

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<\$1,000,000>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<\$1,000,000>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____		No <u>X</u>		
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	
	Program _____				

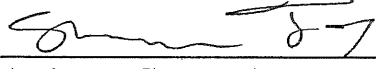
B. Recommended Sources of Funds/Summary of Fiscal Impact:
 Florida Department of Transportation – procurement contract

C. Department Fiscal Review: 

III. REVIEW COMMENTS.

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

 OFMB 6/10 RK 6/13/14	 Contract Development and Control 6/9/14 [Signature]
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B. Legal Sufficiency:

 Assistant County Attorney

C. Other Department Review:

 Department Director

Agreement No.: _____
Financial Project I.D.: 427441 1 C8 01 & 428400 1 C8 01
F.E.I.D. No: F 59 6000785
Appropriation Bill Number(s)/Line Item Number(s) for 1st year of
contract, pursuant to s. 216.313, F.S.: _____
(required for contracts in excess of \$5 million)
Procurement No.: SS-DOT-13/14-4020TB
D.M.S. Catalog Class No.: 312-280

BY THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the "Department" and Palm Beach County a Political Subdivision of the State of Florida, by and through its Board of Commissioners. of 2300 N. Jog Road, 4th Floor West, West Palm Beach, Florida 33411-2745 duly authorized to conduct business in the State of Florida, hereinafter called "Vendor," hereby agree as follows:

1. SERVICES AND PERFORMANCE

- A. In connection with Florida Department of Transportation, District IV Purchase of Seagrass Mitigation Credits., the Department does hereby retain the Vendor to furnish certain services, information, and items as described in Exhibit "A," attached hereto and made a part hereof.
- B. Before making any additions or deletions to the work described in this Agreement, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into an Amendment covering such work and compensation. Reference herein to this Agreement shall include any amendment(s).
- C. All tracings, plans, specifications, maps, computer files, and reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, shall be the exclusive property of the Department without restriction or limitation on their use and shall be made available, upon request, to the Department at any time during the performance of such services and/or upon completion or termination of this Agreement. Upon delivery to the Department of said document(s), the Department shall become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Vendor shall not copyright any material and products or patent any invention developed under this Agreement. The Department shall have the right to visit the site for inspection of the work and the products of the Vendor at any time.
- D. All final plans, documents, reports, studies, and other data prepared by the Vendor shall bear the professional's seal/signature, in accordance with the applicable Florida Statutes, Administrative Rules promulgated by the Department of Business and Professional Regulation, and guidelines published by the Department, in effect at the time of execution of this Agreement. In the event that changes in the statutes or rules create a conflict with the requirements of published guidelines, requirements of the statutes and rules shall take precedence.
- E. The Vendor agrees to provide project schedule progress reports in a format acceptable to the Department and at intervals established by the Department. The Department shall be entitled at all times to be advised, at its request, as to the status of work being done by the Vendor and of the details thereof. Coordination shall be maintained by the Vendor with representatives of the Department, or of other agencies interested in the project on behalf of the Department. Either party to this Agreement may request and be granted a conference.
- F. All services shall be performed by the Vendor to the satisfaction of the Director who shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount of value thereof; and the decision upon all claims, questions, and disputes shall be final and binding upon the parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be subject to mutual agreement of the parties, and amendment(s) shall be entered into by the parties in accordance herewith.

Reference herein to the Director shall mean the
Director of Transportation Development

2. TERM

A. Initial Term. This Agreement shall begin on date of execution and shall remain in full force and effect through completion of all services required or Seventy-Two (72)Mths after execution , whichever occurs first. Subsequent to the execution of this Agreement by both parties, the services to be rendered by the Vendor shall commence and be completed in accordance with the option selected below. (Select box and indicate date(s) as appropriate):

Services shall commence Upon issuance of Notice to Proceed and shall be completed by Seventy-Two (72) Months from NTP or date of termination, whichever occurs first.

Services shall commence upon written notice from the Department's Contract Manager and shall be completed by _____ or date of termination, whichever occurs first.

Other: See Exhibit "A"

B. RENEWALS (Select appropriate box):

This Agreement may not be renewed.

This Agreement may be renewed for a period that may not exceed three (3) years or the term of the original contract, whichever is longer. Renewals are contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds. Costs for renewal may not be charged. Any renewal or extension must be in writing and is subject to the same terms and conditions set forth in this Agreement and any written amendments signed by the parties.

C. EXTENSIONS. In the event that circumstances arise which make performance by the Vendor impracticable or impossible within the time allowed or which prevent a new contract from being executed, the Department, in its discretion, may grant an extension of this Agreement. Extension of this Agreement must be in writing for a period not to exceed six (6) months and is subject to the same terms and conditions set forth in this Agreement and any written amendments signed by the parties; provided the Department may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There may be only one extension of this Agreement unless the failure to meet the criteria set forth in this Agreement for completion of this Agreement is due to events beyond the control of the Vendor.

It shall be the responsibility of the Vendor to ensure at all times that sufficient time remains in the Project Schedule within which to complete services on the project. In the event there have been delays which would affect the project completion date, the Vendor shall submit a written request to the Department which identifies the reason(s) for the delay and the amount of time related to each reason. The Department shall review the request and make a determination as to granting all or part of the requested extension.

3. COMPENSATION AND PAYMENT

A. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Section 215.422(14), Florida Statutes.

B. If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.

C. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

D. The bills for any travel expenses, when authorized by terms of this Agreement and by the Department's Project Manager, shall be submitted in accordance with Section 112.061, Florida Statutes, and Chapter 3 - Travel, Department's Disbursement Operations Manual, 350-030-400.

E. Vendors providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless otherwise specified herein. The Department has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

- F. If a payment is not available within forty (40) days, a separate interest penalty as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the Vendor. Interest penalties of less than one (1) dollar shall not be enforced unless the Vendor requests payment. Invoices which have to be returned to a Vendor because of Vendor preparation errors shall result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
- G. The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(22), Florida Statutes, all payments shall be assessed a transaction fee of one percent (1%), which the Vendor shall pay to the State. For payments within the State accounting system (FLAIR or its successor), the transaction fee shall, when possible, be automatically deducted from payments to the Vendor. If automatic deduction is not possible, the Vendor shall pay the transaction fee pursuant to Rule 60A-1.031 (2), Florida Administrative Code. By submission of these reports and corresponding payments, Vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee. The Vendor shall receive a credit for any transaction fee paid by the Vendor for the purchase of any item(s) if such item(s) are returned to the Vendor through no fault, act, or omission of the Vendor. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is rejected or returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the Agreement. Failure to comply with these requirements shall constitute grounds for declaring the Vendor in default and recovering repurchase costs from the Vendor in addition to all outstanding fees. VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.
- H. A vendor ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.
- I. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for three (3) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the Vendor's general accounting records and the project records, together with supporting documents and records of the Vendor and all subcontractors performing work on the project, and all other records of the Vendor and subcontractors considered necessary by the Department for a proper audit of project costs.
- J. The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

4. INDEMNITY AND PAYMENT FOR CLAIMS

- A. **INDEMNITY:** To the extent permitted by Florida Law, the Vendor shall indemnify and hold harmless the Department, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by negligence, recklessness, or intentional wrongful misconduct of the Vendor and persons employed or utilized by the Vendor in the performance of this Agreement.

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

PAYMENT FOR CLAIMS: The Vendor guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Vendor or any subcontractor, in connection with the Agreement. The Department's final acceptance and payment does not release the Vendor's bond until all such claims are paid or released.

B. LIABILITY INSURANCE. (Select and complete as appropriate):

No general liability insurance is required.

The Vendor shall carry and keep in force during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with a combined bodily injury limits of at least \$ _____ per person and \$ _____ each occurrence, and property damage insurance of at least \$ _____ each occurrence, for the services to be rendered in accordance with this Agreement.

The Vendor shall have and maintain during the term of this Agreement, a professional liability insurance policy or policies or an irrevocable letter of credit established pursuant to Chapter 675 and Section 337.106, Florida Statutes, with a company or companies authorized to do business in the State of Florida, affording liability coverage for the professional services to be rendered in accordance with this Agreement in the amount of \$ _____.

C. WORKERS' COMPENSATION. The Vendor shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

D. PERFORMANCE AND PAYMENT BOND. (Select as appropriate):

No Bond is required.

Prior to commencement of any services pursuant to this Agreement and at all times during the term hereof, including renewals and extensions, the Vendor will supply to the Department and keep in force a bond provided by a surety authorized to do business in the State of Florida, payable to the Department and conditioned for the prompt, faithful, and efficient performance of this Agreement according to the terms and conditions hereof and within the time periods specified herein, and for the prompt payment of all persons furnishing labor, materials, equipment, and supplies therefor.

E. CERTIFICATION. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Vendor shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Contract. Policies that include Self Insured Retention (SIR) will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

5. COMPLIANCE WITH LAWS

A. The Vendor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Vendor in conjunction with this Agreement. Specifically, if the Vendor is acting on behalf of a public agency the Vendor shall:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the Vendor.
- (2) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided 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.
- (4) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Vendor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

Failure by the Vendor to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department. The Vendor shall promptly provide the Department with a copy of any request to inspect or copy public records in possession of the Vendor and shall promptly provide the Department a copy of the Vendor's response to each such request.

- B. The Vendor agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise discuss or permit to be disclosed or discussed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the Department's Contract Manager and securing prior written consent. The Vendor also agrees that it shall not publish, copyright, or patent any of the data developed under this Agreement, it being understood that such data or information are works made for hire and the property of the Department.
- C. The Vendor shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this Agreement.
- D. If the Vendor is licensed by the Department of Business and Professional Regulation to perform the services herein contracted, then Section 337.162, Florida Statutes, applies as follows:
 - (1) If the Department has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules, it shall submit a complaint regarding the violations to the Department of Business and Professional Regulation. The complaint shall be confidential.
 - (2) Any person who is employed by the Department and who is licensed by the Department of Business and Professional Regulation and who, through the course of the person's employment, has knowledge to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint regarding the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to Chapter 455, Florida Statutes, and the state licensing law applicable to that licensee. The complaint shall be confidential.
 - (3) Any complaints submitted to the Department of Business and Professional Regulation are confidential and exempt from Section 119.07(1), Florida Statutes, pursuant to Chapter 455, Florida Statutes, and applicable state law.
- E. The Vendor covenants and agrees that it and its employees and agents shall be bound by the standards of conduct provided in applicable law and applicable rules of the Board of Business and Professional Regulation as they relate to work performed under this Agreement. The Vendor further covenants and agrees that when a former state employee is employed by the Vendor, the Vendor shall require that strict adherence by the former state employee to Sections 112.313 and 112.3185, Florida Statutes, is a condition of employment for said former state employee. These statutes will by reference be made a part of this Agreement as though set forth in full. The Vendor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed pursuant to this Agreement.
- F. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.
- G. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity.
- H. The Department shall consider the employment by any vendor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Vendor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this agreement.
- I. Pursuant to Section 216.347, Florida Statutes, the vendor may not expend any State funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.

6. TERMINATION AND DEFAULT

- A. This Agreement may be canceled by the Department in whole or in part at any time the interest of the Department requires such termination. The Department reserves the right to terminate or cancel this Agreement in the event an assignment be made for the benefit of creditors.
- B. If the Department determines that the performance of the Vendor is not satisfactory, the Department shall have the option of (a) immediately terminating the Agreement, or (b) notifying the Vendor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the Department.
- C. If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Vendor, the Department shall notify the Vendor of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- D. If the Agreement is terminated before performance is completed, the Vendor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the Department and shall be turned over promptly by the Vendor.
- E. For Agreements \$1,000,000 and greater, if the Department determines the Vendor submitted a false certification under Section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in the Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Department shall either terminate the Agreement after it has given the Vendor notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a), Florida Statutes, or maintain the Agreement if the conditions of Section 287.135 (4), Florida Statutes, are met.

7. ASSIGNMENT AND SUBCONTRACTS

- A. The Vendor shall maintain an adequate and competent staff so as to enable the Vendor to timely perform under this Agreement and may associate with it such subcontractors, for the purpose of its services hereunder, without additional cost to the Department, other than those costs within the limits and terms of this Agreement. The Vendor is fully responsible for satisfactory completion of all subcontracted work. The Vendor, however, shall not sublet, assign, or transfer any work under this Agreement to other than subcontractors specified in the proposal, bid, and/or Agreement without the written consent of the Department.
- B. Select the appropriate box:
 - The following provision is not applicable to this Agreement:
 - The following provision is hereby incorporated in and made a part of this Agreement:

It is expressly understood and agreed that any articles that are the subject of, or required to carry out this Agreement shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section 413.036(1) and (2), Florida Statutes; and for purposes of this Agreement the person, firm, or other business entity (Vendor) carrying out the provisions of this Agreement shall be deemed to be substituted for the state agency (Department) insofar as dealings with such qualified nonprofit agency are concerned. RESPECT of Florida provides governmental agencies within the State of Florida with quality products and services produced by persons with disabilities. Available pricing, products, and delivery schedules may be obtained by contacting:

RESPECT
2475 Apalachee Pkwy
Tallahassee, Florida 32301-4946
Phone: (850)487-1471

The following provision is hereby incorporated in and made a part of this Agreement:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out this Agreement shall be purchased from the corporation identified under Chapter 946, Florida Statutes, in the same manner and under the procedures set forth in Sections 946.515(2) and (4), Florida Statutes; and for purposes of this Agreement the person, firm, or other business entity (Vendor) carrying out the provisions of this Agreement shall be deemed to be substituted for this agency (Department) insofar as dealings with such corporation are concerned. The "corporation identified" is Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Available pricing, products, and delivery schedules may be obtained by contacting:

PRIDE Enterprises
12425 - 28th Street, North
St. Petersburg, FL 33716-1826
(800)643-8459

This Agreement involves the expenditure of federal funds and Section 946.515, Florida Statutes, as noted above, does not apply. However, Appendix I is applicable to all parties and is hereof made a part of this Agreement.

8. MISCELLANEOUS

- A. The Vendor and its employees, agents, representatives, or subcontractors are not employees of the Department and are not entitled to the benefits of State of Florida employees. Except to the extent expressly authorized herein, Vendor and its employees, agents, representatives, or subcontractors are not agents of the Department or the State for any purpose or authority such as to bind or represent the interests thereof, and shall not represent that it is an agent or that it is acting on the behalf of the Department or the State. The Department shall not be bound by any unauthorized acts or conduct of the Vendor or its employees, agents, representatives, or subcontractors. Vendor agrees to include this provision in all its subcontracts under this Agreement.
- B. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- C. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. The State of Florida terms and conditions, whether general or specific, shall take precedence over and supersede any inconsistent or conflicting provision in any attached terms and conditions of the Vendor.
- D. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- E. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- F. In any legal action related to this Agreement, instituted by either party, the Vendor hereby waives any and all privileges and rights it may have under Chapter 47 and Section 337.19, Florida Statutes, relating to venue, as it now exists or may hereafter be amended, and any and all such privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those grounded on convenience. Any such legal action may be brought in the appropriate Court in the county chosen by the Department and in the event that any such legal action is filed by the Vendor, the Vendor hereby consents to the transfer of venue to the county chosen by the Department upon the Department filing a motion requesting the same.
- G. If this Agreement involves the purchase or maintenance of information technology as defined in Section 282.0041, Florida Statutes, the selected provisions of the attached Appendix II are made a part of this Agreement.
- H. If this Agreement is the result of a formal solicitation (Invitation to Bid, Request for Proposal or Invitation to Negotiate), the Department of Management Services Forms PUR1000 and PUR1001, included in the solicitation, are incorporated herein by reference and made a part of this Agreement.

I. Vendor/Contractor:

1. 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 Vendor/Contractor during the term of the contract; and
2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract 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.

J. Time is of the essence as to each and every obligation under this Agreement.

K. The following attachments are incorporated and made a part of this agreement:

Exhibit "A" - Technical Specifications (Scope of Services): Pages A-1 - A-2

Exhibit "B" - Method of Compensation: Pages B-1 - B-2

L. Other Provisions:

Federal Register, Part II, 33 CFR Parts 325 and 332, 40 CFR Part 230

Florida Statutes 373.4136

FHWA 1273

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month and year set forth above.

Palm Beach County

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Name of Vendor or Agency

BY: _____
Authorized Signature

BY: _____

Name: Priscilla A. Taylor

Title: Director of Transportation Development

Title: Mayor

ATTEST: _____ SEAL
Notary

ATTEST: _____ SEAL
Executive Secretary

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ who is personally known to me or who has produced _____ as identification, and who did (did not) take an oath.

PRINT NAME _____

Notary Public in and for the County and State last aforesaid

My Commission Expires: _____ Serial No., if any: _____

FOR DEPARTMENTAL USE ONLY

APPROVED BY: _____

LEGAL REVIEW: _____

AUTHORIZATION RECEIVED FROM COMPTROLLER'S OFFICE
AS TO AVAILABILITY OF FUNDS:

Title: _____



PALM BEACH COUNTY, FLORIDA, BY IT'S
BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

By _____
Deputy Clerk

**APPROVED AS TO TERMS
AND CONDITIONS.**

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**



ASSISTANT COUNTY ATTORNEY DATE

BID #: SS-DOT-13/14-4020TB

BID TITLE: Florida Department of Transportation, District IV - Purchase of Seagrass Mitigation Credits for the Loxahatchee River Watershed and the Lake Worth Lagoon/Palm Beach Coast Watershed (FM: 427441-1-C8-01 & 428400-1-C8-01)

Exhibit "A"
TECHNICAL SPECIFICATIONS
(Scope of Services)

It is the intent of the Florida Department of Transportation (FDOT or Department) to purchase Federal and State seagrass mitigation credits to address transportation related impacts to seagrass within the Hydrologic Unit Code (HUC) 03090292 and within the Loxahatchee River watershed and the Lake Worth Lagoon/Palm Beach Coast watershed. The Department is proposing several transportation related improvement projects including, but not limited to, State Road (SR) 5/US-1 and SR-A1A Pedestrian Overpass Bridge over the Loxahatchee River; and SR-5/US-1/Federal Highway Bridge from County Road (CR) A1A to Beach Road, also along the Loxahatchee River.

The Single Source Vendor, Palm Beach County (County) has a Regional Offsite Mitigation Area (ROMA) on Fullerton Island located within the desired basin for the Department's bridge work. The County's ROMA included scraping down a historic Intracoastal Waterway spoil island to an elevation suitable for seagrass recruitment. Palm Beach County has received permits from the U.S. Army Corps of Engineers (USACE SAJ-2011-03379) and the Florida Department of Environmental Protection (DEP Permit No: 50-0308809-001). The County is offering to the Department a unique opportunity to purchase 0.396 seagrass credits for a total cost of \$1,000,000.

There are currently no Seagrass Mitigation Banks, nor proposed Seagrass Mitigation Banks within the desired watershed that offer seagrass credits for purchase. The Department seeks a Single Source Contract with the County that meets the criteria listed below and continues to meet all criteria through the length of the contract:

- The County shall have Federal and State seagrass mitigation credits released by USACE and FDEP available for purchase [per 62-342.470(3), FAC, 33 CFR 332.8(l), 40 CFR 230.98(l)] at the time of bid and agrees to sell such credits to the Department.
- The County shall have Federal and State seagrass mitigation credits available to sell that address seagrass impacts within the Hydrologic Unit Code (HUC) 03090292 and within the Loxahatchee River watershed and the Lake Worth Lagoon/Palm Beach Coast watershed.
- The County shall provide a copy of the federal and state permit instrument(s) identifying authenticity of the seagrass credits (cover and signature pages) [compliant with 62-342.750(1), FAC, 373.4136, FS, 33 CFR 338.8(a), 40 CFR 230.98(a)] and the County's ability to sell credits [per 62-342.470(3), FAC, 33 CFR 332.8(l), 40 CFR 230.98(l)].
- The County shall provide a copy of the current Federal and State credit ledger (as required in 62-342.470(5), FAC, 33 CFR 332.8(q), 40 CFR 230.98(q) demonstrating available credits for sale.
- The County, after award, will be required to notify, and receive acknowledgement from, the Federal and State agencies of the transfer of purchased seagrass credits to the Department for current and future transportation related seagrass impacts.

- Replacement of all mitigation credits found non-compliant [per 62-342.470(4), FAC, 33 CFR 332.8(o)(10), 40 CFR 230.98(o)(10)] by applicable regulatory agencies or otherwise unavailable to the Department shall be made without cost to the Department. All fees paid for non-compliant and/or unavailable credits will be refunded by the County to the Department within 45 days.

Exhibit "B"
Method of Compensation

Florida Department of Transportation, District IV - Purchase of Seagrass Mitigation Credits for the Loxahatchee River Watershed and the Lake Worth Lagoon/Palm Beach Coast Watershed (FM: 427441-1-C8-01 & 428400-1-C8-01)

1.0 PURPOSE:

This Exhibit defines the limits and method of compensation to be made to the COUNTY for services set forth in **Exhibit "A" – Technical Specifications (Scope of Services)** and the method by which payments shall be made.

2.0 COMPENSATION:

For the satisfactory receipt of seagrass mitigation credits detailed in **Exhibit "A" – Technical Specifications (Scope of Services)**, and below, the COUNTY shall be compensated for the amount of \$1,000,000.00 based upon 0.396 credit of seagrass mitigation.

3.0 PAYMENTS:

As provided in **Exhibit "A" – Technical Specifications (Scope of Services)**, after award of the contract, the COUNTY shall deduct those credits purchased from their internal ledgers and identify them as the Florida Department of Transportation. Within five (5) days of Contract Award, the COUNTY shall submit an invoice (3 copies) to the DEPARTMENT.

Upon receiving payment, the COUNTY shall contact the permitting agencies to confirm the DEPARTMENT's purchase and to receive acknowledgement that the purchased credits have been transferred to the DEPARTMENT. The COUNTY shall submit to the DEPARTMENT a copy of the adjusted ledger and confirmation from each regulatory agency acknowledging that credits have been transferred to the DEPARTMENT within thirty (30) days of receipt of payment.

The COUNTY shall assist the DEPARTMENT with facilitating future withdrawals of the DEPARTMENT's credits from each agency's ledger as necessary. Assistance may be requested at any time during the extent of the purchase agreement

The following are the criteria of the Agreement with the DEPARTMENT:

- The COUNTY shall provide the DEPARTMENT the following deliverables:
 1. Copy of the County's current federal and state credit ledger. Ledger must demonstrate that federal and state seagrass mitigation credits are available for purchase.
 2. Copy of the Vendor's Federal and State permit(s) approving the seagrass mitigation instrument (cover and signature pages).

3. Transfer of the mitigation credit(s) to the Department.

- If the State or Federal agencies reject the COUNTY's direction to withdraw the credits from the COUNTY's ledger and hold them for use by the DEPARTMENT, it is the responsibility of the COUNTY to take immediate action to correct such rejection. If the transfer from the COUNTY's ledger does not become effective within thirty (30) days of the notice of rejection, the COUNTY's shall reimburse the DEPARTMENT for the pro-rated amount of the credits not accepted.
- The provisions of the Contract will remain in full affect until the allocation of all the DEPARTMENT's purchased seagrass credits are transferred to transportation related project permits. The COUNTY shall cooperate with the DEPARTMENT and Regulatory Agencies in transferring and/or releasing the credits.
- Upon withdrawal from the COUNTY's credit ledger of the applicable federal and state seagrass credits, those credits become the property of the DEPARTMENT, free and clear of any liens, encumbrances, and restrictions to the DEPARTMENT.

4.0 TANGIBLE PERSONAL PROPERTY:

This contract does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, FS.

2014-

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BGEX - 380 -061114*1489

BGRV - 380 -061114*0576

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT

Fund 1225 Environmental Enhancement Non-Specific

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENCUMBERED / Expended	REMAINING BALANCE
<u>REVENUES</u>							
380-3079 Fullerton Island Restoration 4399-Other Phys Envir	0	0	1,000,000		1,000,000	0	1,000,000
TOTAL RECEIPTS & BALANCES	5,088,887	6,407,894	1,000,000	0	7,407,894		
<u>EXPENDITURES</u>							
380-3893 Reserve-Non Specific 9902 - Operating Reserve	1,076,702	556,018	1,000,000	0	1,556,018	592,308	963,710
TOTAL APPROPRIATIONS & EXPENDITURES	5,088,887	6,407,894	1,000,000	0	7,407,894		

ATTACHMENT 2

Environmental Resources
Management

INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures & Dates

[Handwritten Signature]

SN
6/16/14

BY BOARD OF COUNTY COMMISSIONERS
AT MEETING OF

July 1, 2014
Deputy Clerk to the
Board of County Commissioners