his operations to minimize any inconvenience to adjacent businesses or residences. The Contractor shall take special precautions to restrict his major operations in performing the work to what is commonly understood to be "normal" or "standard" working hours. Work performed at other periods requires preapproval from the County's Designated Representative.

d. The Contractor shall maintain reasonable access at all times to all business and private residences and property adjacent to construction area or impacted by the construction.

e. The County's Designated Representative shall make provision for and shall schedule a pre-construction conference with the Contractor and all concerned parties in attendance.

f. The Contractor shall provide a detailed schedule to the County within 5 working days after the date of the preconstruction conference. Adherence to the Contractor's construction schedule is critical to the residents and businesses impacted on the project. The Contractor shall give the County 48 hours notice of schedule changes and shall submit a new and complete changed schedule. The County will not allow any lane closure or paving operations without 48 hours notice. The Contractor shall give the County Inspector 48 hours notice of commencement of all major work items.

g. The Contractor shall assure that all supervisory personnel employed by him are fully qualified and competent to properly perform the work in coordination with other trades at the work and can perform the work within the specified periods of time.

h. The Contractor shall maintain a competent superintendent at the site at all times while work is in progress to act as the Contractor's agent. The superintendent shall be capable of properly interpreting the Contract Documents and shall be thoroughly experienced in the type of work being performed. The superintendent shall have full authority to receive instructions from the County's Designated Representative and to execute the orders or directions of the County's Designated Representative, including promptly supplying any materials, tools, equipment, labor and incidentals that may be required. This superintendent must be at the project site to supervise sub-contractors. The superintendent must speak and understand English.

i. Contractor shall designate a responsible person who speaks and understands English, and who is available at or reasonably near the worksite on a 24-hour basis, seven days a week who is the point of contact during emergencies.

j. The County's Designated Representative shall have the authority to suspend the work, wholly, or in part, for such periods as may be deemed necessary due to unsuitable weather or other conditions considered unfavorable for performance of the work.

k. The Contractor may be declared in default for non progress, by the County's Designated Representative, when the percentage value of dollar work completed with respect to the total amount of contract is not within twenty (20) percent of the time elapsed versus the total performance period.

l. Contractor may subcontract for work identified in this solicitation. The Contractor will be the prime service provider and shall be responsible for all work performed and contract deliverables. The Contractor's workforce shall be responsible for at least 51% of the work performed and provide an on-site full time job supervisor to manage the day to day job site, and subcontractors. Proposed use of subcontractors should be included in the response to this solicitation.

#### **10. Payments and Acceptance**

a. Payment will not be made until the work invoiced is completed in full. If material or equipment acceptance testing is required, payment will not be made until satisfactory test results as determined by the County's Designated Representative are delivered to the County.

b. The Contractor shall accept the compensation as provided in the contract as full payment for furnishing all materials and for performing all work contemplated under the contract.

c. The contract price shall include all labor, equipment, material, tools and incidentals required for completing the work.

d. Subsoil conditions, if presented, must be interpreted within the limits of investigation and the anticipated normal field variances. Claims for unusual conditions or excessive amounts of fill or excavation over original estimates of the Engineer of Record or Contractor shall not be grounds for extra work clauses or request.

e. To be paid for all quantities paid by the ton, a County Inspector must verify the delivery and receive a load ticket identifying the truck number, material and quantity of material delivered. The Contractor shall not haul such materials unless the inspector is on-site. If there has been a change in schedule, the County requires 48 hours notice to schedule inspectors.

f. To be paid for all quantities paid by the truckload, the County must have a truck chart for each truck prior to the truck being used for hauling operations. The Contractor must provide the truck chart to the County Inspector in sufficient time to allow the County to verify all dimensions and volumes shown on the truck chart. A County Inspector must verify the delivery and receive (if available) a load ticket identifying the truck number, material and quantity of material hauled. The Contractor shall not haul such materials unless the Inspector is on-site. If there has been a change in schedule, the County requires 48 hours notice to schedule inspectors.

g. The County's Designated Representative retains the right to cancel portions or expand the scope of work after a fair and just adjustment is agreed to with the Contractor.

h. The Contractor will receive partial payment based upon the amount of work completed as determined by the County's Designated Representative, to include stored material. The County will withhold retainage in the amount of 5 percent of the total work completed at the date of the Contractor's invoice. The Contractor may reduce the retainage amount as allowed by Florida Statutes.

i. Any partial payments will be subject to withholding by the County's Designated Representative pending any unsatisfied claims brought against the Contractor for labor or materials.

j. Any partial payments will be subject to withholding by the County's Designated Representative pending any unsatisfied completion or restoration of any assertion for defective or damaged work or materials.

k. In the event of dispute regarding amounts due to the Contractor, the County reserves the right, at any time prior to final payment on the Contract, to audit, or cause to be audited, the Contractor's original records pertaining to the work.

l. Whenever the work provided for under the contract has been completely performed by the Contractor, and the final inspection and final acceptance has been made, and it is proven to

the County's Designated Representative that all claims are satisfied, the final payment, being the difference between the contract amount and summation of all previous payment less any penalties assessed, shall be paid to the Contractor. Upon final payment the Contractor shall provide the County's Designated Representative a statement that he has been paid all monies due and that the work was performed in accordance with the Contract Documents.

m. The payments of sub-contractors, material, men and suppliers shall comply with Section 255.071 of Florida Statutes.

n. Within five (5) working days following each payment to the Contractor, the Contractor shall pay respective amounts allowed by the County for all materials, all equipment installed in the work, all work performed by sub-contractors to the extent of each sub-contractor's interest in the Contractor's amount of payment.

o. On monthly invoices subsequent to the first invoice submitted there shall be a signed "Waiver of Right to Claim Against the Payment Bond (Progress Payment)" indicating that invoices for equipment and material supplied and sub-contractors have been paid by the Contractor.

p. On the final invoice submitted there shall be a signed "Waiver of Right to Claim Against the Payment Bond (Final Payment)" indicating that invoices for equipment and material supplied and sub-contractors have been paid by the Contractor.

q. Date of final payment shall be the commencement of all warranties and guarantees. If the County reasonably determines that the Contractor has breached any of the warranties provided herein, then the Contractor shall perform the necessary work to comply with its warranties and shall pay to the owner its reasonable costs to investigate and then identify the breach of warranty claim.