

GENERAL CONDITIONS

These instructions are standard for all contracts for commodities, services or work to be provided or performed for the City of Alachua. COA may delete, supersede or modify any of these standard instructions. Bidder agrees that the provision included within any bid or quote shall prevail over any conflicting provision within any standard form contract of the bidder regardless of any language in bidder's contract to the contrary.

1. Prices and Payment

- 1.1** Prices bid shall be used for payment and prices shall be deemed to include payment in full for all transportation delivery to the point of delivery. All items to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production and of the most suitable grade for the purpose intended.
- 1.2** The Contractor shall pay for all taxes, licenses, permits and inspections required for the work.

2. Sovereign Immunity

Nothing contained herein shall be construed or interpreted as a waiver of sovereign immunity of the State of Florida or the City of Alachua beyond the limited waiver provided in Florida Statutes 768.28.

3. Jurisdiction, Venue and Application of Florida Law

Jurisdiction and venue for any claim or cause of action arising under the contract, or related to performance thereunder, shall lie in the courts of competent jurisdiction of Alachua County, Florida. All claims or causes of action arising under the contract shall be resolved in accordance with the laws of the State of Florida.

4. Hindrances and Delays

The Contractor expressly agrees that, in undertaking to complete the work/services within the time specified, Contractor has made allowances for all hindrances and delays which might usually be expected to occur in performing the work. No claims shall be made by the Contractor or his sub-contractors for such hindrances and delays.

- 4.1** If the Contractor or his sub-contractors experience hindrances or delays which, in the Contractor's opinion, are not usually to be expected in the performance of the work and which affect the performance of the work, Contractor may request a change in the agreement. Such hindrances and delays may include, but not be limited to, acts or failures to act by the Owner or other Contractors employed by the Owner, fires, floods, labor disputes, epidemics, abnormal weather conditions

or acts of God COA Change Order required to alter any and all contract terms or conditions, including times and dates.

- 4.2** If a change in the contract is agreed to and accepted by Owner due to work suspensions or hindrances and delays, the contract price will be increased by established and demonstrable costs submitted by the Contractor and accepted to the satisfaction of the Owner, COA contract Change Order required.

5. Liens

Projects are a "public work" under Chapter 255, Florida Statutes. No liens may be filed against Owner. Any claimant may apply to the Owner for a copy of a bid and the performance bond (if required of that bid). The claimant shall have a right of action against the Contractor and surety for the amount due. Such action shall not involve the Owner in any claim or expense. Claims against the Contractor or the surety are subject to timely prior notice to both the Contractor and the surety as specified in Section 255.05, Florida Statutes.

THE CONTRACTOR SHALL INSERT THE FOLLOWING PARAGRAPH IN EVERY SUB-SUBCONTRACT HEREUNDER:

Notice: "Claims for labor, materials and supplies are not assertable against City of Alachua, and are subject to proper prior notice to the Contractor and to any surety, pursuant to Chapter 255 of the Florida Statutes."

6. Responsibility for Damage to COA Property

The successful Contractor shall use reasonable care to avoid damaging COA property. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense or cost to COA.

7. Prohibition of Assignment

Neither the Owner nor Contractor shall assign, sublet or transfer any interest in this agreement without the written consent of the other. Contractor shall not assign any interest in this agreement, and shall not transfer any interest in the same (whether by assignment or novation), nor shall Contractor assign any monies due or to become due to it under this agreement without the prior written consent of the Owner. Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the agreement, whether arising in tort, contract or otherwise, without the written consent of the other party. These conditions and the entire agreement are binding on the heirs, successors and assigns of the parties. A Change Order is required, see Sections 4 and 12.

8. Independent Contractor – Not an Employee of COA

It is understood and agreed that Contractor is an independent Contractor and not an employee of the Owner. The Owner will not withhold income taxes, social security or any other sums from the payments made to the Contractor. The Contractor shall in no way hold Contractor out to any third person as an agent of the Owner. All Contractors will be solely responsible for all employee or agent wages. All Contractors will be solely responsible for full payment to any outside employment agencies and/or sub-contractors. All persons furnished by Contractor shall be considered solely its employees or agents and Contractor shall be responsible for payment of all unemployment, social security and other payroll taxes, including making contributions when required by law.

9. No Waiver of Rights

No partial payment made under this agreement shall be evidence of the performance of the agreement either wholly or in part, and no payment shall be construed to be an acceptance of improper material or unsatisfactory performance. Neither act of the Owner in superintending, nor failure to disapprove or reject any material used, nor any extension of time for the completion shall be construed as acceptance of the work either wholly or in part. Acceptance shall be evidenced only by the final payment by Owner.

10. Indemnity

After notification of award, the successful Contractor shall indemnify and save harmless COA and its officials, directors, partners, consultants, agents, and employees from and against all claims, suits, actions, damages, or causes of action including claims for any personal injury, loss of life, or damage to property arising during the terms of the resulting agreement due to the negligence, recklessness, intentional or otherwise wrongful misconduct of Contractor, any sub-contractor, sub-supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, including but not limited to their agents, employees, invitees and all other persons in the performance of the services or delivery of goods for which the resulting agreement was entered into by for and against any orders, judgments or decrees, which may be entered thereto and from and against all costs, attorney's fees, expenses and liabilities incurred in or by reason of the defense of any such claim, suit or action, and the investigation thereof. Nothing in the award, resulting agreement, contract, or purchase order shall be deemed to affect the State of Florida or the City of Alachua beyond the waiver provided in Florida Statutes 768.28.

The successful Contractor(s) covenants and agrees to indemnify and save harmless COA and to defend from all cost, expenses, damages, attorney's fees injury or loss to which COA and/or its officials, directors, partners, consultants, agents or employees may be subjected by any person, firm, corporation or organization by reason of any

wrongdoing, misconduct, want or need of care or skill, negligence or default or breach of contract, guaranty, or warranty, by the successful Contractor(s), sub-contractor, sub-supplier any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable.

11. Purchase Orders and Termination

11.1 Purchase Orders

Purchase orders (PO) are issued electronically. POs shall be fully effective and legally enforceable. By furnishing any services in response to a PO and/or giving any other indication of acceptance by PO, the Contractor agrees to be bound by all the terms and conditions set forth therein, these General Conditions and every PO issued by the COA is an enforceable addition to the Contract Documents.

11.2 Termination without Cause

The agreement may be terminated by either party, without cause, by delivering written notice of termination one hundred twenty (120) days in advance of the stated termination date.

11.3 Termination for Cause

11.3.1 COA may terminate this Contract Agreement, including the continued performance under the Contract Agreement, for cause. Termination for cause includes, without limitation, any of the following events: (1) any default or breach of the Contract Agreement by the Contractor; (2) substandard performance by the Contractor and/or the failure by the Contractor to comply with any of the conditions and/or specifications set forth in the Contract Documents; (3) unprofessional treatment of COA customers or employees by the Contractor, its partners, employees, agents, sub-contractors or anyone for whom the Contractor is responsible; failure to meet payroll obligations; and/or (4) wrongful conduct of the Contractor, its partners, employees, agents, sub-contractor or anyone for whom Contractor is responsible, including, without limitation, negligence by them in performing under the Contract Agreement.

11.3.2 Should a termination for cause event occur, COA may terminate the Contract Agreement immediately without advance notice or, in COA's sole discretion, schedule a meeting with the Contractor to address any termination for cause event(s). Should COA decide after the meeting, that it cannot resolve the issues with the Contractor, COA may terminate the Contract Agreement immediately.

11.3.3 The Contract Agreement is further subject to immediate termination for severe breach of security or for misappropriation of COA property.

11.3.4 Failure by COA to terminate the Contract Agreement for cause upon the occurrence of a termination for cause event or to schedule a meeting upon such occurrence shall not be deemed a waiver by COA of any of its rights under this or any other Section.

12. All Contract Documents including All Changes or Modifications Must be in Writing

12.1 No oral statement of any person shall modify or otherwise affect the terms, conditions or specifications stated in the Contract Documents. All modifications, amendments and/or addenda to the Contract Documents must be made in writing by Change Order on the COA Change Order form available on the COA website at the following link:

http://www.cityofalachua.com/images/Departments/Admin_Services/Purchasing/CHANGE_ORDER_FORM_Contractor_11_14.pdf

12.2 No change in the Contract Price, Scope of Work, Location of Work, Contract Dates of Performance, Material, Specifications or Other Term or Condition of the Contract is authorized by the City until the Contractor has submitted a requested City of Alachua Change Order form and executed by an authorized city representative.

12.3 All work under and pursuant to a continuing contract provision establishing a set price/cost for work and/or materials beyond the Scope of Work called for in this RFB shall only be authorized on the current City of Alachua Work Order form.

12.4 No change in the Contract, a Work Order or a Change Order is authorized by City unless and until a Change Order requesting such change is accepted and executed by an authorized city representative.

13. Contract Documents Defined and Made Binding

All solicitation and response materials (excluding oral statements), General Conditions, the COA Purchasing and Sales Policy and Regulations, Special Instructions, Insurance & Bonding Materials, requirements, specifications and Purchase Order(s) shall, together, form the Contract Documents and as such shall be incorporated by reference into and made a part of the Contract executed between Owner and Contractor such that all the terms and conditions of the Contract Documents shall be fully binding on each party. Submitting a signed bid in response to any COA Solicitation, binds the Contractor to all terms and conditions of the Contract Documents.

14. Compliance with Laws and Regulations

By its signature on the Contract (include acceptance of a Purchase Order) , Contractor certifies that it is aware of any and all applicable federal, state and local laws,

regulations, orders of courts and/or governmental agencies, ordinances and permitting requirements and further certifies that it has taken or will take all actions necessary to ensure full compliance with such requirements, including full compliance by any sub-contractors and/or material suppliers employed by Contractor to perform on the Contract. Contractor further agrees to indemnify and hold COA harmless for any and all claims, losses, penalties, fines and expenses (including, without limitation, any and all reasonable attorney and expert fees) related to Contractor's failure, and/or the failure of its sub-contractors and material suppliers, to abide by the terms of this Section.

15. Disposal of Hazardous Waste and Used Materials

All hazardous waste and used materials, such as containers, liquids, rags, filters, and solvents, etc. must be disposed of in accordance with all Federal, State and Local Laws and regulations.

16. Certification of OSHA Compliance and Indemnification

By its signature on the Contract (include acceptance, Contractor certifies that it is aware of any and all applicable federal and state requirements, including those imposed by rules and regulations of relevant governmental authorities, of the Occupational Safety and Health Act and further certifies that it has taken and will take all actions necessary to ensure full compliance with such requirements, including compliance by its employees, sub-contractors and material suppliers (and any person employed by either) for the duration of the Contract. Contractor agrees to indemnify and hold COA harmless for any and all claims, losses, penalties, fines and expenses (including, without limitation, any and all reasonable attorney and expert fees) related to Contractor's failure, and/or the failure of its sub-contractors and material suppliers, to abide by the terms of this Section.

17. I-9 Verification Compliance and Indemnification

By its signature on the Contract Agreement, Contractor certifies that it is aware of any and all applicable federal immigration law requirements, including, without limitation, Contractor's obligation to properly verify the legal work status of each of its employees by the filing of a complete and accurate Form I-9. Contractor also acknowledges the importance of ensuring that all personnel accessing any COA property have been properly verified through the I-9 documentation process. Accordingly, Contractor further certifies that it has taken and will take all actions necessary to ensure full compliance with the Form I-9 requirements, and any other applicable immigration law requirements and shall also ensure the compliance with such requirements by any sub-contractors and material suppliers employed by Contractor. Contractor agrees to indemnify and hold COA harmless for any and all claims, losses, penalties, fines and expenses (including, without limitation, any and all reasonable attorney and expert fees) related to Contractor's failure, and/or the failure of its sub-contractors and material suppliers, to abide by the terms of this Section.

18. Bidders Qualifications

Bids will be considered only from firms regularly engaged in the business as described in any solicitation package; have a satisfactory record of performance for a minimum of two years and have sufficient financial support, equipment, and organization to ensure satisfactory execution of the transaction. Bidders must also provide at least four (4) references (company name, address, and telephone number). The Contractor must have a means of daily communication with COA via telephone and email and provide the address of a physical business location.

19. Probationary Period

All Contractors (Vendors) are subject to a 90 day probationary period effective from date being added to the COA Vendor list. COA reserves the right to dismiss this contract and remove the Contractor from the vendor list should Contractor not satisfactorily fulfill the probationary period.

20. Public Records

Contractor shall allow public access to all documents, papers, letters or other material subject to the provisions of 119, F.S. made or received by Contractor in conjunction with this Contract. Specifically, Contractor must:

- a) Keep and maintain public records that ordinarily and necessarily would be required by COA in order to perform the services being performed by Contractor.
- b) Provide the public with access to public records on the same terms and conditions that COA would be required to provide the records and at a cost that does not exceed the cost provided in 119, F.S., or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.
- d) Meet all requirements for retaining public records and transfer, at no cost, to COA all public records in possession of Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential from public records disclosure requirements. All records stored electronically must be provided to COA in a format that is compatible with the information technology systems of COA.

Contractor shall promptly provide COA with a copy of any request to inspect or copy public records in possession of Contractor and shall promptly provide COA a copy of Contractor response to each such request. Failure to grant such public access will be grounds for immediate termination of this Contract by COA.

This provision will apply to all services provided unless Contractor can demonstrate by clear and convincing evidence that it is not acting on behalf of COA under Florida law.

21. Insurance

Except as otherwise specified in any contract, a Contractor and any sub-contractor will be required at its own expense to maintain in effect at all times during the performance of the work, insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to the COA. It shall be the responsibility of the Contractor to maintain adequate insurance coverage and to assure that sub-contractors are adequately insured at all times. Failure of the Contractor to maintain adequate coverage shall not relieve the Contractor of any contractual responsibility or obligation.

The requirements specified herein as to types, limits and Owner's approval of insurance coverage to be maintained by the Contractor and sub-contractors are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor and sub-contractors.

Any insurance carried by the Owner which may be applicable shall be deemed to be excess insurance and the Contractor's insurance primary for all purposes despite any conflicting provision in the Contractor's policies.

For insurance purposes, the title of Ownership of materials furnished under any contract shall remain with the Contractor until the Owner receives such materials at the specified destination.

21.1 Additional Insured

Upon award, all insurance coverage furnished under any contract, except for Workers Compensation and Employers Liability, shall include the Owner, officials, directors, partners, consultants, agents and employees as additional insured with respect to the activities of the Contractor and sub-contractors. These policies shall contain a "cross-liability" or "severability of interest" clause or endorsement. Notwithstanding any other provision of these policies, the insurance afforded shall apply separately to each insured, named insured or additional insured with respect to any claim, suit, or judgment made or brought by or for any other insured, named insured or additional insured as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount or amounts for which the insurer would have been liable had only one insured been named. The Owner shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium.

21.2 Waiver of Subrogation

The Contractor and sub-contractors shall require their insurance carriers, with respect to

all insurance policies, to waive all rights of subrogation against Owner, officials, directors, partners, consultants, agents and employees.

COA shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or sub-contractor providing such insurance.

21.3 Certificates of Insurance

The Certificate(s) of Insurance will be furnished by the Contractor upon notice of award. It shall be completed by the authorized representative and presented to the Purchasing Division. The certificate shall be dated and show the following:

21.3.1 The name of the insurer, the effective and termination date the specified job by name and quote number(if applicable), name of the insured Contractor and the policy number.

21.3.2 Statement that the insurer will mail notice to COA at least thirty (30) days prior to any material deviations or cancellations of the policy.

21.3.3 Shall include all deductibles and/or self insurance retentions for each line of insurance coverage.

21.3.4 The Certificate(s) of Insurance shall designate COA as certificate holder as follows:

City of Alachua
Attention: Purchasing Division
15100 NW 142 Terrace
Alachua, Florida 32615

22. Workers Compensation and Employers Liability

This insurance shall protect the Contractor against all claims under applicable state workers compensation laws. The insured shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provision of a workers compensation law. The policy shall include an "all states" or "other states" endorsement.

22.1 The liability limits shall not be less than required by Florida Law.

Insurance:	Description:
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 each occurrence

23. Comprehensive Automobile Liability

This insurance shall be written in comprehensive form and shall protect the Contractor and the additional insured against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired.

23.1 The liability limits shall not be less than:

Insurance:	Description:
Bodily injury	\$1,000,000 combined single limit
Property damage	Each occurrence

24. Comprehensive General Liability

This insurance shall be an “occurrence” type policy written in comprehensive form and shall protect the Contractor and the additional insured against all claims arising from bodily injury, sickness, disease or death of any person or damage to property of the Owner or others arising out of any act or omission of the Contractor or his agents, employees or sub-contractors. This policy shall also include protection against claims insured by usual personal injury liability coverage, a “protective liability” endorsement to insure the contractual liability assumed by the Contractor and “Completed Operations and Products Liability” coverage (to remain in force for 2 years after final payment).

24.1 The liability limits shall not be less than:

Insurance:	Description:
Personal injury and Property damage	\$1,000,000 combined single limit each occurrence and \$1,000,000 aggregate

25. Umbrella Liability Policy

This insurance shall protect the Contractor and the additional insured against all claims in excess of the limits provided under the employer liability, comprehensive automobile liability, and the comprehensive general liability policies. The liability limits of the umbrella liability policy shall not be less than \$1,000,000. The policy shall be an “occurrence” type policy.

26. Professional Liability Insurance

This insurance is required when professional services such as by engineers, surveyors, architects etc. are provided to the City.

****END GENERAL CONDITIONS****