
CITY OF OCALA

CITY COUNCIL REPORT

Council Meeting Date: 04/18/17

Subject: Wright Express (Wex) Fuel Card Services

Submitted By: Corrin Fitsemons

Department: Police Department

STAFF RECOMMENDATION (Motion Ready): Approve Agenda Item (ID # 10726) use of State of Florida contract with Wright Express for fuel card services with an estimated annual expenditure of \$90,000

OCALA'S RELEVANT STRATEGIC GOALS: Operational Excellence

PROOF OF PUBLICATION: N/A

BACKGROUND:

The Ocala Police Department is asking permission to utilize the competitively awarded State of Florida contract for the fuel card services from Wex Bank for use by OPD, as needed. This contract provides the best negotiated pricing, terms, and conditions to purchase fuel at local gas stations at highly competitive prices. The state contract expires on August 5, 2020.

FINDINGS AND CONCLUSIONS:

Police Department employees working in outlining zones can use the Wex fuel card at local gas stations instead of driving to the city complex fuel island to refuel. In such cases, it is more fiscally prudent to use the Wex card than the fuel island because the saving in staff time to drive to the complex. The Wex card is also used by motorcycle officers who require a different octane level which is not available at the city fuel island. Wex also provides an online program with real-time fuel price mapping with station locations, as well as and internal controls and reports for supervisors.

The Wex fuel card program offers the City a 1.7% discount off retail price, plus an additional \$0.184/gallon reduction on applicable Federal excise taxes since the City is tax exempt. All rebates and credits are realized at the time of the transaction and are netted against the monthly fuel card invoice. The use of this program is cost effective and operationally efficient.

FISCAL IMPACT:

OPD's fuel card services are budgeted under 001-18-822-521-52020.

PROCUREMENT REVIEW:

The contract has been reviewed and approved for compliance with the City's procurement policies.

LEGAL REVIEW: N/A. Direct supply purchase off of State of FL contract.

ALTERNATIVE:

Do not approve and issue a solicitation for these services.

SUPPORT MATERIALS:

Wex Fuel Card Services Contract (PDF)

CONTRACT BETWEEN
FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
AND
Wright Express Financial Services Corporation

This Contract is by and between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and Wright Express Financial Services Corporation (Contractor or Wright Express).

Whereas, the Contractor replied to the Division's Invitation to Negotiate (ITN), No.: 15-973-163-X – Fuel Card Services;

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract.

1.0 SUMMARY OF THE CONTRACTUAL SERVICES / SCOPE OF WORK

This Contract is to provide a Fleet Fuel Card Program for Vehicle Fleets owned by state agencies and Eligible Users in the State of Florida. The Fleet Fuel Card will be built on a Universal Platform. The Fleet Fuel Card Program will include the purchase of Fuel and any commodity and/or service for immediate use by the Eligible User to maintain daily operation of their vehicle fleet. Also, the Fuel Card may be used at Marinas and/or Airports as allowed for Marine Fleets and/or Aircraft Fleets. The Department seeks to improve quality and efficiency of services delivered, improve Eligible User services and reduce cost.

2.0 DELIVERABLES

Florida Department of Transportation (FDOT) Bulk Fueling Sites

Within 45 days of contract execution, FDOT and Wright Express will develop policies and procedures for transactions occurring at FDOT owned bulk fueling sites.

Fuel Price Mapping

WEXOnline contains a real-time fuel price mapping feature that allows fleets to see fuel price information based on recent Wright Express cardholder transactions at accepting merchant locations. This pricing information is fed into maps which include both satellite and standard map views. Results are updated with the most recent Wright Express transactions, showing you which stations have had the lowest prices in the area of your search. No prices older than seven days are presented. Search criteria include address, city, state, zip code, brand and PPG.

Fuel Site Mapping Mobile Application

The Fuel Site Mapping Mobile tool is a mobile application that allows users to enter into a web enabled mobile device (i.e. Blackberry, iPhone) their current location via GPS, zip code or address, as well as desired fuel type and search radius. The application returns a list of accepting merchants with address, distance from current location, and date and time of the last price per gallon for that site. This application obtains results from the

most recent Wright Express authorization data from accepting merchants. No prices older than seven days are presented.

Reporting Dashboards

Wright Express will provide the Department a reporting dashboard that will show key indicators of the program's performance. It is expected that this could include approximately 8-10 canned reports, with the ability to conduct ad hoc reporting as needed. Wright Express will work with the Department within the first 60 days after contract execution to gather requirements for these reports, and provide a date for first delivery of these reports based on development needs and complexity.

Discount

Wright Express will provide a discount of 145 basis points (1.45%) off all Monthly Retail Transactions charged to a contract user's account prior to submitting the monthly invoice.

International Transactions

Discounts for international transactions shall be paid at a rate of 50% of the applicable Discount Percentage.

Definitions

"Monthly Retail Transactions" shall mean the total amount of all purchases made using Universal Cards at retail (not bulk or private site) locations that appear on invoices provided to you in a calendar month. Monthly Retail Transactions shall not include: (i) those amounts representing credits, disputed items, fees, late fees or charges posted to your accounts (such as returned check fees, collection costs, administrative fees and reporting fees), or (ii) any amounts posted to an account with respect to which a Card has been reported lost or stolen. Due to billing cycle cut off dates and monthly calendar variances invoices received by you in a given month may contain transactions from the previous month and they may not contain all transactions that occurred during the month in which you were invoiced.

The service deliverables above are included in the contract at no additional charge. See **Section 4.04 for additional contract deliverables.**

OPTIONAL CONTRACT PRODUCTS

The following products may be utilized as part of this contract based on the needs identified by individual Eligible Users. Additional fees, terms and conditions may apply:

National Roadside Assistance

The Wright Express card offers national roadside assistance designed to decrease downtime, organize and improve the administration of road services, and reduce costs. Access to roadside assistance is free of charge (no membership required), but there is a cost for each incident based on the services utilized.

Our program provides your drivers with a reliable, toll-free, 24-hour, 365 day a year provider of high-quality roadside assistance program.

Services Include:

- Towing
- Mechanical first aid
- Jump start
- Tire change
- Lockout assistance
- Fuel and water delivery

Roadside Assistance transactions will be reported by vehicle. Through your reporting, you will be able to track your service expenses and maintain control over fleet costs. By using Wright Express, you'll get the benefit of pre-negotiated services rates with contracted garages therefore eliminating the need to search for reputable providers or send out multiple payments at the end of the month.

WEXSmartTM

WEXSMARTTM is a GPS wireless vehicle management system that helps customers control fuel and maintenance costs, track driver behavior, increase productivity, and manage risk. Utilizing GPS and wireless communications technology, Wright Express' WEXSMARTTM gives managers real-time access to vehicle position, speed, and engine-operating conditions, through any internet connection. Managers can configure alerts and schedule reports that ensure drivers are where they should be, operating safely, and vehicles are in top operating condition, using fuel efficiently.

Price Risk Management

With Pricelock's Universal Retail Price Protection program, you can be on your way to guaranteed budget predictability and control in three simple steps:

- 1. Lock in protection** by estimating the number of gallons of fuel at a daily price for your area. Buy the option to purchase a specified number of gallons (minimum 42,000 per month) at a locked-in price for a specified term.
- 2. Swipe and pump with peace of mind.** Fuel your vehicles at more than 135,000 stations nationwide for the specified period of purchase. You are protected if prices go up beyond your option price. Enjoy the benefit of lower prices if fuel drops below the locked option price.
- 3. Manage your fuel** either by reviewing customized monthly statements provided by Pricelock or by visiting Pricelock.com to manage your committed gallons, review historical and current market trends and gain insight into factors that may influence fuel costs thus affecting your future purchasing decisions.

3.0 SUMMARY OF PEANALTY FOR FAILURE OF CONTRACTOR TO MEET DELIVERALBES

See PUR 1000 Section 23 (Termination for Cause) for details.

4.0 EFFECTIVE DATE

This Contract shall begin on the last date in which it is signed by all parties, whichever is later.

5.0 EXPIRATION DATE

This Contract shall expire 5 years from the effective date of the Contract, unless cancelled earlier in accordance with its terms.

6.0 RENEWAL

Upon mutual written agreement, the Department and the Contractor may renew the Contract for 5 additional years pursuant to the provision of PUR 1000 Section 26.

7.0 INTELLECTUAL PROPERTY

The parties do not anticipate that any intellectual property will be developed as a result of this contract. However, any preexisting software, or other work of authorship used by Contractor, to create a Deliverable but which exists as a work independently of the Deliverable, shall remain the property of the Contractor.

8.0 PREFERRED PRICE

The Contractor agrees to submit to Customer at least annually an affidavit from an authorized representative attesting that the Contractor is in compliance with the preferred pricing provision in Section 4(b) of form PUR 1000.

9.0 TRANSITION

If, at any time, this Contract is canceled, terminated or otherwise expires, and a Contract is subsequently executed with a firm other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent Contractor, including providing documents and information not otherwise protected from disclosure by law and other reasonable requests made by the Contract Administrator.

10.0 CONTRACT DOCUMENTS

This Contract, together with the following documents, set forth the entire understanding of the parties with respect to the subject matter. In case of conflict, the terms of this Contract shall control. If a conflict exists among any of the documents, the documents shall have priority after the contract document in the order listed:

- A. ITN No.: 15-973-163-X (the solicitation document – amendments thereto take precedence).
- B. Contractor's Response to the ITN.

11.0 CONTRACT MANAGEMENT

A. Contract Administrator

The Department employee who is primarily responsible for maintaining the Contract administration file shall be as follows:

David A. Bennett
Division of State Purchasing
Department of Management Services

4050 Esplanade Way, Suite 360
Tallahassee, FL 32399-0950
Telephone: (850) 921-4072
Fax: (850) 414-6122
E-mail: David.Bennett@dms.myflorida.com

The Department may appoint a different Contract Administrator, which shall not constitute an amendment to the Contract, by sending written notice to Contractor. Any communication to the Department relating to the Contract shall be addressed to the Contract Administrator.

B. Contractor's Representative

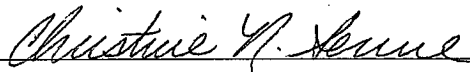
Sharon Linnane, Government Account Manager Wright Express Corporation
97 Darling Avenue South Portland, Maine 04106
Telephone: (941)761-0000
Fax: (207) 523-6377
E-mail: sharon_linnane@wrightexpress.com

With a copy to:
General Counsel
Wright Express Corporation
97 Darling Avenue
South Portland, Maine 04106
Telephone: (207) 523-7366
Fax: (207)523-6377

State of Florida
Department of Management Services

Approved as to form and legality
by the Department General Counsel's Office


By: Linda H. South



8/6/10
Date

August 3, 2010
Date

Wright Express Financial Services
Corporation

APPROVED AS
TO FORM



Kirk S. Weiler
Signature

Kirk S. Weiler, President and CEO
Print Name

8/5/10
Date

**Invitation to Negotiate
(Number: 15-973-163-X)**

For

Fuel Card Services

ITN Issue Date: January 19, 2010

Replies Due: February 9, 2010 AT 2:00 PM EST

Contract Term: Five Years with Five Year Renewal Option



**Division of State Purchasing
Department of Management Services
4050 Esplanade Way
Tallahassee, Florida 32399**

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PART ONE: INTRODUCTION

1.1 PURPOSE AND SCOPE

The State of Florida, Department of Management Services (the Department), invites interested Respondents to submit Responses in accordance with the solicitation documents. The purpose of this solicitation is to establish a five year State Term Contract for Fuel Card Services with the potential for a five year renewal option.

The intent is to obtain the most cost effective Fuel Card Services for the State while maximizing the quality and level of service. The Department is seeking qualified Respondents to provide for the purchase of Fuel and other services to maintain daily operation of Customer fleets throughout the contract period. Qualified companies must have the capability to perform and complete the services in all respects in accordance with the solicitation documents.

- 1.1.1 The Department anticipates awarding a contract to the responsive and responsible Respondent whose proposal is assessed as providing the best value.
- 1.1.2 The Department anticipates that the resulting contract will be (i) the exclusive Fuel Card for State agencies, and (ii) a non-exclusive Fuel Card for other Eligible Users.
- 1.1.3 The term “Eligible Users” means (i) all 34 State agencies, (ii) all other governmental agencies, as defined in Section 163.3164, Florida Statutes, which have a physical presence in the State of Florida, and (iii) any independent, nonprofit college or university located in Florida and accredited by the Southern Association of Colleges and Schools.
- 1.1.4 The contract shall be in effect for five (5) years from the date of execution.

1.2 HISTORY

The current State Term Contract with Comdata has an estimated annual spend of \$50 million. The current program has approximately 28,000 cards. During the calendar year of 2009, there were approximately 176 eligible user accounts executing over 1,500,000 transactions at over 11,000 locations throughout the State. These estimated figures are provided as a historical reference of prior activity within the State and should not be interpreted or construed as representing future activity.

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1.3 CONTACT PERSON

The following person is the Department's **SOLE** point of contact from the date of release of this ITN until selection of a successful provider.

David A. Bennett, CPPO, FCCN, PMP®
Project Manager
Division of State Purchasing
4050 Esplanade Way
Tallahassee, Florida 32399
Telephone: (850) 921-4072
Fax: (850) 414-6122
Email: David.Bennett@dms.MyFlorida.com

Questions regarding this ITN must be submitted via the Q&A Board in accordance with Section 2.5.

Any technical questions relating to the MyFloridaMarketPlace system can be directed to the MyFloridaMarketPlace Customer Service Desk at 1-866-FLA-EPRO (1-866-352-3776) or vendorhelp@myfloridamarketplace.com.

1.4 TIMELINE

Event	Date
Release ITN within the MyFloridaMarketPlace Sourcing Tool.	1/19/10
Deadline to Submit Questions via the Q&A Board within the MyFloridaMarketPlace Sourcing Tool by 2pm EST.	1/26/10
Post Answers to Questions within the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System (VBS).	2/02/10
Responses Due within the MyFloridaMarketPlace Sourcing Tool by 2pm EST.	2/09/10
Evaluation Team reviews all responsive proposals	2/10-22/10
Evaluation Team meets to discuss Responses (Public Meeting 10am EST at 4050 Esplanade Way, Tallahassee, Florida.)	2/23/10
Post Notice of Intent to Negotiate on the Vendor Bid System (VBS).	2/23/10
Interview and Negotiation Period Begins	3/01/10
Interview and Negotiation Period Ends	4/12/10
Negotiation Team Meets to Discuss Recommended Award (Public Meeting 10am EST at 4050 Esplanade Way, Tallahassee, Florida.)	4/13/10
Post Notice of Intent to Award on the Vendor Bid System (VBS)	4/20/10
Contract Award	Per Section 3.17 Contract Formation

IT IS STRONGLY RECOMMENDED THAT YOU SUBMIT YOUR RESPONSE AS EARLY AS POSSIBLE. YOU SHOULD ALLOW TIME TO RECEIVE ANY REQUESTED ASSISTANCE AND TO RECEIVE VERIFICATION OF YOUR SUBMITTAL; WAITING

UNTIL THE LAST HOURS OF THE SOLICITATION COULD IMPACT THE TIMELY SUBMITTAL OF YOUR RESPONSE.

DO NOT RELY ON THE “MYFLORIDAMARKETPLACE” SOURCING TOOL’S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN THE EVENT TIMELINE OF THIS ITN.

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PART TWO: SPECIAL INSTRUCTIONS TO RESPONDENTS

2.1. DEFINITIONS

The definitions found in Part Three of the ITN shall apply to this Part Two.

2.2. ORDER OF PRECEDENCE

- 2.2.1. Respondents are encouraged to carefully review all materials contained herein and prepare Responses accordingly. In the event any conflict exists between the Special and General Instructions, the Special Instructions shall prevail. In the event any conflict exists between the Special and General Conditions, the Special Conditions shall prevail.
- 2.2.2. All Responses are subject to the terms of the following sections of this ITN which, in case of conflict, shall have the order of precedence listed:
 - a) ITN Amendments or Addenda (see Section 2.7)
 - b) Introduction
 - c) Statement of Work and Technical Specifications
 - d) Special Conditions
 - e) Special Instructions
 - f) General Contract Conditions (PUR 1000)
 - g) General Instruction to Respondents (PUR 1001)
 - h) Respondent's Response

2.3. WHO MAY RESPOND

- 2.3.1. Each Respondent must be authorized to conduct business with the State of Florida, meet the Technical Requirements, and possess the experience and personnel resources to provide the service described in this ITN.
- 2.3.2. The Department retains the right to request additional information pertaining to the Respondent's ability and qualifications to accomplish all services described in this ITN as deemed necessary during the ITN or after contract award.

2.4. MYFLORIDAMARKETPLACE OVERVIEW

- 2.4.1. The Department uses the MyFloridaMarketPlace system (the System) to receive Responses electronically, through the MyFloridaMarketPlace Sourcing tool.
- 2.4.2. MyFloridaMarketPlace Sourcing Tool Tips: When working in the Sourcing tool, be aware of the twenty minute time-out function in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty minutes to ensure your entries since you last saved are not lost.
- 2.4.3. Please note that clicking the SAVE button within the Sourcing tool only saves your ITN Responses. The SAVE button does not transmit your ITN response to the State. In order to transmit your ITN response to the State, you must click the SUBMIT button on the SUMMARY page of the ITN response.
- 2.4.4. After clicking the SUBMIT button, it is the Respondent's responsibility to check any submitted response within the Sourcing tool to verify that the response is accurately and completely captured within the Sourcing tool. Respondents must do this while there is sufficient time remaining in the Solicitation period so that if you discover an error, you will have time remaining to submit a revised response.
- 2.4.5. To validate your response, you should do the following before the Solicitation period ends:

- a) Go to My Responses tab within Sourcing tool after you submitted your response.
 - b) Click on the Response ID number of your last submitted response.
 - c) Review Responses to make sure all Responses are complete, accurate and as you intended to submit.
 - d) Minimum areas to check are:
 - i. Text boxes – Is your entire answer viewable?
 - ii. Yes/No questions – Is the displayed answer correct?
 - iii. All uploaded document files / scanned documents – Can you open attached document and clearly view entire content?
 - iv. Required Items - Are all items completed as required within the Sourcing tool?
- 2.4.6. It is strongly recommended that you submit your response as early as possible. You should allow time to receive any requested assistance and to receive verification of your submittal; waiting until the last hours of the solicitation could impact the timely submittal of your response. Do not rely on the “MyFloridaMarketPlace” Sourcing tool’s time remaining clock. The official solicitation closing time shall be as reflected in the event Timeline (Section 1.4) of this ITN.
- 2.4.7. Email Notification: Respondents are reminded that the Sourcing tool’s email notifications are an option provided to Respondents as a courtesy. The State of Florida is not under any obligation and does not guarantee that Respondents will receive email notifications concerning the posting, amendment or close of ITNs. Respondents are responsible for checking the MyFloridaMarketPlace Sourcing tool and / or the Vendor Bid System for information and updates concerning this ITN.
- 2.4.8. MFMP Sourcing Tool Training for Respondents: Respondents are strongly encouraged to download the document titled RFP Event User Guide. Please go to http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm and click on RFP Event User Guide.

2.5 QUESTIONS & ANSWERS

Respondents shall examine this solicitation to determine if the Department’s requirements are clearly stated. If there are any requirements which are unclear or objectionable, Respondents should submit notice to the Department using the Sourcing tool’s Q&A Board by the due date for Respondents to submit questions listed in the Timeline. Do not contact the Project Manager or Customers directly. If the Respondent is requesting a change in the terms of the solicitation, Respondents must do the following:

1. Identify and describe in detail any difficulty in meeting the Department’s specifications
2. Provide a detailed justification for a change
3. Provide the recommended changes to the specifications

A Respondent’s failure to request changes by the date described in the Introduction (Section 1) of this solicitation shall be considered to constitute Respondent’s acceptance of the Department’s specifications. The Department shall determine what changes to the solicitation shall be acceptable to the Department, if any. If required, the Department shall issue an addendum reflecting the acceptable changes to this solicitation, which shall

be posted as an addendum to the solicitation in the Sourcing tool and on the State's Vendor Bid System in order that all Respondents shall be given the opportunity of submitting Responses to the same specifications.

Please note that questions will **NOT** be answered via telephone or fax. The Department shall post the answers to the questions via the System by the date stated on the Timeline. Each Respondent is responsible for monitoring the System for new or changing information. New communications will be posted within the Message Center on the System. The Department shall not be bound by any verbal information or by any written information that is not either contained within the solicitation documents or formally noticed and issued by the ITN sole point of contact. Questions shall not constitute formal protest of the specifications or of the solicitation. The formal protest process is described in Part Three, Section 20.

2.7 AMENDMENTS OR ADDENDA TO THE ITN DOCUMENTS

The Department reserves the right to issue amendments or addenda to the solicitation. Notice of any amendment or addenda will be posted within MyFloridaMarketPlace using the message board and the Vendor Bid System. Such notice, if required, will contain the appropriate details for identifying and/or reviewing the formal changes to the solicitation. Each Respondent is responsible for monitoring the sites for new or changing information concerning this solicitation.

2.8 RESERVATIONS

The Department reserves the right to reject any and all Responses received pursuant to this Invitation to Negotiate, if the Department determines such action is in the best interest of the State of Florida or the Department. The Department reserves the right to negotiate concurrently or separately with competing Respondents. The Department reserves the right to accept portions of competing Respondent's Responses and merge such portions into one project, including the inclusion of the entity offering such portions. The Department reserves the right to waive minor irregularities in submitted Responses.

2.9 ORAL PRESENTATION AND PROJECT MANAGEMENT

The Department reserves the right to require any Respondent to perform, prior to the selection of Respondent(s), an operational demonstration and an oral presentation on any hardware, software or professional services included in its Response. If the Department determines that an operational demonstration and oral presentation are necessary, the Department shall schedule the presentation.

A written summary of the operational demonstration and oral presentation prepared by the Respondent shall be regarded as confirmation of this requirement and shall become part of the Respondent's response. A list of attendees and copies of the agenda and all visuals should accompany the written summary. The inability of the Respondent to conduct the operational demonstration and oral presentation within ten (10) days of written notification by the Department may result in disqualification.

The Respondent should assign a Project Manager to this Response. The Project Manager should be present at the operational demonstration and oral presentation. The Project Manager should be certified by the Project Management Institute (PMI).

2.10 DISCLOSURE OF RESPONSE CONTENTS

All documentation produced as part of the Invitation to Negotiate will become the exclusive property of the Department and may not be removed by an employee or agent of the Respondent. All Responses will become the property of the Department and will not be returned to the Respondent. The Department shall have the right to use any or all ideas or adaptations of the ideas presented in any Response. Selection or rejection of a Response will not affect this right.

2.11 RESPONSE EVALUATION AND SELECTION PROCESS

- A. In determining whether to select or reject a Response, the Department will consider and evaluate all information submitted in response to this ITN, including information presented during oral presentation, if required; and to this extent, each requirement for solicited information is an evaluation criterion. Responses that do not contain all the required information may be considered non-responsive and may be rejected. In its assessment of Responses, the Department will analyze the information submitted in relation to the information requirements and evaluation criteria of this ITN, the applicable provisions of the Florida Statutes, and the Florida Administrative Code, and will compare each Response to the other Responses submitted and rank those Responses that are responsive and responsible. The Department may then select one or more Responses for further consideration, or may reject all Responses.
- B. Selected Respondent(s) will be invited to provide more detailed clarifications of their Responses, to provide interactive presentations of the Responses, and to enter into negotiations with the Department. Based on the clarifications, presentations and negotiations, the Department will either (i) award the contract to the Respondent who provides the best value for the Department and the State, or (ii) reject all Responses. The Department reserves the right to negotiate concurrently or separately with competing Respondent(s).

2.12 EVALUATION CRITERIA

Respondents will be evaluated on the basis of the information they provide under Section 7 of this ITN. Criteria the Department will consider includes, but is not limited to:

1. The extent to which the Response illustrates the Respondent's project understanding, and prior experience (both government and non-government) for projects similar in type, size, and complexity as the Fuel Card Services Program.
2. The Respondent's ability demonstrated through its organization, its technical and managerial qualifications and skills, the staffing level proposed, its facilities, and other resources available to satisfy the proposed Fuel Card Services Program.
3. Any financial incentives to the State.

PART THREE: PUR 1001 – GENERAL INSTRUCTIONS TO RESPONDENTS

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19. Public Records.
20. Protests.
21. Limitation on Vendor Contact with Agency During Solicitation Period

1. Definitions. The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
- (b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
- (c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
- (d) "Response" means the material submitted by the respondent in answering the solicitation.
- (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

2. General Instructions. Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

3. Electronic Submission of Responses. Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

4. Terms and Conditions. All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

5. Questions. Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

6. Conflict of Interest. This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

7. Convicted Vendors. A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;

- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

8. Discriminatory Vendors. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

9. Respondent's Representation and Authorization. In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:

- Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
- Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

10. Manufacturer's Name and Approved Equivalents. Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

11. Performance Qualifications. The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

12. Public Opening. Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

13. Electronic Posting of Notice of Intended Award. Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at http://fcn.state.fl.us/owa_vbs/owa/vbs_www.main_menu. If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

14. Firm Response. The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

15. Clarifications/Revisions. Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

16. Minor Irregularities/Right to Reject. The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

17. Contract Formation. The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the

Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

18. Contract Overlap. Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

19. Public Records. Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

20. Protests. Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

21. Limitation on Vendor Contact with Agency During Solicitation Period. Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

PART FOUR: STATEMENT OF WORK

4.01 DEFINITIONS

“Agency Agreement” is the established agreement between the Eligible User and the Contractor, using this Contract.

“Fuel” shall mean any fuel product obtained through use of the Fuel Card. Fuel product shall include all types and grades of fuel available for retail sale and used in State and Eligible User vehicles, marine fleets, aircraft fleets and other equipment.

“Fuel Card” shall mean the card issued to State and Eligible Users for the purchase of Fuel and Immediate Use Vehicle Accessories.

“Fuel Card Services” shall mean providing services as described in this solicitation and as established in the Contract, if any.

“Universal Platform” shall mean a retail electronic payments network used by at least 95% of Level 3 and Level 2 retail merchants in the State of Florida.

4.02 SCOPE OF WORK

This Contract is to provide a Fleet Fuel Card Program for Vehicle Fleets owned by state agencies and Eligible Users in the State of Florida. The Fleet Fuel Card should be built on a Universal Platform. The Fleet Fuel Card Program will include the purchase of Fuel and any commodity and/or service for immediate use by the Eligible User to maintain daily operation of their vehicle fleet. Also, the Fuel Card may be used at Marinas and/or Airports as allowed for Marine Fleets and/or Aircraft Fleets. The Department seeks to improve quality and efficiency of services delivered, improve Eligible User services and reduce cost.

4.03 FUEL CARD SERVICES MINIMUM REQUIREMENTS

Fuel Card Services will be available to all Eligible Users in the State of Florida. The Contractor will provide a Fuel Card that is accepted at fuel locations throughout the State of Florida for the purchase of Fuel and Immediate Use Vehicle Accessories. Services shall also include commodities and services to be used during emergency situations as described and priced within this contract’s Emergency Plan. The Contractor will provide a detailed description of all Fuel Card Services available to the State and Eligible Users. Services shall also include, but are not limited to, purchasing controls, reporting options, level 3 detailed transactions, online Eligible User access for reporting purposes and account management and billing and payment options.

At a minimum, the Contractor shall provide the following Fuel Card Services:

- **Fuel Card**
 - Issuance and shipping second day mail, by 2pm EST, of Fuel Cards to Eligible Users will be at the Contractor’s expense. This includes additional and replacement cards as required.
 - Fuel Cards will be used for the purchase of Fuel and Immediate Use Vehicle Accessories. Eligible Users will be responsible for setting Fuel Card restrictions.

- o Detailed reports will be sent with the Eligible User's invoice. The Eligible User will define the required detail of these reports.
- o Ability to issue an access number or PIN number for security purposes.
- o The Fuel Card Vendor shall provide the Eligible User's tax exempt ID number with the fuel card at no cost to the Fuel Card Program Eligible Users.
- **Fuel Cost**
 - o All applicable taxes will be exempt from the fuel cost. This tax exemption will be excluded from the fuel cost and disclosed on the Eligible User's invoice.
- **Immediate Use Vehicle Accessories**
 - o Commodities may include, but are not limited to, motor oil, transmission fluid, brake fluid, windshield wiper blades, fuses, tires, etc. These commodities are for immediate use on the Eligible User's vehicle at the time of purchase. These Commodities will be charged at the Eligible User's negotiated price or at the Contractor's Fleet Management discounted price, whichever is less. Commodity purchases outside of the State of Florida may include applicable sales taxes.
 - o Services may include, but are not limited to, car washes, vehicle maintenance, vehicle repairs, tire service, towing etc. These services must be performed on the Eligible User's vehicle at the time of purchase. These services will be charged at the Eligible User's negotiated price or at the Contractor's Fleet Management discounted price, whichever is less. Service purchases outside of the State of Florida may include applicable sales taxes.
- **Eligible User Accounts**
 - o The Contractor shall provide an on-line Account Management system to Eligible Users. These accounts shall be accessible on-line for day to day management and reporting purposes.
 - o The Contractor shall provide Account Management Software and training to each Eligible User. This software shall have the same functionality for all Eligible Users and should interface with the Contractor's on-line system.
 - o If deemed necessary by the State, the Contractor shall provide programming, at no charge to the State, for interfacing with the State's accounting system. Currently, the State is using a legacy system called FLAIR.
 - o Other Eligible Users will negotiate interface programming, to provide compatibility with their accounting system, with the Contractor as required.
 - o The Contractor shall have an Eligible User service center that has full account management services available between the hours of 7 a.m. and 6 p.m. EST. Monday through Friday except for State holidays.
 - o The Contractor shall have at least one Account Representative assigned to the State for the management of the Contract.

- **Fuel Card Reader Equipment at State and Eligible User Sites**

- Installation of all equipment with Fuel Card reader capability will be at the request of the State or Eligible User, the cost of which shall be mutually agreed upon between the Eligible User and Contractor.
- The Fuel Card reader shall capture Fuel purchase data in the same manner as a Retailer.
- The Contractor will be responsible for providing all equipment maintenance and software updates as required. The Eligible User will be responsible for providing all electrical connections and data transmission lines as required.

- **Optional Fuel Product Management at State and Eligible User Sites**

Upon mutual agreement between the contract user and Contractor, the Contractor may provide fuel product management at State and Eligible User sites. The cost for this service shall be mutually agreed upon between the Eligible User and Contractor. The site shall be those for which Fuel Card reader capabilities equipment has been installed. This includes, but is not limited to, the monitoring of Fuel levels, ordering and/or delivering Fuel, etc. This service also includes the use of equipment and tools, and all services and responsibilities prescribed or implied which are necessary for the complete performance by the Contractor of its obligations under the Contract. State and Eligible Users will not be charged for Fuel stored at these sites. State and Eligible Users will only be charged for Fuel dispensed into their Vehicle Fleet.

4.04 CONTRACT DELIVERABLES

Emergency Plan

Within thirty days of contract signing, the Contractor and the State shall jointly develop an Emergency Plan. The Fuel Card Services Contract allows for the purchase of commodities and services that are necessary to execute the Emergency Plan. These purchases shall include the use of equipment and tools, and all services and responsibilities prescribed or implied which are necessary for the complete performance by the Contractor of its obligations under the Emergency Plan. This Plan shall include but not be limited to:

- Commodities and services available to Eligible Users during emergencies.
- An assessment of risks
- Operational assignments (Who does what, when and how)
- Procedures for Emergency notification (How do we tell people there's a problem?)
- Procedures for activation in the event of an emergency situation in order to protect and/or recover critical assets and functions.
- Procedures for Emergency Plan testing
- Procedures for an annual review, updating, altering and re-writing that results in a document that is fully functional and operational.

Project Management Professional Certification

Within fifteen days of contract signing, the Fuel Card Vendor shall have a certified Project Management Professional (PMP) leading the implementation of the State's Fuel Card Program. This certification should be obtained through the Project Management Institute (PMI).

Implementation Plan

Within the first forty-five days of contract signing, the Fuel Card Vendor and the State shall jointly develop a detailed Implementation Plan. This Plan shall include but not be limited to:

1. Development of a critical path for the project
2. Determining Start and Completion Dates
3. Development of goals
4. Development of objectives for each goal
5. Development of activities for each objective
6. Determining individuals responsible for each activity
7. Development of timelines for each activity
8. Development of a list of potential barriers and a plan to overcome them.

Training Plan (Instructor led, online and train the trainer)

Within ninety days of contract signing, the Fuel Card Vendor and the State shall jointly develop a Training Plan. This Plan shall provide for but not be limited to:

1. Defining the purpose of the training and target audience
2. Determining participants' needs (Instructor led, Online, and Train the trainer)
3. Defining training goals and objectives
4. Outlining training content
5. Develop instructional activities
6. Prepare the written training design
7. Prepare participant evaluation form(s)
8. Determine follow-up activities for the event

Marketing/Outreach Plan (to include other Eligible Users)

Within the first ninety days of contract signing, the Fuel Card Vendor and the State shall jointly develop a detailed a Marketing/Outreach Plan to all Eligible Users of the Fuel Card Contract.

Conference Room Pilot (requirements gathering)

Before any agency is brought into the new Fuel Card Program, the Fuel Card Vendor and the State shall develop and execute a Conference Room Pilot. Conference Room Pilot shall be defined as a period of four 1-day working sessions, or other schedule as agreed, the purpose of which is to review and refine the proposed business processes. During the Conference Room

Pilot fleet card, purchasing and accounting representatives from various State agencies will be invited to review and comment upon the proposed processes.

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PART FIVE: SPECIAL CONDITIONS

5.1 CONFIDENTIALITY

- 5.1.1 Any information relating to the products, customers, business, marketing plans and policies of the State or its affiliates, supplied to Contractor by or at the direction of the State or acquired by Contractor in the course of providing services to the State, or developed by Contractor in carrying out Contractor's duties under the Contract, must be deemed to be confidential and proprietary information of the State and the exclusive property of the State.
- 5.1.2 Notwithstanding any provisions to the contrary, the parties shall not be required to disclose to the public any materials protected by law and disclosure of any confidential information received by the State of Florida will be governed by the provisions of the Florida Public Records Act, Chapter 119, Florida Statutes and exceptions thereto.
- 5.1.3 Contractor shall not sell or distribute a list of participating Eligible Users, State Agencies or their cardholders, their addresses, card account numbers or any other information to any person, firm, account, or other party for any purpose. This is absolutely prohibited and considered confidential information.

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PART SIX: PUR 1000 – GENERAL CONTRACT CONDITIONS

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1. Definitions. The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) “Contract” means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) “Customer” means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The “Customer” may also be the “Buyer” as defined in the PUR 1001 if it meets the definition of both terms.

(c) “Product” means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) “Purchase order” means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

2. Purchase Orders. In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor’s order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

3. Product Version. Purchase orders shall be deemed to reference a manufacturer’s most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

4. Price Changes Applicable only to Term Contracts. If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

5. Additional Quantities. For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

6. Packaging. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

7. Inspection at Contractor's Site. The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

8. Safety Standards. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

9. Americans with Disabilities Act. Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

10. Literature. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

11. Transportation and Delivery. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

12. Installation. Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

13. Risk of Loss. Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

14. Transaction Fee. The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor'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 Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

15. Invoicing and Payment. Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

16. Taxes. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

17. Governmental Restrictions. If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

18. Lobbying and Integrity. Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dliis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

19. Indemnification. The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

20. Limitation of Liability. For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The

State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

21. Suspension of Work. The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

22. Termination for Convenience. The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

23. Termination for Cause. The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

24. Force Majeure, Notice of Delay, and No Damages for Delay. The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay

or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

25. Changes. The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

26. Renewal. Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

27. Purchase Order Duration. Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the

state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

28. Advertising. Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

29. Assignment. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

30. Antitrust Assignment. The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the

State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

31. Dispute Resolution. Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

32. Employees, Subcontractors, and Agents. All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

33. Security and Confidentiality. The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

34. Contractor Employees, Subcontractors, and Other Agents. The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

35. Insurance Requirements. During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

36. Warranty of Authority. Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

37. Warranty of Ability to Perform. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

38. Notices. All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

39. Leases and Installment Purchases. Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE). Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted

for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

41. Products Available from the Blind or Other Handicapped. Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract 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 contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

42. Modification of Terms. The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

43. Cooperative Purchasing. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

44. Waiver. The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

45. Annual Appropriations. The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

46. Execution in Counterparts. The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

47. Severability. If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

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PART SEVEN: ITN QUESTIONS AND REQUIREMENTS

The Respondent's Response to this Section should be uploaded as a single attachment in the MyFloridaMarketPlace Sourcing Tool.

7.1 SERVICE PROVIDER BACKGROUND AND EXPERIENCE

- 7.1.1 Provide a brief overview of your company. Include the following:
- a) Name and address (corporate office and main locations);
 - b) Brief history of the company;
 - c) Key program contacts that will be assigned to the State of Florida contract;
 - d) Service provider's organization chart;
 - e) Annual reports for the last two years;
 - f) Flowchart of the company's Fuel Card Program process; and,
 - g) Name and description of services for any card processing companies or service centers that will be used to perform any of the functions listed in this ITN.
- 7.1.2 Please identify your current Fuel Card customers and provide the following:
- a) At least three (3) references from current customers;
 - b) Each reference must contain the organization name and address, with the name, title; phone number and e-mail address of a current contact person;
 - c) List the total dollar volume;
 - d) Number of annual transactions; and,
 - e) Number of active cards issued under each program listed.
- 7.1.3 Describe the full extent of your experience and qualifications, including past experience, in providing Fuel Card Services of the type and magnitude of this ITN.
- 7.1.4 Provide a brief description of the benefits and value of your services. Discuss how long you have been offering fuel card services, as well as the total number of customers enrolled in your fuel card service program.

7.2 SERVICE

- 7.2.1 What processes have been put in place with other customers to monitor their satisfaction with service and quality? How has customer feedback been used to improve service and quality?
- 7.2.2 How has communication to customers regarding internal changes, new processes/procedures, issue identification and problem resolution been managed?
- 7.2.3 Please describe your problem resolution procedures. Who would the State of Florida contact when there are questions/problems? Will this contact change throughout the entire process?
- 7.2.4 Please describe your ability to provide customer specific services (i.e. assuring State of Florida rules and regulations are followed).
- 7.2.5 Please describe your day-to-day customer servicing capabilities.
- 7.2.6 Please describe your relationship management capabilities.

- 7.2.7 Describe the consultative tools and processes you have in place to provide the State of Florida with information and advice regarding Fuel Card Services Program performance, growth, and best practices with comparisons to industry benchmarks and standards.

7.3 IMPLEMENTATION, PROJECT MANAGEMENT & TRANSITION

- 7.3.1 What changes in account team structure, reporting or personnel would occur as the State of Florida moves from implementation to on-going operations?
- 7.3.2 Provide your performance measures for a successful implementation.
- 7.3.3 Describe in detail the immediate and long-term support structure you propose in connection with this Fuel Card Services Program. Include program implementation, including staffing level assigned for this purpose, length of time required to start the Program, training, and Program materials, if necessary. Include on-going support of the Fuel Card Services Program.
- 7.3.4 Describe your experience with customer program transitions from other Fuel Card providers.

7.4 OPERATIONS AND TECHNOLOGY

- 7.4.1 What technological innovations have you invested in over the last three years? How have you used these technological innovations to improve your customer's processes and to reduce their costs?
- 7.4.2 How have you utilized Internet capabilities to improve efficiency and quality?
- 7.4.3 Describe your disaster recovery plan?
- 7.4.4 What types of feeds can you provide customers to load into their systems?
- 7.4.5 Describe your fraud prevention and recovery process. Include your procedures for notifying the appropriate Eligible User Fuel Card Administrator immediately when fraud is discovered.
- 7.4.6 Describe your system's internal controls to identify fraudulent use of any card and the ability to provide responses with corrective actions to the appropriate Eligible User Fuel Card Administrator upon identification of such fraudulent activity.

7.5 REPORTING/MEASUREMENT AND ENHANCED DATA

- 7.5.1 Provide a general description of the reporting packages offered.
- 7.5.2 Describe your reporting capabilities around Fuel Cards. What information is included in a standard report format? In what format is this information available? Attach copies of your standard reporting.
- 7.5.3 Describe your ability to provide reports and keep identified data confidential.
- 7.5.4 Please describe any fees associated with customizing a report and the length of time required to receive a customized report.
- 7.5.5 Describe the various reporting options and the level of reporting detail your program offers and describe how these reports can be tailored to meet the requirements of a customer.
- 7.5.6 Describe your process for identifying authorized customers prior to engaging in reporting initiatives.

7.6 INSURANCE AND EMERGENCY SERVICES

- 7.6.1 Do you provide Travel Accident Insurance? Please describe the level(s) and any associated costs of coverage.
- 7.6.2 Do you provide Auto Rental insurance? Please describe the level(s) and any associated costs of coverage.
- 7.6.3 Do you provide Corporate Liability Insurance (CLI)? Please describe the level(s) and any associated costs of coverage.
- 7.6.4 Please describe any other insurance coverage you may offer.
- 7.6.5 Please describe the Emergency Travel Services your program provides including availability of those services?

7.7 EVALUATION SYSTEM/PERFORMANCE MEASUREMENTS

- 7.7.1 The evaluation system must utilize a variety of levels and techniques of quality, performance measurements, and assessments. Provide a copy of your evaluation system.
- 7.7.3 Do you monitor performance indicators? If so, what key performance measures do you track? What is the reporting frequency and period covered for each measure? What were your average performance measures for the last five (5) reporting periods?
- 7.7.4 Please provide any further information around your product offering and capabilities that you feel would facilitate the evaluation and selection process for State of Florida.

PART EIGHT: FORMS

8.1 CONTRACT (For Reference Only – Do Not Execute)

This Contract, effective the last date signed below, is by and between the State of Florida, Department of Management Services (“Department”), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and the Entity identified below as Contractor (“Contractor”).

The Contractor responded to the Department’s Invitation to Negotiate No.: 15-973-163-X Fuel Card Services ITN. The Department has determined to accept the Contractor’s response and to enter into this Contract in accordance with the requirements, terms and conditions of the solicitation.

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract, which is a state term contract authorized by section 287.042(2)(a) F.S. The term of the Contract begins on the Effective Date and expires five (5) years from that date. The Contract consists of the following solicitation documents, which, in case of conflict, shall have priority in the order listed, and which are hereby incorporated as if fully set forth:

- ITN Amendments and Addenda
- Introduction
- Statement of Work and Technical Specifications
- Special Conditions
- Special Instructions
- General Contract Conditions (PUR 1000)
- General Instruction to Respondents (PUR 1001)
- Any Purchase Order under the Contract
- Contractor’s Response to ITN

State of Florida,
Department of Management Services
By: Linda H. South, Secretary

Date

Approved as to form and legality
by the Department General Counsel’s Office: _____

Contractor Name: _____

Street Address or P.O. _____

City, State, Zip: _____

By:

Date

AMENDMENT 1
STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
STATE TERM CONTRACT NUMBER: 973-163-10-1
FUEL CARD SERVICES

NAME CHANGE AGREEMENT

This Amendment 1 of the above-referenced state term contract ("Contract"), effective on the date last signed, is between WEX Bank, having its principal office at 7090 South Union Park Center, Suite 350, Midvale, UT 84047, and the State of Florida Department of Management Services ("Department"), having its principal office at 4050 Esplanade Way, Tallahassee, Florida 32399 (collectively, the "Parties").

RECITALS

- I. Wright Express Financial Services Corporation, and the Department, on August 5, 2010, executed the Contract; and
- II. Pursuant to Articles of Amendment to the Articles of Incorporation of Wright Express Financial Services Corporation (*Exhibit A*), on or about October 24, 2012, Wright Express Financial Services Corporation, changed its name to WEX Bank; and on December 31, 2012, the Florida Department of State certified the name change (*Exhibit B*); and
- III. WEX Bank, formerly Wright Express Financial Services Corporation, retains and will perform all contractual responsibilities;

NOW THEREFORE, for the mutual covenants contained herein, the Parties agree as follows:

- 1.0 The Department and WEX Bank, hereby agree that WEX Bank, shall provide the goods and services as awarded to Wright Express Financial Services Corporation, in the Contract, and shall enjoy all of the rights and benefits granted under the Contract, which duties and functions and rights and benefits are specifically incorporated herein by reference.
- 2.0 The Department and WEX Bank, hereby agree that payments which would have gone to Wright Express Financial Services Corporation, under the Contract shall be paid to WEX Bank, in accordance with the terms and conditions of the Contract.
- 3.0 The Parties hereto specifically acknowledge and agree that a new contractual relationship is hereby entered into by and between the Department and WEX Bank.
- 4.0 All terms of the Contract not modified by this Amendment 1 shall remain in full force and effect.
- 5.0 Each person signing this Amendment 1 warrants that he or she is duly authorized to do so and to bind the respective party.

SO AGREED:

State of Florida
Department of Management Services

By: Rosalyn Ingram

Name: Rosalyn Ingram

Title: Director, State Purchasing

Date: 5/26/15

Contractor
WEX Bank, formerly, Wright Express
Financial Services Corporation

By: Kirk S. Weiler

Name: Kirk S. Weiler

Title: President/CEO

Date: 5/26/15

APPROVED

By HBrilhante at 2:56 pm, May 26, 2015

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK OTHER THAN THE FOOTER INFORMATION.



WEX Inc.
97 Darling Avenue
South Portland, ME 04106

October 31, 2012

TO WHOM IT MAY CONCERN:

This letter will confirm that Wright Express Corporation and its wholly owned subsidiary, Wright Express Financial Services Corporation changed their corporate names effective October 25, 2012.

Wright Express Corporation is now known as WEX Inc. Wright Express Financial Services Corporation is now known as WEX Bank.

These changes were only name changes and there have been no changes to either company's corporate structure or tax identification numbers.

If you have further questions, please do not hesitate to contact your account representative.

Sincerely,

A handwritten signature in black ink that reads "Ann A. Randall".

Ann A. Randall
Legal Director, Americas

We see corporate payments differently.



DEPARTMENT OF
FINANCIAL
INSTITUTIONS

G. Edward Leary
Commissioner
Michael L. Jones
Chief Examiner
R. Paul Allred
Deputy Commissioner

STATE OF UTAH

Gary R. Herbert
Governor
Greg Bell
Lieutenant Governor

RECEIVED
OCT 24 2012
Utah Div. Of Corp. & Comm. Code

MEMORANDUM OF NO OBJECTION TO THE USE OF BUSINESS NAME

To: Utah Department of Commerce, Division of Corporations and Commercial Code
From: Department of Financial Institutions
Re: Use of Business Name

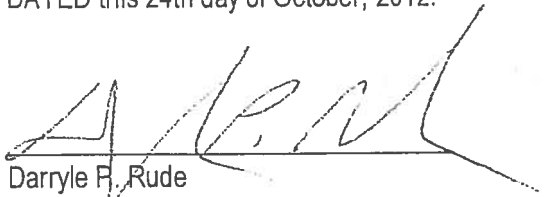
After considering the restrictions on the use of certain terms reserved for financial institutions, as set forth in Section 7-1-701 of the Utah Code, the Department of Financial Institutions has no objection to the use of the following name as a business name in this state by WEX Bank:

WEX Bank

(complete business name of entity to be filled out in ink)

This MEMORANDUM OF NO OBJECTION is not an endorsement of the validity of the entity applying to use this name, nor is it an authorization to engage in any activity. The applicant in all cases must comply with all applicable law, including the laws of this state regarding taxes, securities, and occupational licensure. This document is merely a statement that this department has no objection to the use of the above business name.

DATED this 24th day of October, 2012.


Darryle R. Rude
Supervisor of Industrial Banks

10-24-12P03:53 RCVD

APPROVED AS TO FORM:
OCTOBER 24, 2012

DEPARTMENT OF FINANCIAL INSTITUTIONS

**AMENDED ARTICLES OF INCORPORATION OF
WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION**

RECEIVED
OCT 24 2012
Utah Div. Of Corp. & Comm. Code

On October 18, 2012, the sole shareholder of the corporation, Wright Express Corp., pursuant to a CONSENT TO ACTION OF THE SHAREHOLDER OF WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION WITHOUT A MEETING, and as preceded by the unanimous written consent of all directors of the corporation approving this amendment and recommending to the shareholder that it approve the amendment, voted all outstanding shares of Wright Express Financial Services Corporation to adopt the following amendment to the Articles of Incorporation of the corporation, to replace the preceding Article of the same number, but retaining all other Articles in the corporation's Articles of Incorporation without amendment:

ARTICLE I

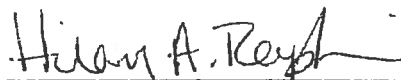
NAME

The name of the corporation is **WEX Bank**.

Secretary's Certificate

I, Hilary A. Rapkin, do hereby certify that I am the duly elected, qualified and acting Secretary of Wright Express Financial Services Corporation, a Utah corporation, and as such, I am familiar with the corporate records. I do hereby further certify that the foregoing Amended Articles of Incorporation was approved and adopted by a unanimous vote of 1,000 shares of corporation (no shares voted in opposition), which constitutes all issued and outstanding shares of the corporation by written consent signed by the sole shareholder on October 18, 2012.

IN WITNESS WHEREOF, I have hereunto signed my name on this 18th day of October, 2012.


Hilary A. Rapkin, Secretary

10-24-12P03:53 RCV D

Date: 10/24/2012
Receipt Number: 4080715
Amount Paid: \$37.00

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H12000306177 3)))



H120003061773ABC.

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850) 617-6380

From: Account Name : CORPORATION SERVICE COMPANY
Account Number : 120000000195
Phone : (850) 521-0821
Fax Number : (850) 558-1515

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

RECEIVED

12 DEC 31 AM 8:37

DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDACOR AMND/RESTATE/CORRECT OR O/D RESIGN
WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION

Certificate of Status	0
Certified Copy	0
Page Count	03
Estimated Charge	\$35.00

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2012 DEC 31 PM 1:57

FILED

Electronic Filing Menu

Corporate Filing Menu

Help

12/31/12

PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO
APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)

SECTION I
(1-3 MUST BE COMPLETED)

F08000003592

(Document number of corporation (if known))

1. WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION

(Name of corporation as it appears on the records of the Department of State)

2. UTAH

(Incorporated under laws of)

3. 08/14/2008

(Date authorized to do business in Florida)

FILED
2012 DEC 31 PM 1:57
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? October 24, 2012

5. WEX BANK

(Name of corporation after the amendment, adding suffix "corporation," "company," or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation)

(If new name is unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

6. If the amendment changes the period of duration, indicate new period of duration.

(New duration)

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

(New jurisdiction)

Hilary A. Babin
(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)

Hilary A. Babin
(Typed or printed name of person signing)

Secretary
(Title of person signing)



Utah Department of Commerce
Division of Corporations & Commercial Code
160 East 300 South, 2nd Floor, S.M. Box 146705
Salt Lake City, UT 84114-6705
Phone: (801) 530-4849
Toll Free: (877) 526-3994 Utah Residents
Fax: (801) 530-6438
Web Site: <http://www.commerce.utah.gov>

Registration Number: 1367904-0142
Business Name: WEX BANK
Registered Date: JULY 29, 1997

December 19, 2012

CERTIFICATE OF NAME CHANGE

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL CODE ("DIVISION") HEREBY
CERTIFIES THAT AN AMENDMENT TO THE ARTICLES WAS SUBMITTED BY

WRIGHT EXPRESS FINANCIAL SERVICES CORPORATION

FOR APPROVAL AND FILING BY THIS OFFICE ON OCTOBER 24, 2012, AND THAT THE
BUSINESS NAME IS CHANGED THEREBY TO

WEX BANK

AS APPEARS OF RECORD IN THE OFFICE OF THE DIVISION.



Kathy Berg
Kathy Berg
Director
Division of Corporations and Commercial Code

Dept. of Professional Licensing
(801)530-6628

Real Estate
(801)530-6747

Public Utilities
(801)530-6651

Securities
(801)530-6600

Consumer Protection
(801)530-6601

AMENDMENT 2
STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES
STATE TERM CONTRACT NUMBER: 973-163-10-1
FUEL CARD SERVICES

This Amendment 2 of the above-referenced state term contract ("Contract"), effective on August 6, 2015, is between WEX Bank., having its principal office at 7090 South Union Park Center, Suite 350, Midvale, UT 84047, and the State of Florida Department of Management Services ("Department"), having its principal office at 4050 Esplanade Way, Tallahassee, Florida 32399 (collectively, the "Parties").

RECITALS

- I. The Contract was executed on August 6, 2010, and is scheduled to expire on August 5, 2015; and
- II. The Parties agree to renew the Contract, in accordance with section 6.0, "Renewal," of the Contract; and
- III. The Parties agree to modify the Contract, as permitted by section 42, "Modification of Terms," General Contract Conditions, PUR 1000, part 6 of the Contract.

NOW THEREFORE, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

- 1.0 **Contract Renewal.** The Contract is renewed for a term of five (5) years, to expire on August 5, 2020.
- 2.0 **Discount Adjustment.** Effective May 1, 2015, the discount established in section 2.0, "Deliverables," of the Contract is increased from 145 basis points (1.45%) to 170 basis points (1.70%), in accordance with section 4(b), "Best Pricing Offer," General Contract Conditions, PUR 1000, part 6 of the Contract.
- 3.0 **Replacement Contract.** A new Contract may be awarded prior to the expiration of this Contract. The new Contract may cause early termination of Contract No. 973-163-10-1. In accordance with section 22, "Termination for Convenience," General Contract Conditions, PUR 1000, part 6 of the Contract; the Department will provide the Contractor with written notice of early termination no less than 90 days prior to the effective date of the new Contract.
- 4.0 **Public Records.** Section 12.0 is added to the Contract, as follows:
 - 12.0 Public Records
 - A. Access to Public Records**
 - 1. If, under this Contract, the Contractor is providing services, the Department may unilaterally cancel the Contract for refusal by the Contractor to allow access to all public records, including documents, papers, letters, or other material made or received by the

Contractor in conjunction with the Contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.07(1), Florida Statutes.

2. If, under this Contract, the Contractor is providing services and is acting on behalf of a public agency as provided by section 119.0701(1)(b), Florida Statutes, the Contractor shall:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the public agency 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.
- c. Ensure that public records that are exempt or confidential and exempt 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 the public agency all public records in possession of the Contractor 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 public agency in a format that is compatible with the information technology systems of the public agency.

B. Protection of Trade Secrets or Other Confidential Information

1. If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 812.081, Florida Statutes, or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

2. If the Department receives a public records request for contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the contract-related materials not designated as "confidential." If the requester asserts a right to examine contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding to and resolving all claims for access to contract-related materials it has designated "confidential."

3. If the Department is served with a request for discovery of contract-related materials designated "confidential," the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated "confidential" only if Respondent fails to take appropriate action, within

timeframes established by statute and court rule, to protect the materials designated as “confidential” from disclosure.

4. The Contractor shall protect, defend, and indemnify the Department for claims, costs, fines, and attorney’s fees arising from or relating to its designation of contract-related materials as “confidential.”

C. Retention of Records

The Contractor shall retain sufficient documentation to substantiate claims for payment under the Contract, and all other records made in relation to the Contract, for five (5) years after expiration or termination of the Contract.

- 5.0 **Preferred Price Affidavit Requirement.** Section 13.0 is added to the Contract, as follows:

13.0 Preferred Price Affidavit Requirement

The Department will provide the Preferred Pricing Affidavit, incorporated by reference, section 216.0113, Florida Statutes, for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the best pricing provision in Section 4(b) of the PUR 1000 form. The Contractor agrees to submit to the Department, at least annually, the completed signed Preferred Pricing Affidavit.

- 6.0 **E-Verify.** Section 14.0 is added to the Contract, as follows:

14.0 E-Verify

Pursuant to State of Florida Executive Order No.: 11-116, the Contractor is required to utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment of all new employees hired by the Contractor during the Contract term. Also, the Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the State Term Contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term.

- 7.0 **Scrutinized Companies List.** Section 15.0 is added to the Contract, as follows:

15.0 Scrutinized Companies List

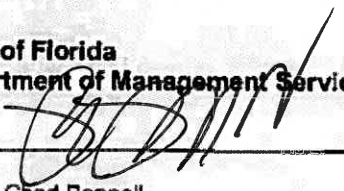
The Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), Florida Statutes, the Contractor agrees the Department may immediately terminate the Contract for cause if the Contractor is found to have submitted a false certification or if the Contractor is placed on the Scrutinized Companies with

Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the Contract.

- 8.0 **Other Contract Terms.** Unless specifically modified or made inapplicable by this Amendment No. 2 all terms and conditions of the Contract remain in full force and effect.
- 9.0 **Counterpart Execution.** This Amendment No. 2 may be executed in counterparts, each of which shall be deemed original, but such counterparts together shall constitute one and the same instrument.
- 10.0 **Warranty of Authority.** Each person signing this Amendment No. 2 warrants that he or she is duly authorized to do so and to bind the respective Party.

SO AGREED:

State of Florida
Department of Management Services

By: 

Name: Chad Poppell

Title: Secretary

Date: 6/3/15

Contractor
WEX Bank

By: Kirk S. Weber

Name: Kirk S. Weber

Title: President

CEO

Date: 5/29/15

APPROVED AS
TO FORM



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