

SUPPLEMENTARY CONDITIONS (EQUIPMENT/MATERIALS)

Florida Department of Environmental Protection
State Revolving Fund Program
Supplementary Conditions
for
Formally Advertised
Materials/Equipment Procurement

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**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUPPLEMENTARY CONDITIONS**

The intent of the Florida Department of Environmental Protection (FDEP) Supplementary Conditions is to complement and supplement other provisions of the Bidding Documents. However, if there is any conflict between the FDEP Supplementary Conditions and other provisions of the Bidding Documents, the FDEP Supplementary Conditions shall take precedence over the other provisions except when the other provisions are similar to, but more stringent than, the FDEP Supplementary Conditions. When other provisions of the Bidding Documents are similar to, but more stringent than, the FDEP Supplementary Conditions, the more stringent provisions shall apply.

ARTICLE 1 - DEFINITIONS

1.1. Wherever used in these Supplementary Conditions (except in the appendix to these Supplementary Conditions), the following terms have the meanings indicated, which are applicable to both the singular and plural thereof.

1.1.1. Addendum - A written or graphic instrument that is issued prior to the opening of bids and that clarifies, corrects, or changes the Bidding Documents.

1.1.2. Agreement or Contract - The written agreement between the Owner and the Contractor covering the furnishing of the Goods and Special Services; these Supplementary Conditions and other Contract Documents are attached to the Agreement/Contract and made a part thereof as provided therein.

1.1.3. Application for Payment - The form that is accepted by the Engineer and used by the Contractor in requesting progress and/or final payments and that is to include such supporting documentation as is required by the Contract Documents.

1.1.4. Bid - The offer or proposal of a bidder submitted on the prescribed form and setting forth the price(s) for furnishing the Goods and Special Services.

1.1.5. Bidder - Any person, firm, or corporation that submits a bid directly to the Owner.

1.1.6. Bidding Documents - The Advertisement for Bids or the Invitation to Bid, the Instructions to Bidders or the Information for Bidders, the Bid Form, the proposed Contract Documents, and all addenda.

1.1.7. Change Order - A document that is recommended by the Engineer and signed by the Contractor and the Owner; that authorizes an addition, deletion, or revision in the Goods or Special Services or an adjustment in the Contract Price or the Contract Time; and that is issued on or after the Effective Date of the Agreement/Contract.

1.1.8. Contract Documents - The Agreement/Contract; the Contractor's Bid when attached as an exhibit to the Agreement/Contract; the General Conditions; the Supplementary Conditions (including these Supplementary Conditions); the Specifications (written technical descriptions of material, equipment, standards, and workmanship as applied to the Goods and Special Services and certain administrative details applicable thereto); any Drawings (drawings that show the character and scope of the Goods to be furnished); all addenda that pertain to the Contract Documents; and all change orders.

1.1.9. Contract Price - The moneys payable by the Owner to the Contractor under the Contract Documents as stated in the Agreement/Contract.

1.1.10. Contract Time - The number of days or the date(s) stated in the Contract Documents for furnishing the Goods and Special Services.

1.1.11. Contractor - The person, firm, or corporation with whom or which the Owner enters into the Agreement/Contract.

1.1.12. Effective Date of the Agreement/Contract - The date indicated in the Agreement/Contract on which the Agreement/Contract becomes effective, or if no such date is indicated in the Agreement/Contract, the date on which the Agreement/Contract is signed and delivered by the last of the two parties to sign and deliver the Agreement/Contract.

1.1.13. Engineer - The person, firm, or corporation named as such in the Contract Documents.

1.1.14. Goods - All material, equipment, and other tangible personal property required to be furnished under the Contract Documents.

1.1.15. Minority Business Enterprise (MBE) - A historically Black college or university or a business that is (a) certified as socially and economically disadvantaged by the Small Business Administration, (b) certified as an MBE by a state or Federal agency, or (c) an independent business concern which is at least 51-percent owned and controlled by minority group members. (A minority group member is an individual who is a citizen of the United States and one of the following: [i] Black American; [ii] Hispanic American [with origins from Puerto Rico, Mexico, Cuba, or South or Central America]; [iii] Native American [American Indian, Eskimo, Aleut, or native Hawaiian]; or [iv] Asian-Pacific American [with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, or the Indian Subcontinent].)

1.1.16. Owner - The local government (municipality, county, district, or authority; or any agency thereof; or a combination of two or more of the foregoing acting jointly) with which the Florida Department of Environmental Protection may execute, or has executed, a State revolving fund loan agreement and to which the Goods and Special Services are to be furnished.

1.1.17. Project - The total construction or facilities described in a State revolving fund loan agreement between the Florida Department of Environmental Protection and the Owner, of which the Goods and Special Services to be furnished under the Contract Documents may be the whole or a part.

1.1.18. Special Services - All field services to be furnished by the Contractor as required by the Contract Documents.

1.1.19. Subcontract - A direct contract between a subcontractor and the Contractor, or any other subcontractor at any tier, for the furnishing of any of the Goods or Special Services required by the Contract Documents.

1.1.20. Subcontractor - A person, firm, or corporation having a direct contract with the Contractor, or any other subcontractor at any tier, for the furnishing of any of the Goods or Special Services required by the Contract Documents.

1.1.21. Successful Bidder - The lowest responsive, responsible bidder to whom or which the Owner intends to award the Agreement/Contract.

1.1.22. Women's Business Enterprise (WBE) - A business that is (a) certified as a WBE by a state or Federal agency or (b) an independent business concern which is at least 51-percent owned and controlled/operated by women. (Determination of whether a business is at least 51-percent owned by women shall be made without regard to community property laws [e.g., an otherwise qualified WBE that is 51-percent owned by a married woman in a community property state will not be disqualified because the married woman's husband has a 50-percent interest in the married woman's share of the business; similarly, a business that is 51-percent owned by a married man and 49-percent owned by women will not become a qualified WBE by virtue of the married man's wife having a 50-percent interest in the married man's share of the business].)

ARTICLE 2 - PRIVACY OF AGREEMENT/CONTRACT

2.1. The Owner expects to finance this Agreement/Contract with assistance from the Florida Department of Environmental Protection, which administers a State revolving fund loan program supported in part with funds directly made available by grants from the United States Environmental Protection Agency. Neither the State of Florida nor the United States (nor any of their departments, agencies, or employees) will be a party to this Agreement/Contract or any lower-tier subcontract.

ARTICLE 3 - PROCUREMENT REQUIREMENTS

3.1. This Agreement/Contract and the Owner's solicitation and award of this Agreement/Contract are subject to requirements contained in Chapter 62-503 (Clean Water State Revolving Fund Loan Program) or Chapter 62-552 (Drinking Water State Revolving Fund Loan Program), Florida Administrative Code as applicable.

ARTICLE 4 - RESOLUTION OF PROTESTS AND CLAIMS/DISPUTES

Resolution of Protests Concerning the Owner's Solicitation and/or Award of this Agreement/Contract:

- 4.1. Protests concerning the Owner's solicitation and/or award of this Agreement/Contract must be filed in writing with the Owner to be considered.
- 4.2. All timely written protests concerning the Owner's solicitation and/or award of this Agreement/Contract are to be resolved in accordance with the Owner's dispute resolution process. A copy of the ordinance(s), resolution(s), or written policy (policies) that set forth the Owner's dispute resolution process is included elsewhere in the Bidding Documents or is to be made available by the Owner upon request.
- 4.3. Neither the Florida Department of Environmental Protection (FDEP) nor the United States Environmental Protection Agency (USEPA) will become a party to, or have any role in resolving, protests concerning the Owner's solicitation and/or award of this Agreement/Contract. Protest decisions made by the Owner can not be appealed to the FDEP or the USEPA.

Resolution of Claims and Disputes between the Owner and the Contractor:

- 4.4. Unless otherwise provided in the Contract Documents, all claims and disputes between the Owner and the Contractor arising out of, or relating to, the Contract Documents or the breach thereof are to be decided by arbitration (if the Owner and the Contractor mutually agree) or in a court of competent jurisdiction within the State of Florida.
- 4.5. Neither the Florida Department of Environmental Protection nor the United States Environmental Protection Agency will become a party to, or have any role in resolving, claims and disputes between the Owner and the Contractor.

ARTICLE 5 - CHANGES TO THE BIDDING AND CONTRACT DOCUMENTS

- 5.1. All changes to the Bidding Documents made subsequent to the Florida Department of Environmental Protection's (FDEP's) acceptance of the Bidding Documents and prior to the opening of bids are to be documented via addendum (addenda) to the Bidding Documents; all changes to the Contract Documents made after the opening of bids are to be documented by change order(s) to the Contract Documents. The Owner shall submit all addenda and change orders to the FDEP.

ARTICLE 6 - ADVERTISEMENT FOR BIDS; SUBMISSION OF BIDS; OPENING OF BIDS

Advertisement for Bids:

6.1. At a minimum, this Agreement/Contract is to be advertised for bids in local and statewide newspapers.

Submission of Bids:

6.2. Bidders shall submit their bids at the place and by the deadline indicated elsewhere in the Bidding Documents.

Opening of Bids:

6.3. Bids are to be opened and read aloud publicly at the time and place indicated elsewhere in the Bidding Documents.

ARTICLE 7 - AWARD OF AGREEMENT/CONTRACT

7.1. If this Agreement/Contract is awarded, it is to be awarded to the lowest responsive, responsible bidder. A fixed-price (lump-sum or unit-price or both) agreement/contract is to be used. A clear explanation of the method of evaluating bids and the basis for awarding this Agreement/Contract are included elsewhere in the Bidding Documents. All bids may be rejected when in the best interest of the Owner.

ARTICLE 8 - CONTRACT TIME

8.1. The number of days within which, or the date(s) by which, the Goods and Special Services are to be furnished and ready for final payment (the Contract Time) is set forth elsewhere in the Contract Documents. Unless otherwise provided in the Contract Documents, the Contract Time will commence to run on the Effective Date of this Agreement/Contract.

ARTICLE 9 - PROGRESS AND PAYMENT SCHEDULES

9.1. The Contractor shall submit progress and payment schedules to the Owner within ten calendar days after the Effective Date of this Agreement/Contract.

9.1.1. The progress schedule is to indicate the Contractor's estimated dates for furnishing the various Goods and Special Services and is to show both the projected cost of Goods and Special Services furnished and the projected percentage of Goods and Special Services furnished versus Contract Time.

9.1.2. The payment schedule is to show the Contractor's projected progress and/or final payment(s) cumulatively by month.

ARTICLE 10 - INSURANCE

10.1. Unless otherwise provided in the Contract Documents, the Contractor shall assume all risk of loss or damage to the Goods prior to the Owner's acceptance of delivery of the Goods and shall purchase and maintain, during fabrication and/or delivery of the Goods, such property insurance upon the Goods as the Owner requires or as the Contractor deems appropriate, whichever is greater.

10.2. Unless otherwise provided in the Contract Documents, the Owner shall assume all risk of loss or damage to the Goods after it accepts delivery of the Goods. After assuming all risk of loss or damage to the Goods, the Owner shall purchase and maintain property insurance upon the Goods. This insurance is to be in the amount recommended by a competent insurance counselor and is to insure against such risks as are customarily insured against in connection with the storage or operation of like goods (to the extent that such insurance is obtainable from time to time against any one or more such risks). In addition, this insurance is to be obtained from responsible insurance companies licensed to do business in the State of Florida.

ARTICLE 11 - APPLICATION(S) FOR PAYMENT

11.1. The Contractor's application(s) for payment are to be accompanied by such certificates or documents as may be reasonably required. The Owner shall forward a copy of such certificates or documents as may be reasonably required to the Florida Department of Environmental Protection.

ARTICLE 12 - ACCESS TO RECORDS

12.1. Authorized representatives of the Owner, the Florida Department of Environmental Protection, and the United States Environmental Protection Agency shall have access to, for the purpose of inspection, any books, documents, papers, and records of the Contractor that are pertinent to this Agreement/Contract. The Contractor shall retain all books, documents, papers, and records pertinent to this Agreement/Contract for a period of five years after receiving and accepting final payment under this Agreement/Contract.

NOTE: Articles 13, 14, and 15 only apply to Federal CAP Grant Projects.

ARTICLE 13 - MINORITY AND WOMEN'S BUSINESS ENTERPRISES

13.1. A goal of ____* percent of the Contract Price is established for Minority Business Enterprise (MBE) participation in the furnishing of the Goods and Special Services, and a goal of ____* percent of the Contract Price is established for Women's Business Enterprise (WBE) participation in the furnishing of the Goods and Special Services. If bidders or prospective contractors (including the Contractor) intend to let any lower-tier subcontracts for any portion of the furnishing of the Goods and Special Services, they shall physically include these percentage goals for MBE and WBE participation in all solicitations for subcontracts and shall take affirmative steps to assure that MBEs and WBEs are utilized, when possible, as sources of the Goods and Special Services. Affirmative steps are to include the following: (a) including small, minority, and women's businesses on solicitation lists; (b) assuring

that small, minority, and women's businesses are solicited whenever they are potential sources; (c) dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small, minority, and women's businesses; (d) establishing delivery schedules, when requirements permit, that will encourage participation by small, minority, and women's businesses; and (e) using the services of the Small Business Administration and the Office of Minority Business Enterprise of the United States Department of Commerce as appropriate.

*The percentage goals for MBE and WBE participation are to be inserted by the Owner and are to be based upon the percentage goals that have been, or will be, stipulated in the State revolving fund loan agreement for the Owner's FDEP-assisted Project.

13.2. Within ten calendar days after being notified of being the apparent Successful Bidder, the apparent Successful Bidder shall submit to the Owner documentation of the affirmative steps it has taken to utilize Minority and Women's Business Enterprises (MBEs and WBEs) in the furnishing of the Goods and Special Services and documentation of its intended use of MBEs and WBEs in the furnishing of the Goods and Special Services. The Owner shall keep this documentation on file and shall forward to the Florida Department of Environmental Protection a copy of the apparent Successful Bidder's documentation concerning its intended use of MBEs and WBEs in the furnishing of the Goods and Special Services.

13.3. Minority and Women's Business Enterprise (MBE and WBE) participation in the furnishing of the Goods and Special Services is to be considered in the award of this Agreement/Contract. The Owner shall not execute this Agreement/Contract until the Florida Department of Environmental Protection has approved the extent of MBE and WBE participation in the furnishing of the Goods and Special Services.

ARTICLE 14 - VIOLATING FACILITIES (SECTION 306 OF THE CLEAN AIR ACT, SECTION 508 OF THE CLEAN WATER ACT, AND EXECUTIVE ORDER 11738)

14.1. The Contractor, and all subcontractors at any tier, shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 (Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans), and 40 CFR Part 15, which prohibit the use, under nonexempt Federal contracts, grants, or loans, of facilities included on the United States Environmental Protection Agency's List of Violating Facilities.

14.2. In accordance with 40 CFR Part 15, if the price of this Agreement/Contract exceeds \$100,000 and/or if this Agreement/Contract is otherwise nonexempt from 40 CFR Part 15, the Contractor agrees to the following:

14.2.1. the Contractor will not use any facility on the United States Environmental Protection Agency's List of Violating Facilities in the performance of this Agreement/Contract for the duration of time that the facility remains on the List;

14.2.2. the Contractor will notify the Florida Department of Environmental Protection/United States Environmental Protection Agency (USEPA) if a facility it intends to use in the performance of this Agreement/Contract is on the USEPA's List of Violating Facilities or if it knows that a

facility it intends to use in the performance of this Agreement/Contract has been recommended to be placed on the USEPA's List of Violating Facilities; and

14.2.3. in the performance of this Agreement/Contract, the Contractor will comply with all requirements of the Clean Air Act and the Clean Water Act, including the requirements of Section 114 of the Clean Air Act and Section 308 of the Clean Water Act, and all applicable clean air standards and clean water standards.

14.3. If the Contractor, or any subcontractor at any tier, awards any lower-tier subcontracts for any portion of the Goods or Special Services, it shall physically include in all such subcontracts the following provision:

14.3.1. The Subcontractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 (Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans), and 40 CFR Part 15, which prohibit the use, under nonexempt Federal contracts, grants, or loans, of facilities included on the United States Environmental Protection Agency's (USEPA's) List of Violating Facilities. In accordance with 40 CFR Part 15, if the price of this Subcontract exceeds \$100,000 and/or if this Subcontract is otherwise nonexempt from 40 CFR Part 15, the Subcontractor agrees to the following: (a) the Subcontractor will not use any facility on the USEPA's List of Violating Facilities in the performance of this Subcontract for the duration of time that the facility remains on the List; (b) the Subcontractor will notify the Florida Department of Environmental Protection/USEPA if a facility it intends to use in the performance of this Subcontract is on the USEPA's List of Violating Facilities or if it knows that a facility it intends to use in the performance of this Subcontract has been recommended to be placed on the USEPA's List of Violating Facilities; and (c) in the performance of this Subcontract, the Subcontractor will comply with all requirements of the Clean Air Act and the Clean Water Act, including the requirements of Section 114 of the Clean Air Act and Section 308 of the Clean Water Act, and all applicable clean air standards and clean water standards. In addition, if the Subcontractor awards any lower-tier goods or special services subcontracts under this Subcontract, the Subcontractor shall physically include this provision in all such subcontracts.

ARTICLE 15 - DEBARMENT AND SUSPENSION (EXECUTIVE ORDER 12549)

15.1. If the price of this Agreement/Contract equals or exceeds \$25,000, the Owner shall not award this Agreement/Contract, nor permit any lower-tier goods or special services subcontract with a price equaling or exceeding \$25,000 to be awarded, to any party that is debarred or suspended or is otherwise excluded from, or ineligible for participation in, Federal assistance programs under Executive Order 12549 (Debarment and Suspension).

15.2. The attention of all bidders or prospective contractors (including the Contractor) is directed to the certification/clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", which has been extracted from Appendix B to 40 CFR Part 32 and included as Appendix A to these Supplementary Conditions. The certification/clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and

Voluntary Exclusion - Lower Tier Covered Transactions" is applicable to this Agreement/Contract if the price of this Agreement/Contract equals or exceeds \$25,000.

15.3. If bidders or prospective contractors (including the Contractor), or any prospective subcontractors at any tier, intend to let any lower-tier subcontracts for any portion of the Goods or Special Services, they shall physically include the certification/clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", which is included as Appendix A to these Supplementary Conditions, in all lower-tier goods and special services subcontracts with a price equaling or exceeding \$25,000 and in all solicitations for such subcontracts.

ARTICLE 16 – AMERICAN IRON AND STEEL PROVISION

Contracts being constructed with assistance from the State Revolving Fund Program are currently required to comply with the American Iron and Steel Provision provisions as provided in Appendix B.

ARTICLE 17 - PROHIBITED LOCAL GOVERNMENT CONSTRUCTION PREFERENCES

- A. Pursuant to Section 255.0991, F.S., for a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation, a state, college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:
1. The contractor's maintaining an office or place of business within a particular local jurisdiction;
 2. The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or
 3. The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.
- B. For any competitive solicitation that meets the criteria in Paragraph A., a state college, county, municipality, school district, or other political subdivision of the state shall disclose in the solicitation document that any applicable local ordinance or regulation does not include any preference that is prohibited by Paragraph A.

APPENDIX A TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SUPPLEMENTARY CONDITIONS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

[Note: This certification/clause has been extracted from Appendix B to 40 CFR Part 32 and is applicable to all FDEP-assisted goods and services (including construction) contracts and subcontracts with a price equaling or exceeding \$25,000; this certification/clause is to be included in all FDEP-assisted goods and services (including construction) contracts and subcontracts with a price equaling or exceeding \$25,000 and in all solicitations for such contracts and subcontracts.]

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(3) The prospective lower-tier participant also certifies that it and its principals:

(a) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(b) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (3)(a) of this certification; and

(c) Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default. Where the prospective lower-tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

**APPENDIX B TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUPPLEMENTARY CONDITIONS
AMERICAN IRON AND STEEL PROVISION**

The Contractor acknowledges to and for the benefit of _____ (“Owner”) and the State of Florida (the “State”) that it understands that iron and steel products to be installed as a part of this contract must be in compliance with the Federal American Iron Steel (AIS) requirements. For Clean Water SRF funded projects, the AIS requirements can be found in Section 608 of the Federal Water Pollution Control Act (Clean Water Act). Section 608 of the Clean Water Act (33 U.S.C. 1388) includes the following language:

(a) In general

Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.

(b) Definition of iron and steel products

In this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(c) Application

Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(d) Waiver

If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.

(e) International agreements

This section shall be applied in a manner consistent with United States obligations under international agreements.

For Drinking Water SRF funded projects, the AIS requirements are in Public Law 113-76 and continue in force under continuing resolutions that use similar language, including Section 424 of the "Consolidated Appropriations Act, 2016."

Notwithstanding any other provision of this Agreement, any failure to comply with AIS requirements by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

For waivers to these requirements based on (c) above, contact the State Revolving Fund Program at (850) 245-2835 or SRF.Reporting@dep.state.fl.us.

I certify that the equipment provided under this contract meets the above requirements.

Name of Equipment Supplier

Date

Name of Authorized Official (printed or typed)

Title

Signature of Authorized Official