

DeSoto County Board of County Commissioners
Purchasing Division
201 E. Oak Street Suite 203
Arcadia, FL. 34266
PH: 863-993-4816
Fax: 863-993-4819
www.desotobocc.com



Project Number: 10-04-00 RFQ

Title: Ecological Services for DeSoto & Morgan Park Sidewalk-Multi Use Paths

Description: DeSoto County hereby solicits sealed written Request for Qualifications for Ecological Services regarding a Local Agency Program Sidewalk-Multi Use Paths Peace River Greenway Corridor at DeSoto and Morgan Parks

Pre-Bid/Proposal Conference: No Pre-Bid/Proposal Conference will be scheduled for this Project.

Bid/Proposal Due Date: February 8, 2010 @ 2:00 p.m.

Bids must be submitted at the Purchasing office-201 E. Oak St. Suite 203, Arcadia, FL. 34266. Bids submitted after the indicated time will not be considered but returned unopened to sender.

For additional information, contact: Cindy Talamantez, CPPB Purchasing Manager
(863)-993-4816 email: c.talamantez@co.desoto.fl.us

Special Instructions: Submit one (1) original marked as such and three (3) copies

BIDDER/PROPOSER REGISTRATION

FAX: (863)993-4819

Please register as a plan holder using this form. Only registered vendors will be contacted with notices of changes or addenda to this bid package. Complete and return this form by fax or mail to the Purchasing office at the address listed above.

Company Name: _____

Contact person: _____

Mailing address: _____

City: _____ **State:** _____ **Zip code:** _____

PH: _____ **FAX:** _____ **email:** _____

Notes:

Documents may also be obtained by using www.demandstar.com

All questions must be submitted in writing by contacting the purchasing department.

DeSoto County reserves the right to reject any and all bids, to waive any informalities, and to accept all or any bid as deemed in the best interest of the County.

Unless otherwise noted, Payment of goods or services as a result of this solicitation will be made in accordance with Florida Statute.

All first time vendors must submit a W-9 Form with their response.

Request for Qualifications

ECOLOGICAL SERVICES FOR DESOTO AND MORGAN PARK SIDEWALK-MULTI USE PATH PEACE RIVER GREENWAY CORRIDOR

FM 404679-5-38-01

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ARTICLE 1 - DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

1. Acceptance: Acceptance by the COUNTY of the Services as being fully complete in accordance with the Scope of Services.
2. Agreement: The written Agreement between the COUNTY and the CONSULTANT covering the Services to be performed, shall be substantially the same form as the sample Agreement attached to these Contract Documents.
3. Addenda: Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Scope of Services, Drawings and Specifications, by addition, deletions, clarifications or corrections.
4. Application for Payment: The form furnished by the CONSULTANT which is to be used by the CONSULTANT in requesting progress payments and an affidavit of the CONSULTANT that progress payments theretofore received from the COUNTY on account of the Services has been applied by the CONSULTANT to discharge in full all of the CONSULTANT'S obligations stated in prior Applications for Payment.
5. Approval: Accept as satisfactory.
6. Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Services to be performed.
7. Bidder: Any person, firm or corporation submitting a Bid for the Services.
8. Bonds: Bid, Performance and Payment Bonds and other instruments of security, furnished by the CONSULTANT and his surety in accordance with the Scope of Services and in accordance with the law of the location of the project.
9. Change Order: A written order to the CONSULTANT signed by the COUNTY authorizing an addition, deletion or revision in the Services, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.
10. Contract Documents: Advertisement for Bids, Information for Bidders, the Bid, the Bonds, the Agreement, the Notice of Award, the Notice to Proceed, the Change Order, these General Conditions, and the Scope of Services.
11. Contract Price: The total moneys payable to the CONSULTANT under the Agreement.
12. Contract Time: The number of calendar days stated in the Agreement for the completion of the Services.

13. Contracting Officer: The COUNTY or the Individual who is authorized to sign the Contract Documents on behalf of the COUNTY'S governing body.
14. Consultant: The person, firm or corporation with whom the COUNTY has executed the Agreement.
15. County: The public body or authority for whom the Scope of Services is to be performed.
16. County Administrative Agent: An authorized representative of the COUNTY assigned to observe the Work performed and materials furnished by the CONSULTANT or such other person as may be appointed by the COUNTY as its representative. The CONSULTANT shall be notified in writing of the identity of this representative in the Notice to Proceed.
17. Day: A calendar day of twenty-four (24) hours measured from midnight to the next midnight.
18. Drawings: The drawings which show the character and scope of the Services to be performed and which have been prepared or approved by the COUNTY and referred to in the Contract Documents.
19. Field Order: A written order issued by the COUNTY which clarifies or interprets the Scope of Services.
20. Modification: (a) A written amendment of the Agreement signed by both parties, (b) a Change Order, (c) a written clarification or interpretation issued by the COUNTY (d) a written order for a minor change or alteration in the Work issued by the COUNTY. A modification may only be issued after the execution of the Agreement.
21. Notice of Award: The written notice by the COUNTY to the apparent successful Bidder stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, the COUNTY will execute and deliver the Agreement to him.
22. Notice to Proceed: A written notice given by the COUNTY to the CONSULTANT fixing the date on which the Contract Time will commence to run and on which the CONSULTANT shall start to perform his obligations under the Scope of Services.
23. Project: The entire Scope of Services to be performed as provided in the Agreement.
24. Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONSULTANT, a Sub-consultant, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work and as required by the Scope of Services.

25. Samples: Physical examples that illustrate materials, equipment or workmanship and establish standards by which the Services will be judged.
26. Specifications: Those portions of the Scope of Services consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.
27. Sub-consultant: An individual, firm or corporation having a direct contract with CONSULTANT or with any other Sub-consultant for the performance of a part of the Services at the Project site.
28. Surety: The corporate body that is bound with the CONSULTANT and which engages to be responsible for the CONSULTANT and his acceptable performance of the Services.
29. Work: Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by CONSULTANT under the Scope of Services, including all labor, materials, equipment and other incidentals, and the furnishing thereof.
30. Written Notice: The term "Notice" as used herein shall mean and include all written notices, demands, instructions, claims, approvals, and disapproval required to obtain compliance with Service requirements. Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or to an authorized representative of such individual, firm or corporation, or if delivered at or sent by registered mail to the last business address known to him who gives the notice. Unless otherwise stated in writing, any notice to or demand upon the COUNTY under this Agreement shall be delivered to the COUNTY.

GENERAL CONDITIONS-00120

BIDDER: To insure acceptance of the bid, follow these instructions

1. **ACCEPTANCE:** Items may be tested for compliance to the Scope of Services. Items delivered not conforming to the Scope of Services may be rejected and returned at CONSULTANT'S expense. Any increase in cost for items not delivered as specified in the solicitation may be charged against the CONSULTANT.
2. **AMENDMENTS:** No amendment, modification or supplement to this Agreement shall be binding unless it is in writing and signed by authorized representative of both parties.
3. **APPLICABLE LAW:** The Agreement shall be governed in all respects by the laws of the State of Florida, and the policies of the DeSoto County Board of County Commissioners. Any litigation with respect thereto shall be brought in the Courts of the State of Florida.
4. **AS-BUILT DRAWINGS:** If this solicitation requires as-built drawings, the CONSULTANT must supply three sets of certified as-built drawings upon completion of the project at the CONSULTANT'S expense. All sets submitted to the COUNTY must be certified by a professionally licensed engineering firm authorized to do business in the State of Florida. All drawings, specifications, and copies thereof furnished to the COUNTY are the property of the COUNTY. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the COUNTY upon the completion of the Services.
5. **ASSIGNMENT:** The CONSULTANT shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any or all of its rights, title, or interest therein, without the prior written consent of the COUNTY. Assignment or transfer of the resulting Agreement without written consent of the COUNTY may be construed by the COUNTY as a breach of contract sufficient to cancel this Agreement at the discretion of the COUNTY.
6. **AVAILABILITY OF FUNDING:** Award of this solicitation is contingent upon availability of funding. Furthermore, during the Agreement period, if funding to finance all or part of the award resulting from this solicitation becomes unavailable, the COUNTY reserves the right to terminate such Agreement after providing the CONSULTANT no less than three (3) days written notice. The COUNTY shall be the final authority as to the determination of availability of funding. The COUNTY agrees to reimburse the CONSULTANT for any authorized goods or services provided prior to the CONSULTANT'S receipt of the aforesaid termination notice.
7. **CONSULTANT OBLIGATIONS:** CONSULTANT agrees to perform and complete the Services described in the solicitation in accordance with the requirements of this Agreement and attached Exhibits. CONSULTANT shall

furnish all labor, supervision, equipment, and materials for the service. Experienced, qualified supervisors of the CONSULTANT are essential to the satisfactory performance of the Services. The COUNTY may consider lack of competent capable supervision as grounds to reject a bid or terminate this Agreement. An experienced, qualified supervisor should have approximately two years of experience and one-year of supervisory experience doing the type of work requested in this solicitation. The COUNTY reserves the right to determine supervisory competence. Supervisors must be able to communicate fluently in English and in any language that crew members use to communicate.

8. **COMPLETE AGREEMENT:** The parties agree that the conditions of purchase stated herein or attachments hereto set forth their entire Agreement and there are no promises or understandings other than those stated herein, and that any prior negotiations between the COUNTY and CONSULTANT shall not constitute a part of the Agreement between the COUNTY and CONSULTANT concerning this service. The term "Agreement" as used in this clause shall include any future written amendments, modifications, or supplements made in accordance herewith.
9. **COMPLIANCE:** A submission of a bid shall constitute an incontrovertible representation by a bidder that the bidder has complied with every requirement herein, and that without exception the bid is premised upon performing the Services required by the Scope of Services with such means, methods, techniques, sequences, or procedures as may be indicated in or required by the Scope of Services, and that the Scope of Services are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Services.
10. **COMPLIANCE WITH LAWS:** CONSULTANT represents and warrants that the performance of this solicitation and the furnishing of services required shall be in accordance with the applicable standards, provisions, and stipulations of all pertinent Federal, State or County laws, rules, regulations, resolutions, and ordinances including but not limited to the Fair Labor Standards Act, the Equal Employment Opportunity rules and regulations, the Transportation Safety Act and the Occupational Safety and Health Acts.
11. **CONDITION:** It is understood and agreed that any item offered as a result of this solicitation shall be the latest model in current production and shall be of good quality, workmanship and material. All containers shall be suitable for storage or shipment; and all prices shall include standard commercial packaging. By submitting qualifications the bidder represents that all equipment offered under these specifications shall meet or exceed the minimum requirements specified.
12. **CONFLICT OF INTEREST:** The award hereunder is subject to Chapter 112, Florida Statutes. All bidders must disclose with their Qualifications the name of any officer, director, or agent who is also an employee of DeSoto County. Further, all bidders must disclose the name of any DeSoto County employee who owns, directly or indirectly, an interest of five percent (5%) or more of the bidder's

firm or any of its branches.

13. **CONSULTANT'S OWN FORCES:** No more than seventy-five percent (75%) of the dollar value of the total contract work may be accomplished by Sub-consultants. Balance of the work must be accomplished by successful bidder's own forces. Each bidder must furnish with its Qualifications, a list of the items it proposes to subcontract and the estimated cost of these items.
14. **DELAYS AND EXTENSION OF TIME:** The CONSULTANT shall not be entitled to any claim for damages including loss of profits, loss of use, overhead expenses, equipment rental, etc., because of hindrances or delays for any cause whatsoever, but if occasioned by an act of God, or by any act or omission on the part of the COUNTY. COUNTY'S agents or governmental agencies having jurisdiction, such act, hindrance or delay may entitle the CONSULTANT to an extension of time in which to complete the work, which shall be determined by the COUNTY, provided that the CONSULTANT will give written notice within two (2) weeks as provided herein of the cause of such act, hindrance, or delay. An extension of Contract Time shall be the CONSULTANT'S sole and exclusive remedy for all claims for delay, including delays attributable to breach of Contract or Tort. However, the Contract Time will NOT be extended past the completion date stipulated in the County's Grant Agreement, if there is a Grant associated with the Work.

If any emergency or natural disaster causes delay or interferes with the use or delivery of the services described in this solicitation, the COUNTY reserves the right to acquire from other sources any services during any suspension of delivery.
15. **DIRECT PURCHASE:** The COUNTY reserves the right, at the COUNTY'S sole option, to utilize the Purchasing Department's direct purchasing ordering system. Direct purchase orders may be issued for applicable supplies and equipment to be utilized in the COUNTY'S solicitations in order to recover applicable sales tax on these purchase orders.
16. **DISPUTES:** In case of any doubt or differences of opinion as to the items to be furnished hereunder, the decision of the DeSoto County Board of County Commissioners shall be final.
17. **DISQUALIFICATION:** More than one bid from an individual, firm, partnership, corporation or association under the same or different names will not be considered. If the COUNTY believes the bidder is interested in more than one bid for the work contemplated, all bids in which such bidder is interested in shall be rejected. If the COUNTY believes collusion exists among bidders, all bids shall be rejected.
18. **DOCUMENT CONFLICTS:** In the event of inconsistency between the Drawings and Specifications or within either the Drawings or Specifications not clarified by addendum, the better quality or the greater quantity of work shall be provided in accordance with the ENGINEER'S interpretation.

19. **ERROR IN EXTENSION:** If the unit price and the extension price are at variance, the unit price shall prevail.
20. **EXAMINATION OF CONTRACT DOCUMENTS AND SITE:** It is the responsibility of each bidder before submitting a bid to:
- A) Examine the Contract Documents thoroughly,
 - B) Visit the site to become more familiar with local conditions that may affect cost, progress or performance of the Services,
 - C) Consider Federal, State and local Laws and Regulations that may affect cost, progress or performance of the Services,
 - D) Study and carefully correlate the Bidder's observations with the Scope of Services and,
 - E) Notify the COUNTY of all conflicts, errors, or discrepancies in the Scope of Services.

Information and data reflected in the Scope of Services with respect to underground utilities at or contiguous to the site is based upon information and data furnished to the COUNTY and the ENGINEER by underground utilities companies or others, and the COUNTY does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise.

The CONSULTANT shall verify and familiarize themselves with the lands upon which the Service is to be performed, rights-of-way and easements for access thereto and other lands designated for use by the CONSULTANT in performing the Services and identified in the Scope of Services. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by the CONSULTANT. Easements for permanent structures or changes in existing structures are to be obtained by the COUNTY unless otherwise provided in the Scope of Services.

21. **FAILURE TO PERFORM:** If, during the term of the Agreement, the CONSULTANT should refuse or otherwise fail to perform any of its obligations under the Agreement, the COUNTY reserves the right to:
- A) Obtain the services from another CONSULTANT; and/or
 - B) Terminate the Agreement; and/or
 - C) Suspend the CONSULTANT from bidding for a period of up to 24 months.
22. **INCURRED COST:** DeSoto County is not liable for any cost incurred by the CONSULTANT prior to award. Costs for developing a response to this solicitation are entirely the obligation of the bidder and shall not be chargeable in any manner to DeSoto County.
23. **INDEMNIFICATION:** No officer, employee or agent of the COUNTY acting within the scope of his/her employment or function shall be held personally liable in Tort or named as a defendant in any action for injury or damage suffered as a result of any act, event or failure to act. The COUNTY shall not be liable in Tort for the acts or omissions of an officer, employee or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions

committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human right, safety and property.

The successful bidder agrees to indemnify and hold harmless the COUNTY its officials, employees, and agents from and against any and all suits, claims, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONSULTANT or its Sub-consultants (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of sole negligence of the COUNTY.

24. **INFORMALITIES AND IRREGULARITIES:** The COUNTY has the right to waive minor defects or violations of a bid from exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or performance time of the services being procured. If insufficient information is submitted by a bidder with the bid for the COUNTY to properly evaluate the bid, the COUNTY has the right to require such additional information as it may deem necessary after the time set for receipt of bids, provided that such concession does not affect the price, quality, quantity, delivery, or performance time of the goods/services being procured.
25. **INSPECTION:** All services shall be subject to inspection and approval by the COUNTY at all reasonable times. Any services rejected by the COUNTY shall be promptly replaced at CONSULTANT'S expense. Any and all costs incurred by the COUNTY in connection with the return of goods rejected by the COUNTY as defective shall be at CONSULTANT'S risk and expense.
26. **INSURANCE:** The CONSULTANT, at its own expense and in its own name must provide and keep in force during the term of the Agreement, insurance coverage provided by a (a) company(s) licensed to conduct business in the State of Florida acceptable to the COUNTY with limits not less than indicated for the respective items or as otherwise agreed. Types of coverage and limits of liability shall be as set forth in the Agreement.

If any insurance should be cancelled or changed by the insured or expire during the period of its bid award, the CONSULTANT shall be responsible for securing other acceptable insurance to provide the coverage specified in the solicitation to maintain continuous coverage during the life of the award.

27. **LEGAL REQUIREMENTS:** Federal, State, County and local laws, ordinances, rules and regulations that in any manner affect the item(s) covered herein apply. Lack of knowledge by the bidder will no way be cause for relief from responsibility.
28. **LICENSE/CERTIFICATIONS:** The successful CONSULTANT will be required to secure, at its expense, the proper occupational license and/or any other license/certification required of the applicable service/work being performed.

Proof of license and/or certification may be required prior to bid award. The bidder shall fully comply with all state and federal laws, COUNTY procurement policies, ordinances and regulations in any manner affecting the performance of the Services. The bidder shall provide its occupation license number and expiration date.

29. **LIENS:** Before the final draw is payable, CONSULTANT must furnish a sworn statement that all sums due for services, material or labor on the project have been paid in full. If the COUNTY receives any Notice to Owner on this Project, then in addition to the requirements set forth above, CONSULTANT shall at the time of each draw furnish a partial waiver of lien from all Sub-consultants, material or labor providers, and at the time of the final draw shall furnish a final waiver of lien for each such Sub-consultant, material or labor provider; as a condition precedent to receiving any payment from the COUNTY. CONSULTANT shall indemnify the COUNTY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONSULTANT under this Agreement; or the negligence of the CONSULTANT in the performance of its duties under this Agreement, or any act or omission on part of the CONSULTANT, his agents, employees, or servants.

The CONSULTANT may, if any Sub-consultant refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Purchasing Officer, to indemnify the COUNTY against any lien. If any lien remains unsatisfied after all payments are made, the CONSULTANT shall refund to the COUNTY all moneys that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

30. **LITIGATION VENUE:** All litigation shall take place either in the State Courts of Florida, wherein venue shall lie in Desoto County, Florida; or in the Federal Courts, wherein venue shall lie in the Central District in and for the State of Florida. The CONSULTANT expressly waives venue in any other location.
31. **MISTAKES:** Bidders are expected to examine the specifications, delivery schedules, bid prices, and all instructions pertaining to supplies and services. Failure to do so will be at bidder's risk.
32. **NONCONFORMING TERMS AND CONDITIONS:** A bid response that includes terms and conditions that do not conform to the terms and conditions in the solicitation are subject to rejection as non-responsive. The COUNTY reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid response prior to determination by the COUNTY as non-responsive based on the submission of nonconforming terms and conditions.
33. **NON-EXCLUSIVE AGREEMENT:** Award of this Agreement shall impose no obligation on the COUNTY to utilize the CONSULTANT for all work of this type, which may develop during the agreement period. This is not an exclusive

Agreement. The COUNTY specifically reserves the right to concurrently contract with other companies for similar work if it deems such action to be in the COUNTY'S best interest.

34. **OPERATION DURING DISPUTE:** In the event the COUNTY has not cancelled the Agreement in accordance with the terms of the Agreement, and there remains a dispute with the bidder and the COUNTY, the bidder agrees to continue to operate and perform under the terms of the Agreement while such dispute is pending, and further agrees that, in the event a suit is filed for injunction or other relief, it will continue to operate until the final adjudication of such suit by the Court.
35. **PAYMENT TERMS:** CONSULTANT shall prepare and submit to the COUNTY'S Administrative Agent for approval, invoices for the Services rendered under this Agreement. Payment shall be issued by the COUNTY'S Finance Department, who shall initiate disbursements for invoices approved by the Administration Agent in accordance with the Florida Prompt Payment Act, found in Part VII, Ch. 218 of the Florida Statutes. All invoices shall be accompanied by a report identifying the nature and progress of the Work performed. The statement shall show a summary of fees with an accrual of the total fees billed and credits for portions paid previously. The CONSULTANT shall submit an invoice for payment to the COUNTY on a monthly basis.

The COUNTY reserves the right to withhold payment to CONSULTANT for failure to perform the work in accordance with the provisions of this Agreement and the COUNTY shall promptly notify the CONSULTANT if any invoice or report is found to be unacceptable and will specify the reasons.

36. **PERIOD OF OFFER VALIDITY:** Prices quoted must remain firm for a period of ninety (90) days from the bid opening date.
37. **PURCHASING AGREEMENTS WITH OTHER GOVERNMENT AGENCIES:** This solicitation may be extended to include other governmental agencies provided a cooperative Purchasing Agreement exists. Each political entity will be responsible for the execution of its own requirements with the awarded CONSULTANT.
38. **RIGHT TO AUDIT RECORDS:** In performance of this Agreement, the CONSULTANT shall keep books, records, and accounts of all activities related to the Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the CONSULTANT in conjunction with the Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY and the U.S. Department of Transportation.
39. **SAFETY AND PROTECTION:** The CONSULTANT will be responsible for initiating, maintaining and supervising all safety precautions and programs in

connection with the Services. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

- A) All employees on the work site and other persons who may be affected thereby,
- B) All the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and
- C) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavement on roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- D) The CONSULTANT will designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the CONSULTANT'S superintendent unless otherwise designated in writing by the CONSULTANT to the COUNTY.

- 40. **SILENCE OF SPECIFICATIONS:** The apparent silence of the specifications and any supplemental specifications as to any details or the omission from same of any detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail and only materials of first quality be provided. All interpretations of this specification shall be made upon the basis of this statement.
- 41. **STATEMENT RELATIVE TO PUBLIC ENTITY CRIMES:** The bidder is directed to the Florida Public Entity Crime Act 287.133, Florida Statutes, and the COUNTY'S requirement that the successful bidder comply with it in all respects prior to and during the term of the Agreement.
- 42. **TERMINATION FOR DEFAULT - DEFAULT/FAILURE TO PERFORM:** The COUNTY shall be the sole judge of nonperformance, which shall include any failure on the part of the CONSULTANT to accept the award, to furnish required documents, and/or to fulfill any portion of this Agreement within the time stipulated.

Upon default by the CONSULTANT to meet any terms of this Agreement or related Exhibit, the COUNTY will notify the CONSULTANT, providing three (3) days (weekends and holidays excluded) to advise the COUNTY of its plan for corrective action to remedy the default. Failure on the CONSULTANT'S part to correct the default within the approved time period shall result in the Agreement being terminated and the COUNTY notifying in writing the CONSULTANT of the effective date of the termination. The following shall constitute default:

- Failure to perform the work required under the Agreement and/or within the time required or failing to use the sub-consultants, entities, and personnel as identified and set forth, and to the degree specified in the Agreement.
- Failure to begin the work under this Agreement within the time specified.

- Failure to perform the Work with sufficient workers to ensure timely completion.
- Neglecting or refusing to correct Work where prior work has been rejected as nonconforming with the terms of the Agreement.
- Becoming insolvent, being declared bankrupt by a US Bankruptcy Court, renders the CONSULTANT incapable of performing the Services in accordance with and as required by the Agreement.
- Failure to comply with any of the terms of the Agreement.
- Failure to pay sub-consultants or others pursuant to the Services completed under this Agreement.

In the event of default, the CONSULTANT shall pay any damages sustained by the COUNTY including attorney's fees and court costs incurred in collecting any damages. Title to all materials, work-in-progress and completed but undelivered goods will pass to the COUNTY after costs are claimed and allowed. All documents prepared by the CONSULTANT in connection with this Agreement will be the property of the COUNTY.

The County Engineer shall authorize payment to the CONSULTANT, the costs and expenses for Work performed by the CONSULTANT prior to receipt of the Notice of Termination; however, the COUNTY may withhold from amounts due the CONSULTANT such sums as the Administrative Services Director deems to be necessary to protect the COUNTY against loss caused by the CONSULTANT because of the default.

43. **TERMINATION FOR CONVENIENCE:** The COUNTY reserves the right to cancel this Agreement by written notice to the CONSULTANT effective the date specified in the notice, for any of the following reasons:

- The COUNTY has determined that such cancellation will be in the best interest of the COUNTY to cancel the Agreement for its own convenience.
- Funds are not available to cover the cost of the services. The COUNTY'S obligation is contingent upon the availability of appropriate funds.

The Purchasing Manager shall give written notice of the termination to the CONSULTANT specifying the reason of the Agreement termination and when termination becomes effective.

The CONSULTANT shall incur no further obligations in connection with the terminated Work and on the date set in the Notice of Termination the CONSULTANT will stop work to the extent specified.

The County shall pay the CONSULTANT under following conditions:

- All costs and expenses incurred by the CONSULTANT for work accepted by the COUNTY prior to the CONSULTANT'S receipt of the Notice of Termination.
- Anticipatory profit for work and services not performed by the CONSULTANT shall not be allowed.

44. **VERBAL INSTRUCTIONS:** No negotiations, decisions, or actions shall be initiated or executed by the CONSULTANT as a result of any discussions with any COUNTY employee. Only those communications which are in writing from an authorized COUNTY representative may be considered. Only written communications from CONSULTANTS which are assigned by a person designated as authorized to bind the company will be recognized by the COUNTY as duly authorized expressions on behalf of the CONSULTANT.
45. **WARRANTY:** CONSULTANT warrants that it has good and merchantable title to the goods sold hereunder and that said goods shall conform to the descriptions and applicable specifications and samples. Such goods shall be of good merchantable quality and fit for the known purposes for which sold, and are free and clear of all liens and encumbrances. CONSULTANT and COUNTY agree that this order does not exclude, or in any way limit, other warranties provided for in this Agreement or by law. The bidder agrees that, unless otherwise specified, the supplies and/or services furnished under this solicitation shall be covered by the most favorable commercial warranty the bidder gives to any customer for comparable quantities or such supplies and/or services and that the rights and remedies provided herein are in addition and do not limit any rights afforded to the County of DeSoto by any other provision of this solicitation.

NOTE: ANY AND ALL SPECIAL CONDITIONS ATTACHED HERETO WHICH MAY VARY FROM THE GENERAL CONDITIONS SHALL HAVE PRECEDENCE.

ARTICLE I- SPECIAL CONDITIONS

1. INSURANCE REQUIREMENTS:

WORKERS' COMPENSATION:

CONSULTING FIRM will provide Workers Compensation Insurance, on behalf of all employees who are to provide a service under this Agreement as required under Florida Laws, Chapter 440. Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident, \$500,000 each employee, \$500,000 policy limit for disease.

COMMERCIAL GENERAL LIABILITY – OCCURRENCE FORM REQUIRED:

CONSULTING FIRM shall maintain Commercial General Liability (CGL) Insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$2,000,000. Products and completed operations aggregate shall be \$2,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x. c, u) exposures, personal injury and advertising

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE:

CONSULTING FIRM shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos). The policy shall be endorsed to provide contractual liability coverage.

PROFESSIONAL LIABILITY:-

Hold Harmless: DeSoto County BOCC shall be held harmless against all claims for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom arising out of performance of the Agreement, unless such claims are a result of Desoto County BOCC's sole negligence.

Desoto County BOCC shall also be held harmless against all claims for financial loss with respect to the provision of or failure to provide professional or other services resulting in professional malpractice or errors or omissions liability arising out of performance of the Agreement unless such claims are a result of DeSoto County BOCC's sole negligence

EVIDENCE OF INSURANCE:

The CONSULTING FIRM shall furnish the COUNTY with Certificates of Insurance. The Certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. DeSoto County, a political subdivision of the State of Florida, its officers, agents, employees, and volunteers are to be

included as an additional Insured on both the Comprehensive General Liability and Comprehensive Automobile Liability. DeSoto County to be named insured as DeSoto County Board of County Commissioners. . Insurance policies meeting the requirements herein identified shall be maintained during the duration of the named project. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30-days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. All Certificates of Insurance must be on file with and approved by the COUNTY before the commencement of any work activities.

2. Certificates of insurance meeting the required insurance provisions shall be forwarded to the Purchasing Department upon Notice of Award, prior to commencement. **For the purpose of identification, when submitting insurance, the bid name and number must be included on the certificate.**

3. The Bidder's timely response under the terms of this Agreement is paramount. The unavailability of the highest ranked bidder (depending on the urgency of the County's needs) may result in the award/project being authorized for the next highest ranked bidder.

4. Work must begin no later than 10 days after the issuance of a Notice to Proceed, unless otherwise provided, and complete the work within sixty (60) consecutive calendar days of the date on the Notice to Proceed.

5. The County may terminate this Agreement at its convenience with 10 days advance written notice to the CONSULTANT.

6. It is the responsibility of the bidder to contact the Purchasing Department prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and return executed addenda with the bid. Any questions relative to interpretation of requirements, Scope of Services or bid process shall be addressed in writing as indicated below. No inquiries, if received within seven (7) days of the date set for the opening of bids, will be given consideration. **Oral answers will not be authoritative.**

7. ADDITIONAL INFORMATION: Questions about the Agreement and Scope of Services portions of the bid must be submitted in writing to the person listed below. Bidders are cautioned that any statements made by the contact person that materially change any portion of the bid document shall not be relied upon unless subsequently ratified by a formal written amendment to the bid document. To find out whether the County intends to issue an amendment, contact the person listed below. No Agreement or technical questions will be accepted after seven (7) days prior to the date set for bid opening.

Direct inquires to:

Cindy Talamantez, CPPB
Purchasing Manager
DeSoto County Board of County Commissioners
Purchasing Department
201 East Oak Street, Suite 203
Arcadia, Florida 34266
863-993-4816 Office
863-993-4819 Fax
c.talamantez@desotobocc.com

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**DeSoto Park
Sidewalks, Multi-Use Path Peace River Greenway Corridor
FM 404679-5-38-01**

Scope of Service

Project Description

DeSoto County is proposing to install multi-use and pedestrian trails in and around the vicinity of DeSoto and Morgan Parks. These facilities are in the Peace River Greenway Corridor and will serve as the start of recreational projects intended to showcase the County's most pronounced natural resource. The project is funded with Federal Transportation Enhancement dollars and will be administered through the Florida Department of Transportation (FDOT) as a Local Agency Program (LAP) project.

Project Tasks

Consultant is expected to perform the following tasks.

- Field delineate jurisdictional wetland and surface water limits, in and around DeSoto and Morgan Park along the proposed trail routes. Jurisdictional wetland delineations shall be in accordance with the United States Army Corps of Engineers (ACOE) 1987 Wetland Delineation Manual and the ACOE Interim Regional Supplement to the ACOE Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (2008) and the State of Florida Wetland Delineation Procedure outlined in Chapter 62-340, Florida Administrative Code. The purpose is to ensure that proposed improvements minimize or avoid wetland and surface water impacts.
- Meet onsite with the regulatory agencies to confirm the locations of jurisdictional wetlands and surface waters.
- Conduct, protected (or imperiled) species survey in conformance to United States Fish and Wildlife Services (FWS) and Florida Fish and Wildlife Conservation Commission (FWC) survey protocols for areas in and around DeSoto and Morgan Park along the proposed trail routes. Prepare summary report detailing the results of the protected species surveys and prepare any required management plans for those species listed as threatened, endangered or species of special concern by the FWS and FWC which were encountered. Consultant shall be able to provide an "Authorized Gopher Tortoise Agent" approved by the FWC to conduct gopher tortoise surveys and perform any required gopher tortoise permitting and/or relocation.

- If necessary, aid in the preparation of permit applications. Provide the necessary maps and narratives to complete said application packets. The list of agencies include but are not limited to Southwest Florida Water Management District (SWFWMD), ACOE, FWS and FWC.
- If necessary, prepare compensatory mitigation plan for any impacts to State and Federal wetlands or surface water.
- Visit with agencies (on site or at their office) that request such a meeting in order to evaluate or confirm information submitted in permit application.
- Respond to requests for additional information or clarification of received information from the permitting agencies.
- Consultant shall assist the County and FDOT with overall NEPA compliance.
- Consultant shall prepare a Contamination Screening Evaluation Report along proposed trial routes. The purpose of the Contamination Screening Evaluation Report is to identify and evaluate sites containing hazardous materials, petroleum products, or other sources of potential environmental contamination.
- Consultant shall prepare a Cultural Resource Assessment Survey in compliance with Section 106 of the *National Historic Preservation Act of 1966* (Public Law 89-665), as amended, and the implementing regulations 36 *CFR* 800 (revised May 1999). The purpose of the Cultural Resources Assessment Survey is to identify resources which may be recorded by the Florida Division of Historical Resources or listed on the National Register of Historic Places.
- Consultant shall attend any required public meetings and assist the County with preparing any required exhibits for public meetings.

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DESOTO COUNTY BOARD OF COUNTY COMMISSIONERS REQUEST FOR QUALIFICATIONS INSTRUCTIONS TO RESPONDENTS

1. EVALUATION OF PROPOSALS

1.1 A Selection and Negotiations Committee appointed by the County Administrator will evaluate qualifications. The committee will grade, rank and qualify all firms who meet or exceed the criterion established herein and present a short list (County reserves the right to shortlist as few or as many firms as it determines to be in its best interest) of those firms selected for further review.

1.2 In order to qualify as responsible and responsive, a Respondent must meet the evaluation criteria as they relates to this RFQ.

1.3 The evaluation criteria will include, but shall not be limited to data in the evaluation criteria listed on the evaluation form (page 13). The evaluation form shall also indicate the ranking percentages, which will be utilized by the County in the evaluation of the Submittals.

1.4 Discussions may be conducted with these Respondents to further clarify the County's requirements and the Respondents' Submittals. Therefore, the Respondent shall have officials of the appropriate management level present to represent the firm. Respondents may be required to make presentations. Also, the County will reserve the right to begin negotiations with the top ranked firm without requiring presentations.

2. CONTACT

All questions concerning this solicitation must be directed to Cindy Talamantez, Purchasing Manager, DeSoto County, Telephone: (863) 993-4816, Fax: (863) 993-4819; e-mail: c.talamantez@desotobocc.com

3. INQUIRES

3.1 Addenda: In case the County finds it necessary to supplement, modify or interpret any portion of the RFQ documents during the solicitation period, such procedure will be accomplished by issuance of written addenda to the RFQ document, which will be emailed, mailed or faxed to all prospective Respondents at the respective addresses furnished for such purposes. It shall be the responsibility of the Respondent, prior to submitting their submittal, to contact DeSoto County to determine if addenda were issued acknowledging and incorporation them into their Submittal. Failure to do so could result in rejection of the Submittal as unresponsive. No addenda shall be issued less that seven (7) calendar days prior to the opening, unless otherwise specified by DeSoto County.

3.2 Oral Inquires: The County will not respond to oral inquiries.

3.3 Questions or clarifications to the solicitation, if appropriate, must be submitted in writing to Purchasing Manager Cindy Talamantez, 201 East Oak Street, Suite 203, Arcadia, Florida 34266 Fax: (863) 993-4819, E-Mail: c.talamantez@desotobocc.com and will be responded to in writing through addenda to all respondents. Written addenda will be the County's official method of response and will be sent via e-mail or fax and posted on WWW.demandstar.com web site. All questions must be submitted in writing no later than seven days prior to receipt of RFQ's.

4. RESERVED RIGHT

The County reserves the right to accept or reject any and/or all submissions/submittals, to waive irregularities and technicalities, and to request resubmission. Any sole response received on the first submission date may or may not be rejected by the County depending on available competition and timely needs of the County. The County shall be the sole judge of the submission/submittal and the resulting negotiated Agreement that is in its best interest of the County and its decision shall be final. Also, the County reserves the right to make such investigation as it deems necessary to determine the ability of any responder to perform the work or service requested. Information the County deems necessary to make this determination shall be provided by the responder.

5. SUBMITTAL CONTENT

Consultants interested in performing these professional services must display considerable relevant experience with this specified type of work and should emphasize both the experience and capability of particular personnel who will actually perform the work. In order to insure a uniform review process and to obtain the maximum degree of comparability, submittals must include the following minimum information:

- A.** Title Page: Show the name of the respondent's agency/firm, address, telephone number, name of contact person, date and the subject: **"10-04-00 RFQ DeSoto County Ecological Services for DeSoto and Morgan Park Sidewalk-Multi Use Paths.**
- B.** Table of Contents: Include a clear identification of the material by section and by page.
- C.** Letter of Transmittal: Limit to one or two pages.
- D.** Give the name of the person(s) who will be authorized to make representations for the respondent, their titles, addresses and telephone numbers.
- E.** Describe the Consultant, including key officers, years in business, etc.
- F.** Describe the specific key individuals proposed to be assigned to the County Contract. Provide a resume for each named individual with title,

years of experience, education and professional registration. Indicate the percentage of each of these individuals' time that will be devoted to the contract.

- G.** Provide a list of all entities where the firm has developed similar plans during the past five years.
- H.** Provide a list of five references (with phone numbers) relating to recent relevant work.
- I.** State that the business is licensed, permitted and/or certified to do business in the State of Florida and attach copies of all such licenses issued to the business entity.
- J.** Any supplemental materials which might enhance the County's understanding of the firm and its capabilities and experience.

6. EVALUATIONS AND CRITERIA

A Selection Committee will review the submittals received. The evaluation criteria listed below will be utilized to rank the firms and to short-list the Consultants. Interviews with the firms short-listed may then be scheduled, if necessary, for final ranking and selection. The County shall be the sole judge of its own best interests, the submittals and the resulting negotiated Agreement. The County's decisions will be final.

Consultants will be evaluated using a number of factors including but not limited to the following:

- A.** Experience and expertise of the consulting firm, including sub consultants, and the key personnel on services similar to those in this RFQ.
- B.** Ability to work within budget to include grant experience.
- C.** Experience working and coordinating with multiple stakeholders.
- D.** Ability to complete projects in a timely manner
- E.** Quality of submittal (clarity, conciseness and compliance with the RFQ).
- F.** Availability of key staff for coordination meetings.

7. ORAL TECHNICAL PRESENTATIONS

In addition to the written submittal, the short-listed firms being considered for this Agreement may appear for Oral Technical Presentations. The Oral Technical Presentations are to provide the Consultant an opportunity to more fully propose a successful approach. The Consultant shall demonstrate a strong management plan and commitment.

The following guidelines shall govern the oral presentations:

- A. Time Limit:**
 - Twenty (20) minutes for the presentation by the Consultant
 - Fifteen (15) minutes for questions and answers by the County
 - Five (5) minutes each for setup and breakdown.Attendance by the proposed Project Manager is **strongly recommended**.

- B.** Flip-charts, graphic boards or other audio visual aids are acceptable, but shall be brief and project specific. **Handouts** are limited to presentation agenda and reproduction of the flip charts or graphic boards.
- C.** It is encouraged that the Consultant's Project Manager and staff members who will be assigned to the project be the key presenters for the Consultant.
- D.** A maximum of five (5) attendees including sub consultants are permitted. Major sub consultants should be represented.

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(SAMPLE RANKING FORM)
DESOTO COUNTY
EVALUATION OF CONSULTANT
FOR ECOLOGICAL SERVICES FOR DESOTO & MORGAN PARK
SIDEWALK-MULTI USE PATHS

Name of Community	DeSoto County
Name of Person Ranking Form	

Proposer #1	
Proposer #2	
Proposer #3	

EVALUATION FACTORS	POSSIBLE POINTS	1	2	3	4
1. Experience with similar Greenway, Bicycle & Sidewalk Master Plans within the last five years including experience with FDOT Local Agency Program (LAP) programs	25				
2. Ability to work within budget and timeframes to obtain approvals or permits from local, state, and/or federal agencies for this type of project.	25				
3. Experience working and coordinating with multiple stakeholders and maintaining a productive working relationship with the County.	20				
4. References	15				
5. Availability of key staff.	15				
TOTAL	100				

Proposal Scored by (please Print):

Signature of Scorer: _____ Date: _____

Note: This form is to be completed by each member of the selection committee.

DBE PARTICIPATION STATEMENT

The County encourages DBE firms to compete for County professional services projects, and also encourages non-DBE Consultants to use DBE firms as sub-consultants. However, use of DBE Sub-consultants is not mandatory and no preference points will be given in the selection process for DBE participation. Consultants are required to indicate their intention regarding DBE participation in the DBE Participation Statement, page 15 of this Request for Qualifications and to submit that statement with their technical proposal.

Federal law requires states to maintain a database of all firms that are participating or attempting to participate in DOT-assisted contracts. To assist the County in this endeavor, Consultants are requested to submit the Bidder's Opportunity List contained on page 35 of this Request for Qualifications with their technical proposal. The list should include yourself as well as any prospective Sub-consultant that you contacted or who has contacted you regarding this project. However, any firm previously shown on such a list need not be included.

Consultant Affidavits: The Consultant shall submit the following forms provided:

1. Consultant Affidavit
2. Certification Regarding Debarment
3. Certification for Disclosure of Lobbying Activities
4. Truth-In-Negotiation Certification
5. Consultant Certification
6. Bid Opportunity List

The Certification Regarding Debarment and Truth-In-Negotiations Certification shall be executed by an officer of the firm, associates or corporation submitting the proposal, and shall be sworn to before a person who is authorized by law to administer oaths.

The Certification for Disclosure of Lobbying Activities form shall be submitted by the proposed Prime Consultant and Sub-consultants. If a Standard Form-LL has previously been submitted to a government agency and there has been no material change, a copy of the previous submission is sufficient.

Federal Law requires states to maintain a database of all firms that are participating or attempting to participate in DOT-assisted contracts. To assist the Department in this endeavor, Consultants are requested to submit the Bid Opportunity List. The list should include yourself as well as any prospective Sub-consultant that you contacted or who has contacted you regarding this project. Any firms that have previously been shown on such a list need not be included.

C. DBE Participation Statement: The completed DBE Participation Statement provided on page 15 shall be included even if the Consultant does not intend to utilize a DBE firm.

DBE PARTICIPATION STATEMENT

Note: The Consultant is required to complete the following information and submit this form with the technical proposal.

Project Description: _____

Consultant Name: _____

This consultant (is _____) (is not _____) a Department of Transportation certified Disadvantaged Business Enterprise (DBE).

Expected percentage of contract fees to be subcontracted to DBE(s) _____%

If the intention is to subcontract a portion of the contract fees to DBE(s), the proposed DBE sub-consultants are as follows:

DBE Sub-Consultant	Type of Work/Commodity
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

By: _____

Title: _____

Date: _____

TERMS FOR FEDERAL AID CONTRACTS (APPENDIX I):

The following terms apply to all agreements in which the services involve the expenditure of federal fund:

- A. It is understood and agreed that all rights of the Department relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans specifications, maps data, and coast records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of U.S.D.O.T., anything to the contrary in this Agreement notwithstanding.
- C. COMPLIANCE WITH REGULATIONS: The Consultant shall comply with the regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulation, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the Agreement.
- D. NONDISCRIMINATION: The Consultant, with regard to the services performed by him/her after award and prior to completion of the Scope of Services, will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of subcontractors, including procurements of material, and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the program set forth in Appendix B of the Regulations.
- E. SOLICITATIONS FOR SUB-CONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT: In all solicitations made by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential sub-consultant, supplier or lessor shall be notified by a Consultant of the Consultant's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color religion, sex or national origin.
- F. INFORMATION AND REPORTS: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may

be determined by the Department or U.S. Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the Department, or the U.S. Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.

- G. **SANCTIONS OF NONCOMPLIANCE:** In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the State of Florida Department of Transportation shall impose such agreement sanctions as it or the U.S. Department of Transportation may determine to be appropriate, including but not limited to,
1. withholding of payments to the Consultant under the Agreement until the Consultant complies and/or
 2. cancellation, termination or suspensions of the Agreement, in whole or in part.
- H. **INCORPORATION OR PROVISIONS:** The Consultant will include the provisions of Paragraph A through H in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the State of Florida Department of Transportation or the U.S. Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.
- I. **INTEREST OF MEMBERS OF CONGRESS:** No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.
- J. **INTEREST OF PUBLIC OFFICIALS:** No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States, and public corporations, boards, and commissions established under the laws of any State.
- K. **PARTICIPATION BY MINORITY BUSINESS ENTERPRISES:** The

Consultant shall agree to abide by statements in Paragraph (1) and (2) which follow. These statements shall be included in all subsequent agreements between the Consultant and any sub-consultant.

1. "Policy: It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of Agreements financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement."
 2. "MBE OBLIGATION: The recipient or its Consultant agrees to ensure that minority business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of this Agreement and subcontracts financed in whole or in part with Federal Funds provided under this Agreement. In this regard, all recipients or Consultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 23, to have the maximum opportunity to participate in the performance of agreements and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all recipients or Consultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform agreements. Recipients and their Consultants shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted Agreements."
- L. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, Unites States Code, Title 18, Section 1020, is herby incorporated by reference and made a part of this Agreement.
- M. It is understood and agreed that if the Consultant at any time learns that the certification it provided the Department in compliance with CFR, Section 23.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Department. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned Federal Regulation.
- N. The Department herby certifies that neither the Consultant nor the Consultant's representative have been required by the Department,

directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement, to

1. employ or retain, or agree to employ or retain, any firm or person, or
2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; The Department further acknowledges that this Agreement will be furnished to a Federal Agency, in connection with this Agreement involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

O. The Consultant hereby certified that it has not:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above Consultant) to solicit or secure this Agreement;
2. agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out this Agreement; or
3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above Consultant) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement.

The Consultant further acknowledges that this Agreement will be furnished to the State of Florida Department of Transportation and a Federal Agency in connection with this Agreement involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

EXECUTIVE ORDER 11246

EEO and Affirmative Action Guidelines for Federal Consultants Regarding Race, Color, Gender, Religion, and National Origin

BASIC PROVISIONS

Since 1965, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has been committed to ensuring that Government Consultants comply with the Equal Employment Opportunity (**EEO**) and the Affirmative Action provisions of their Agreements.

OFCCP administers and enforces Executive Order 11246, as amended, which prohibits Federal Consultants and federally assisted consultants and sub-consultants, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex or national origin.

The Executive Order also requires Government Consultants to take affirmative action to insure that equal opportunity is provided in all aspects of their employment.

AFFIRMATIVE ACTION REQUIREMENTS

Each Government consultant with 50 or more employees and \$50,000 or more in government contracts is required to develop a written Affirmative Action Program (AAP) for each of its establishments.

A written Affirmative Action Program helps the Consultant identify and analyze potential problems in the participation and utilization of women and minorities in the Consultant's workforce.

If there are problems, the Consultant will specify in its AAP the specific procedures it will follow and the good faith efforts it will make to provide equal employment opportunities.

Expanded efforts in outreach, recruitment, training and other areas are some of the affirmative steps Consultants can take to help members of the protected groups compete for jobs on equal footing with other applicants and employees.

ENFORCEMENT AND COMPLIANCE

Compliance Reviews

OFCCP conducts compliance reviews to investigate the employment practices of Government Consultants. During a compliance review, a compliance officer examines the Consultant's Affirmative Action Program; checks personnel payroll, and other employment records; interviews employees and company officials; and investigates virtually all aspects of employment in the company.

The investigator also checks to see whether the Consultant is making special efforts to achieve equal opportunity through Affirmative Action. If problems are discovered, OFCCP will recommend corrective action and suggest ways to achieve equal employment opportunities.

EXECUTIVE ORDER 11246

Complaint Investigation

Individuals may file complaints if they believe they have been discriminated against by Federal Consultants or Sub-consultants. Complaints also may be filed by an organizations on behalf of the person or persons affected.

Complaints must be filed within 180 days from the date of the alleged discrimination, although filing time can be extended for a good reason.

If a complaint filed under Executive Order 11246 involves discrimination against only one person, OFCCP will normally refer it to the EEOC. Cases involving groups of people or indicating patterns of discrimination are generally investigated and resolved by OFFCP. Complaints may be filed directly with any of OFCCP's regional or district offices throughout the Country, or with OFCCP in Washington, D.C.

Compliance Assistance

To help Consultants understand their contractual obligations for EEO and Affirmative Action, OFCCP provides technical assistance. District office staff offers guidance to Consultants on how to develop an Affirmative Action Program through company seminars, training programs held in conjunction with industry liaison groups, and one-on-one consultations on affirmative action practices and procedures.

Enforcing Contract Compliance

When a compliance review discloses problems, OFCCP attempts to work with the Consultant, often entering into a Conciliation Agreement. A Conciliation Agreement may include back pay, job offers, seniority credit, promotions or other forms of relief for victims of discrimination. It may also involve new training programs, special recruitment efforts, or other affirmative action measures.

When conciliation efforts are unsuccessful, OFCCP refers the case to the Office of the Solicitor for enforcement through administrative enforcement proceeding. A Consultant cited for violating EEO and Affirmative Action requirements may have a formal hearing before an Administrative Law Judge.

If conciliation is not reached before or after the hearing, sanctions may be imposed. For example, a Consultant could lose its government contracts or subcontracts or be debarred, i.e., declared ineligible for any future government contracts.

Further Information

For more information about contract compliance, filing complaints, or compliance assistance, contact any of OFCCP's regional or district offices. All offices are listed in telephone directories under U.S. Department of Labor, Employment Standards Administration, and Office of Federal Contract Compliance Programs.

BIDDERS CHECKLIST

Bid will not be considered if the following documents and/or attachments are not completely filled out and/or submitted with bid.

- _____ Completely Executed Bid Package (original and three (3) copies)
- _____ Qualifications Statement Form
- _____ Hold Harmless Form
- _____ Drug Free Workplace Form
- _____ Public Entity Crimes Form
- _____ Non-Collusion Agreement
- _____ Consultant Affidavit
- _____ Certificate Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal-Aid Contracts
- _____ Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts
- _____ Truth in Negotiation Certification
- _____ Bid Opportunity List

QUALIFICATIONS STATEMENT

The undersigned certifies under oath the truth and correctness of all statements and of all answers to questions made hereinafter:

SUBMITTED TO: **PURCHASING DEPARTMENT**
ADDRESS: **201 E. OAK STREET, SUITE 203**
ARCADIA, FLORIDA 34266

CIRCLE ONE

SUBMITTED BY:	Corporation
NAME:	Partnership
ADDRESS:	Individual
PRINCIPAL OFFICE:	Joint Venture
	Other

1. State the true, exact, correct and complete name of the partnership, corporation, trade or fictitious name under which you do business and the address of the place of business.

The correct name of the Offeror is: _____

The address of the principal place of business is: _____

2. If the Offeror is a corporation, answer the following:

- a. Date of Incorporation: _____
- b. State of Incorporation: _____
- c. President's name: _____
- d. Vice President's name: _____
- e. Secretary's name: _____
- f. Treasurer: _____
- g. Name and address of Resident Agent: _____

3. If Offeror is an individual or a partnership, answer the following:

- a. Date of organization: _____
- b. Name, address and ownership units of all partners:

- c. State whether general or limited partnership: _____

4. Offeror is other than an individual, corporation or partnership, describe the organization and give the name and address of principals:

5. If Offeror is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

6. How many years has your organization been in business under its present business name?

a. Under what other former names has your organization operated?

7. Indicate registration, license numbers or certificate numbers for the businesses or professions which are the subject of the proposal. Please attach certificate of competency and/or state registration.

8. Have you personally inspected the site of the proposed work?

Yes _____ No _____

9. Did you attend the Pre-Proposal Conference? N/A

10. Have you ever failed to complete any work awarded to you? If so, state when, where and why?

11. Within the last five (5) years, has any officer or partner of your organization ever been an officer or partner of another organization when it failed to complete a contract? If so, explain fully.

12. State the names, telephone numbers and last known addresses of three (3) businesses with the most knowledge of work which you have performed, and to which you refer (governmental entities are preferred as references).

NAME	CONTACT	ADDRESS	PHONE

13. List the pertinent experience of the key individual of your organization (continue on insert sheet, if necessary).

14. State the name of the individual who will have personal supervision of the services:

THE OFFEROR ACKNOWLEDGES AND UNDERSTANDS THAT THE INFORMATION CONTAINED IN RESPONSE TO THIS QUALIFICATIONS STATEMENT SHALL BE RELIED UPON BY OWNER IN AWARDED THE CONTRACT AND SUCH INFORMATION IS WARRANTED BY OFFEROR TO BE TRUE. THE DISCOVERY OF ANY OMISSION OR MISSTATEMENT THAT MATERIALLY AFFECTS THE OFFEROR'S QUALIFICATION TO PERFORM UNDER THE CONTRACT SHALL CAUSE THE OWNER TO REJECT THE PROPOSAL, AND IF AFTER THE AWARD TO CANCEL AND TERMINATE THE AWARD AND/OR CONTRACT.

SIGNATURE

State of Florida

County of _____

On this the _____ day of _____, _____, before me, the undersigned Notary Public of the State of Florida, personally appeared _____ and

(Name(s) of individual(s) who appeared before Notary)
whose name(s) in/ are Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, stamp, or type as commissioned.)

_____ Personally known to me, or

_____ Produced identification:

_____ DID take the oath, or

_____ DID NOT take the oath.

HOLD HARMLESS

The bidding firm as indicated below, it's officers and members shall, through the signing of this document by any authorized party or agent, indemnify, hold harmless and defend DeSoto County, a political subdivision of the State of Florida, its officers, agents, employees, and volunteers from all suits and actions, including attorney's fees and all costs of litigation and judgment of every name and description brought against the County as a result of loss, damage or injury to person or property by reason of any act or failure to act by the bidding firm, its agents, servants or employees.

Type of Organization (Please Check One): ☐ Individual Ownership ☐ Joint Venture
☐ Partnership ☐ Corporation

Name of Bidding Firm:

Mailing Address:

Location Address:

City & State: _____ **ZIP:** _____

Telephone: _____ **Fax Number:** _____

Name/Title of person authorized to bind the Company:

Signature of person authorized to bind the Company:

Date: _____

DRUG FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that _____ (name of business) does:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Signature: _____

Dated: _____

**SWORN STATEMENT UNDER SECTION 287.133(3) (a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

(To be signed in the presence of a notary public or other officer authorized to administer oaths.)

STATE OF _____
COUNTY OF _____

Before me, the undersigned, personally appeared who, being by me first duly sworn, made the following statement:

1. The business address of _____ [name of firm]

is _____

2. My relationship to _____ [name of firm]

is _____
[relationship, such as sole proprietor, partner, president, vice president].

3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

4. I understand that "conviction" is defined by the statute to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

5. I understand that "affiliate" is defined by the statute to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executive, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.

6. Neither the firm nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the firm nor any affiliate of the firm has been convicted of a public entity crime subsequent to July 1, 1989.

[Draw a line through paragraph 6 if paragraph 7 below applies.]

7. There has been a conviction of a public entity crime by the firm, or an officer, director, executive, partner, shareholder, employee, member or agent of the firm who is active in the management of the firm or an affiliate of the firm. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted vendor list. The name of the convicted person or affiliate is

_____.

A copy of the order of the Division of Administrative Hearings is attached to this statement.

[Draw a line through paragraph 7 if paragraph 6 above applies.]

Sworn to and subscribed before me in the state and country first mentioned above on the _____ day of _____, 2010

Signed

(affix seal)

Notary Public

My commission expires

NON-COLLUSION AFFIDAVIT:

By signing this offer, the Consultant certifies that this offer is made independently and free from collusion. Consultant shall disclose below any DeSoto County, Florida officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the Consultant's business, who is in a position to influence this procurement.

Any DeSoto County, Florida officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this Consultant.

County employees may not contract with the County through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more).

Immediate family members (spouse, parents and children) are also prohibited from contracting with the County subject to the same general rules. Failure of a Consultant to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the County Procurement Policy.

NAME	RELATIONSHIPS

In the event the vendor does not indicate any names, the County shall interpret this to mean that the vendor has indicated that no such relationships exists.

AFFIDAVIT

STATE OF FLORIDA, COUNTY OF DESOTO

BEFORE ME, the undersigned authority, personally came and appeared,

_____, who after being duly sworn, deposed and said that he is the fully authorized _____ of

(hereinafter referred to as affiant), and said affiant further said:

(1) That affiant has not and will not employ any person either directly or indirectly, to

secure the public contract under which he is to receive payment, other than persons regularly employed by the affiant whose service in connection with the project or in securing the public contract are in the regular course of their duties for the affiant; and

(2) That no part of the contract price was paid or will be paid to any person for soliciting the contract, other than the payment of normal compensation to persons regularly employed by the affiant whose services with the project are in the regular course of their duties for the affiant.

AFFIANT
SWORN TO AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF
_____, 2010. NOTARY PUBLIC

AFFIANT

Company Name: _____

Address: _____

Phone Number: _____

Signature: _____

NON-COLLUSION AFFIDAVIT IN THE STATE OF

_____ IN THE COUNTY OF

_____ being first duly sworn, on oath, says that the bid above submitted is a genuine and not a sham or collusive bid or made in the interest of or on behalf of any person not therein named, and s/he further says that the said Bidder has not directly or indirectly induced or solicited any Bidder on the above work or supplies to put in a sham bid, or any other person or corporation to refrain from bidding, and that said Bidder has not in any manner sought by collusion to secure her/himself an advantage over any other bidder or bidders. Subscribed and sworn before me this ____ day of _____, 2010 NOTARY PUBLIC in and for the State of

_____ Signature

Seal

CONSULTANT AFFIDAVIT

STATE OF _____

COUNTY OF _____

Before me, the undersigned authority, personally appeared (Date) _____
who was sworn and says:

1. He is (Title) _____ of (Firm) _____ with office in (City and State) _____.
2. The named firm is submitting the attached proposal for:
Description: _____

Financial Project I.D.(s) _____ F.A.P. No(s) _____

in _____ County(ies), Florida.
3. The affiant has made diligent inquiry and answers this affidavit based upon his own knowledge.
4. Only one proposal for the above-referenced project will be submitted, under the same or different name, and the proposer has no financial interest in the firm or another proposer for the same work.
5. Neither the affiant nor the firm has directly or indirectly entered in any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in connection with the firm's proposal on the above project. This statement shall restrict the discussion of pricing data until the completion of the execution of the Consultant Agreement for this project.
6. Neither the firm nor its affiliates, nor any one associated with them is presently debarred, suspended or otherwise ineligible from participating in contract lettings by any state agency in any state or the F.H.W.A.
7. Neither the firm, nor any officer, director, employee of the firm or any of its affiliates has been criminally or civilly charged with antitrust violations, or had convictions or judgments resulting from such charges. There have been no charges or subsequent convictions of any criminal act under state or federal law which involved fraud, bribery, conspiracy, public contract, except for matters previously disclosed to the Department and filed in Case No. (s) _____ with the Clerk of Agency Proceedings, (If inapplicable, enter N/A).
8. This affidavit includes disclosure of employees who were charged or convicted of contract crimes while in the employ of another company.

Affiant

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary
My Commission Expires:

NOTICE

Any evidence of collusion among participating proposers will preclude their recognition as proposers on such job and subjects them to penalties and restraints under applicable State and Federal Law.

PROPOSERS ON ALL DEPARTMENT PROJECTS MUST SIGN AND ATTACH THIS AFFIDAVIT TO EACH PROPOSAL

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION FOR FEDERAL
AID CONTRACTS**

(Compliance with 49CFR, Section 29.510)
(Appendix B Certification)

375-030-32
PROCUREMENT
10/01

It is certified that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name of Consultant:

By _____
Authorized Signature

Date: _____

Title: _____

Instructions for Certification

1. By signing and submitting this certification with the proposal, the prospective lower tier participant is providing the certification set out below.
2. The certifications 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 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 circumstance.
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 the rules implementing Executive Order 12549. You may contact the person to which this proposal is being 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 Appendix B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitation 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 Nonprocurement 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 are 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 may pursue available remedies, including suspension and/or debarment.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES
ON FEDERAL-AID CONTRACTS
(Compliance with 49CFR, Section 20.100 (b))

375-030-33
PROCUREMENT
10/01

The prospective participant certifies, by signing this certification, that to the best of his or her knowledge and belief:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instruction. (Standard Form-LLL can be obtained from the Florida Department of Transportation's Professional Services Administrator or Procurement Office.)

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Name of Consultant: _____

By: _____ Date: _____

Authorized Signature: _____

Title: _____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRUTH IN NEGOTIATION CERTIFICATION

375-030-30
PROCUREMENT
10/01

For any lump-sum or cost-plus-a-fixed-fee professional services agreement over \$60,000 the Florida Department of Transportation (Department) requires the Consultant to execute this certificate and include it with the submittal of the Technical Proposal.

The Consultant hereby certifies, covenants and warrants that wage rates and other factual unit costs supporting the compensation for this project's agreement will be accurate complete, and current at the time of contracting.

The Consultant further agrees that the original agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the Department determines the agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the agreement. For purpose of this certificate, the end of the agreement shall be deemed to be the date of final billing or acceptance of the work by the Department, whichever is later.

Name of Consultant

By: _____
Authorized Signature

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**BID OPPORTUNITY LIST FOR PROFESSIONAL CONSULTANT
SERVICES, AND COMMODITIES & CONTRACTUAL SERVICES**

375-040-62
PROCUREMENT
4-07

Prime Contractor/Prime Consultant: _____

Address/Phone Number: _____

Procurement Number/Advertisement Number: _____

49 CFR Part 26.11 The list is intended to be a listing of all firms that are participating, or attempting to participate, on DOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts and supplies materials on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT-assisted project. Prime contractors and consultants must provide information for Number 1, 2, 3 and 4, and should provide any information they have available on Numbers 5, 6, 7, and 8 for themselves, and their subcontractors and subconsultants.

1. Federal Tax ID Number: _____

2. Firm Name: _____

3. Phone: _____

4. Address: _____

5. Year Firm Established: _____

6. ☐ DBE

☐ Non-DBE

7. ☐ Subcontractor

☐ Subconsultant

8. Annual Gross Receipts

☐ Less than \$1 million

☐ Between \$1 - \$5 million

☐ Between \$5 - \$10 million

☐ Between \$10 – 15 million

☐ More than \$15 million

1. Federal Tax ID Number: _____

2. Firm Name: _____

3. Phone: _____

4. Address: _____

5. Year Firm Established: _____

6. ☐ DBE

☐ Non-DBE

7. ☐ Subcontractor

☐ Subconsultant

8. Annual Gross Receipts

☐ Less than \$1 million

☐ Between \$1 - \$5 million

☐ Between \$5 - \$10 million

☐ Between \$10 – 15 million

☐ More than \$15 million

1. Federal Tax ID Number: _____

2. Firm Name: _____

3. Phone: _____

4. Address: _____

5. Year Firm Established: _____

6. ☐ DBE

☐ Non-DBE

7. ☐ Subcontractor

☐ Subconsultant

8. Annual Gross Receipts

☐ Less than \$1 million

☐ Between \$1 - \$5 million

☐ Between \$5 - \$10 million

☐ Between \$10 – 15 million

☐ More than \$15 million

1. Federal Tax ID Number: _____

2. Firm Name: _____

3. Phone: _____

4. Address: _____

6. ☐ DBE

☐ Non-DBE

7. ☐ Subcontractor

☐ Subconsultant

8. Annual Gross Receipts

☐ Less than \$1 million

☐ Between \$1 - \$5 million

☐ Between \$5 - \$10 million

☐ Between \$10 – 15 million

☐ More than \$15 million

5. Year Firm Established: _____

AS APPLICABLE, PLEASE SUBMIT THIS FORM WITH YOUR: BID SHEET (Invitation to Bid – ITB)
LETTERS OF RESPONSE (LOR)
PRICE PROPOSAL (Request for Proposal – RFP)
REPLY (Invitation to Negotiate – ITN)

ARTICLE II- STATEMENT OF NO BID/SUBMITTAL
DeSoto County Purchasing Department
201 East Oak Street, Suite 203
Arcadia, Florida 34266

If you **do not** intend to submit a proposal on this service, please return this form to the above address immediately or fax to 863-993-4819.

We the undersigned, have declined to submit a proposal on the requested service **RFQ NO. 10-04-00, Ecological Services for Desoto and Morgan Park Sidewalk-Multi Use Paths**, for the following reason(s):

_____ Insufficient time to respond to the Request for Qualification.

_____ We do not offer this service.

_____ Our schedule would not permit us to perform.

_____ Unable to meet bond/insurance requirements.

_____ Unable to meet specifications.

_____ Specifications are unclear (explain below).

_____ Remove us from your vendors' list for this service.

_____ Other (specify below).

Remarks: _____

Company name: _____

Signature: _____

Address: _____

Telephone: _____ Date: _____

(SAMPLE)
AGREEMENT
FOR ECOLOGICAL SERVICES FOR
DESOTO COUNTY'S DESOTO AND MORGAN PARK
SIDEWALK-MULTI USE PATHS

THIS AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2010 by and between DESOTO COUNTY, a political subdivision of the State of Florida, (the "COUNTY") and _____ a corporation licensed in the State of Florida, (the "CONSULTANT ") whose address is _____.

WHEREAS, the COUNTY desires to retain a consultant to perform ecological services to determine the location of wetland areas in the proposed "Sidewalk – Multi Use Path – Peace River Greenway Corridor" located in DeSoto and Morgan Parks, DeSoto County, Florida, as more particularly specified in the Scope of Services attached as Exhibit A and incorporated herein by reference; and

WHEREAS, CONSULTANT desires to render services described in Exhibit A and has the qualifications, experience, staff and resources to perform those services; and

WHEREAS, through a competitive selection process conducted in accordance with the requirements of Florida law and County policy, COUNTY has determined that it to be in the best interest of the COUNTY to award an Agreement to the CONSULTANT for the rendering of those services described in Exhibit A; and;

WHEREAS, COUNTY is the recipient of federal transportation enhancement funds, which are administered through the Florida Department of Transportation as a Local Agency Program (LAP) project; and

WHEREAS, as a recipient of federal transportation enhancement funds through a LAP project, COUNTY is required to include certain terms and conditions in any Agreement with a CONSULTANT employed to perform the services described in Exhibit A.

NOW, THEREFORE, In consideration of the promises made herein and other good and valuable considerations, the following terms and conditions are hereby agreed to between the COUNTY and CONSULTANT.

I. INCORPORATION BY REFERENCE AND ENTIRE AGREEMENT.

The foregoing "Whereas" clauses are hereby incorporated by reference, affirmed, and ratified by the parties as true and correct. The Documents which comprise this Agreement between the COUNTY and CONSULTANT are attached hereto, made a part hereof and consist of the following:

- A. This Agreement.
- B. Scope of Services attached hereto as Exhibit "A".
- C. Project Completion and Fee Schedule attached hereto as Exhibit "B".

In the event of a conflict between any of the terms and conditions in the Exhibits and this Agreement, this Agreement shall prevail.

II. DEFINITIONS. The following terms shall have the meanings expressed below unless otherwise indicated.

Acceptance: Approval by the COUNTY of the Services as being fully complete in accordance with the Agreement and its attached Scope of Services.

Administrative Agent: An authorized representative of the COUNTY assigned to observe the Work performed and materials furnished by the CONSULTANT or such other person as may be appointed by the COUNTY as its representative in the Notice to Proceed.

Agreement: This Agreement between COUNTY and the CONSULTANT.

Addenda: Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Scope of Services, including drawings and specifications, by additions, deletions, clarifications or corrections to the Scope of Services.

Application of Payment: The form furnished by the CONSULTANT to request progress payments and an affidavit of the CONSULTANT that progress payments theretofore received from the COUNTY on account of the Services has been applied by the CONSULTANT to discharge in full all of the CONSULTANT'S obligations stated in prior Applications for Payment.

Approval: Acceptance by the COUNTY as satisfactory.

Change Order: A written order to the CONSULTANT signed by the COUNTY authorizing an addition, deletion or revision in the Services, or an adjustment in the Agreement fee or the Time for performance.

Contracting Officer: The COUNTY or the individual who is authorized to sign the Agreement on behalf of the COUNTY'S governing body.

Consultant: The person, firm or corporation with whom the COUNTY has executed this Agreement.

County: DeSoto County, Florida.

Day: A calendar day of twenty-four (24) hours measured from midnight to the

next midnight.

Drawings: The drawings which show the character and scope of the Services to be performed and which have been prepared or approved by the COUNTY and referred to in the Agreement.

Field Order: A written order issued by the COUNTY which clarifies or interprets the Scope of Services.

Modification: A written amendment to the Agreement signed by both parties; a Change Order; a written clarification or interpretation issued by the COUNTY; or a written order for a minor change or alteration in the Work issued by the COUNTY.

Notice to Proceed: A written notice given by the COUNTY to the CONSULTANT identifying the date on which the Agreement will commence and when the CONSULTANT shall start to perform the obligations under the Scope of Services.

Price: The fee payable to the CONSULTANT under the Agreement.

Project: The entire Scope of Services to be performed as provided in the Agreement.

Shop Drawings: All drawings, diagrams, illustration, brochures, schedules and other data which are prepared by the CONSULTANT, a sub-consultant, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work as required by the Scope of Services.

Samples: Physical examples that illustrate materials, equipment or workmanship and establish standards by which the Services will be judged.

Services: Work as defined herein.

Specifications: Those portions of the Scope of Services consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.

Sub-consultant: An individual, firm or corporation having a direct contract with CONSULTANT or with any other sub-consultant for the performance of a part of the Services.

Surety: The entity that insures the CONSULTANT will perform Services.

Time: The number of calendar days stated in the Agreement for the completion of Services.

Work: Any and all obligations, duties and responsibilities necessary to the

successful completion of the Project assigned to or undertaken by CONSULTANT under the Scope of Services, including all labor, materials, equipment and other incidentals, and the furnishing thereof.

Written Notice: All written notices, demands, instruction, claims, approvals, and disapprovals required to obtain compliance with Service requirements, whether delivered in person or to the member of the CONSULTANT'S authorized agent. Unless other wise provided, Notice to the COUNTY shall be to the Authorized Administrative Agent.

III. CONSULTANT SERVICES.

CONSULTANT agrees to diligently and timely perform professional services as described in the Scope of Services described Exhibit A, with the same degree of care, skill, and diligence as ordinarily provided by a professional under similar circumstance. CONSULTANT shall at no additional cost to the COUNTY re-perform Services which fail to satisfy the foregoing standard of care. The CONSULTANT agrees to immediately upon execution of this Agreement by both the COUNTY and the CONSULTANT to complete the project within sixty (60) days of issuance of Notice to Proceed

IV. RESPONSIBILITIES OF THE CONSULTANT

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all reports, designs, specifications, other documents and data used or produced by or at the behest of the CONSULTANT under this Agreement. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its reports, designs, specifications, other documents and data.
- B. CONSULTANT shall furnish all labor, supervision, equipment and materials for the Service. If the CONSULTANT is comprised of more than one legal entity, each entity shall be jointly responsible for the performance of this Agreement.
- C. The CONSULTANT covenants and agrees that it and its sub-consultants, if any, and its employees shall be bound by the Standards of Conduct, Chapter 112, Florida Statutes as it relates to Work performed under this Agreement. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the services performed.
- D. Prior to entering into this Agreement, the CONSULTANT shall file a sworn statement with the COUNTY as described for Public Entity Crimes of the Florida Statutes, Chapter 287.133, and the CONSULTANT shall thereafter comply with Florida Statutes concerning such activities.
- E. The CONSULTANT shall comply with and contractually require its sub-

consultants to comply with all federal, state, and local laws, regulations and ordinances applicable to the Work or payment for Work and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of Work under this Agreement.

- F. The CONSULTANT shall maintain books, records, documents, and other evidence directly pertaining to or connected with the Services under this Agreement which shall be available and accessible at the CONSULTANTS offices for the purpose of inspection, audit, and copying during normal business hours by the COUNTY, or any of its authorized representatives. Such records shall be retained for a minimum of three-(3) years after completion of the services or as required by Chapter 119, Florida Statutes.
- G. CONSULTANT further represents and warrants that all previous representation and statements made in the Bid Forms attached to its Response to Project 10-04-00RFQ are accurate to the best of CONSULTANT'S knowledge and reaffirms its attestations and the information contained in those documents herein.
- H. CONSULTANT represents and warrants that all state and federal licenses required to complete the Work shall be obtained by CONSULTANT or any and all of its sub-consultant(s) prior to commencement of any Work.
- I. CONSULTANT shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Services. CONSULTANT shall take all necessary precautions to insure the safety of persons, the environment, and its Work product.

V. OBLIGATIONS OF COUNTY

- A. The COUNTY will designate an Administrative Agent to act on behalf of the COUNTY with respect to the Scope of Services and whose role is to monitor day-to-day activities and ensure all grant requirements are met and do all things necessary to properly administer the terms and conditions of this Agreement. The COUNTY will designate the Administrative Agent in the Notice to Proceed. The responsibility of the COUNTY'S Administrative Agent shall include:
 - 1. Examination of all reports, sketches, drawings, estimates, proposals, and other documents presented by the CONSULTANT, and render in writing, necessary decisions within a reasonable time.
 - 2. Transmission of instructions, receipt of information, interpretation and definition of COUNTY policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement.

3. Review for approval or rejection of all of the CONSULTANT'S documents and payment requests.
 4. Returning items delivered by CONSULTANT, which are not conforming to the Scope of Services, at CONSULTANT'S expense and risk of increase in cost for items not delivered as specified.
- B. The COUNTY shall, upon request, furnish the CONSULTANT with all existing data, plans, studies and other information in the COUNTY'S possession which may be useful in connection with the Work of this Project, all of which shall be and remain the property of the COUNTY and shall be returned to the COUNTY'S Administrative Agent upon completion of the services to be performed by the CONSULTANT.
- C. The COUNTY'S Administrative Agent shall conduct periodic reviews of the Work of the CONSULTANT necessary, for the completion of the CONSULTANT'S services during the period of this Agreement and may make other COUNTY personnel available, where required and necessary to assist the CONSULTANT. The availability and necessity of said personnel to assist the CONSULTANT shall be determined solely within the discretion of the COUNTY.

VI. COMPENSATION AND PAYMENT OF CONSULTANT

The COUNTY'S performance and obligation to pay under this Agreement is contingent upon the receipt of a federal transportation enhancement grant administered through the Florida Department of Transportation LAP program and allocated by an appropriation to the DeSoto County Board of County Commissioners.

A. METHOD OF PAYMENT

1. CONSULTANT shall prepare and submit to the COUNTY'S Administrative Agent for approval, invoices for the Services rendered under this Agreement. Payment shall be issued by the COUNTY'S Finance Department, who shall initiate disbursements for invoices approved by the Administration Agent in accordance with the Florida Prompt Payment Act, found in Part VII, Ch. 218 of the Florida Statutes. All invoices shall be accompanied by a report identifying the nature and progress of the Work performed. The statement shall show a summary of fees with an accrual of the total fees billed and credits for portions paid previously. The CONSULTANT shall submit an invoice for payment to the COUNTY on a monthly basis.
The COUNTY reserves the right to withhold payment to CONSULTANT for failure to perform the work in accordance with the provisions of this Agreement and the COUNTY shall promptly

- notify the CONSULTANT if any invoice or report is found to be unacceptable and will specify the reasons.
2. For Services that were partially completed, progress payments shall be paid monthly in proportion to the percentage of completed Work on those specific Services approved in writing by the COUNTY'S Administrative Agent based on the percentage of the amount for those specific services.
 3. Before the final draw is payable, CONSULTANT must furnish a sworn statement that all sums due for Services, material or labor on the Project have been paid in full. If the COUNTY receives any Notice to Owner on this Project then in addition to the requirements set forth above, CONSULTANT shall at the time of each draw furnish a partial waiver of lien from all sub-consultants, material or labor providers, and at the time of the final draw shall furnish a final waiver of the lien for each such sub-consultant, material or labor provider as a condition precedent to receiving any payment from the COUNTY.

VII. LIABILITY OF CONSULTANT

CONSULTANT, its officers, agents and members agree to indemnify and hold harmless the COUNTY, its officers, agents, volunteers and employees from any and all liabilities, damages, losses and costs, suits and actions, including, but not limited to, liens, judgments and reasonable attorney's fees, to the extent caused by the negligence, recklessness omission, or intentionally wrongful conduct of the CONSULTANT its officers, agents and members and other persons employed or utilized by the CONSULTANT in the performance of the Agreement. This Indemnification and Hold Harmless Agreement shall survive the termination or expiration of this Agreement.

VIII. INSURANCE

- A. Before performing any services, the CONSULTANT shall procure and maintain, during the life of the Agreement, unless otherwise specified the insurance coverage listed below. The policies of insurance shall be primary and written on forms acceptable to the COUNTY and placed with insurance carriers approved and licensed by the Florida Insurance Department and meet a minimum financial AM Best and Company rating of no less than "Excellent": VII. No changes are to be made to these specifications without prior written specific approval by the COUNTY'S Risk Manager.

WORKERS COMPENSATION: CONSULTANT will provide Workers Compensation Insurance, on behalf of all employees who are to provide a service under this Agreement as required under Florida Laws, Chapter 440. Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident,

\$500,000 each employee, \$500,000 policy limit for disease.

COMMERCIAL GENERAL LIABILITY – OCCURRENCE FORM

REQUIRED:

CONSULTANT shall maintain Commercial General Liability (CGL) Insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location/project in the amount of \$2,000,000. Products and completed operations aggregate shall be \$2,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x. c, u) exposures, personal injury and advertising injury.

COMMERCIAL AUTOMOBILE LIABILITY INSURANCE:

CONSULTANT shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos). The policy shall be endorsed to provide contractual liability coverage.

PROFESSIONAL LIABILITY (Errors & Omissions Insurance)

CONSULTANT shall maintain professional liability errors and omissions coverage in the amount of \$ 1,000,000.

EVIDENCE OF INSURANCE:

CONSULTANT shall furnish the COUNTY with Certificates of Insurance signed by a person authorized by that insurer to bind coverage on its behalf. DeSoto County, a political subdivision of the State of Florida, its officers, agents, employees, and volunteers are to be included as an additional Insured on both the Comprehensive General Liability and Comprehensive Automobile Liability. DeSoto County to be named insured as DeSoto County Board of County Commissioners. Insurance policies meeting the requirements herein identified shall be maintained during the duration of the Project. In the event the insurance coverage expires or is canceled prior to the completion of the Project, a new or renewal certificate shall be issued 30-days prior to said expiration date or immediately upon cancellation. All policy shall include a 30-day notification clause in the event of cancellation or modification to the policy. All Certificates of Insurance must be on file with and approved by the COUNTY before the commencement of any Work activities.

B. POLICY FORM

1. All policies required by this Agreement, with the exception of

Professional Liability and Workers Compensation, or unless specific approval is given by the COUNTY'S Risk Manager shall be written on an occurrence basis, shall agree to waive all rights of subrogation against DeSoto County, its Commissioners, Officers, Agents, Employees and Volunteers.

2. Insurance required in this Agreement of the CONSULTANT, shall be provided by or in behalf of all sub-consultants to cover their operations performed under this Agreement. The CONSULTANT shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to sub-consultants.
3. Each insurance policy required by this Agreement shall apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability. The COUNTY shall retain the right to review, at any time, coverage, form, and amount of insurance. The procuring of required policies of insurance shall not be construed to limit the CONSULTANT'S liability nor fulfill the indemnification provisions and requirements of the Agreement. The CONSULTANT shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the COUNTY is an insured under the policy.
4. Claims made policies will be accepted for professional and hazardous materials and such other risks as are authorized by COUNTY Risk Management. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of two-(2) years if at all possible but not less than sixty-(60) days.
5. Certificates of Insurance evidencing Claims Made or Occurrence form coverage and conditions to this Agreement, as well as the contract number and description of work, are to be furnished to the COUNTY'S Risk Manager (201 East Oak Street, Suite 201, Arcadia, FL 34266) prior to commencement of Work.
6. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Agreement, shall be provided to the CONSULTANT'S insurance company and COUNTY Risk Management as soon as practicable after notice to the insured.

IX. TERMS FOR COMPLIANCE WITH FEDERAL AID CONTRACTS
(APPENDIX I):

The following terms apply to this Agreement since payment for the services involve the expenditure of Federal Funds:

- A. It is understood and agreed that all rights of the Florida Department of Transportation, an agent for the US Department of Transportation, relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans specifications, maps data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of U.S.D.O.T., anything to the contrary in this Agreement notwithstanding.
- C. **COMPLIANCE WITH REGULATIONS:** The CONSULTANT shall comply with the regulations of the U.S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulation, Part 21, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the Agreement.
- D. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed after award and prior to completion of the services, will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of sub-consultants, including procurements of material, and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the program set forth in Appendix B of the Regulations.
- E. **SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations made by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential sub-consultant, supplier or lessor shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color religion, sex or national origin.
- F. **INFORMATION AND REPORTS:** The CONSULTANT will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books,

records, accounts, other sources of information, and its facilities as may be determined by the Department or U.S. Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall certify to the Department, or the U.S. Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.

- G. **SANCTIONS OF NONCOMPLIANCE:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this Agreement, the State of Florida Department of Transportation shall impose such contract sanctions as it or the U.S. Department of Transportation may determine to be appropriate, including but not limited to:
1. withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies and/or
 2. cancellation, termination or suspensions of the Agreement, in whole or in part.
- H. **INCORPORATION OR PROVISIONS:** The CONSULTANT will include the provisions of Paragraph A through H in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions issued pursuant thereto. The CONSULTANT will take such action with respect to any subcontract or procurement as the State of Florida Department of Transportation or the U.S. Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a Sub-consultant or supplier as a result of such direction, the CONSULTANT may request the State to enter into such litigation to protect the interests of the State, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
- I. **INTEREST OF MEMBERS OF CONGRESS:** No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising there from.
- J. **INTEREST OF PUBLIC OFFICIALS:** No member, officer, or employee of the public body or of a local public body during his/her tenure or for one year thereafter shall be any interest, direct or indirect, in this Agreement or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States, and public

corporations, boards, and commissions established under the laws of any State.

- K. PARTICIPATION BY MINORITY BUSINESS ENTERPRISES: The CONSULTANT shall agree to abide by statements in Paragraph (1) and (2) which follow. These statements shall be included in all subsequent Agreements between the CONSULTANT and any Sub-consultant or CONSULTANT.
1. POLICY: It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of agreements financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.”
 2. MINORITY BUSINESS ENTERPRISES OBLIGATION: The recipient or its CONSULTANT agrees to ensure that Minority Business Enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of agreements and subcontracts financed in whole or in part with Federal Funds provided under this Agreement. In this regard, all recipients or CONSULTANTS shall take all necessary and reasonable steps in accordance with 49 CFR Part 23, have the maximum opportunity to participate in the performance of agreements and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all recipients or CONSULTANT’S shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that Minority Business Enterprises have the maximum opportunity to compete for and perform agreements. Recipients and their CONSULTANTS shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted agreements.”
- L. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.
- M. It is understood and agreed that if the CONSULTANT at any time learns that the Certification it provided the COUNTY in compliance with 49CFR, Section 23.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the CONSULTANT shall provide immediate written notice to the Department. It is further agreed that the

clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction" as set for in 49 CFR, Section 29.510, shall be included by the CONSULTANT in all lower tier covered transactions and in all aforementioned Federal Regulations.

N. The COUNTY hereby certifies that neither the CONSULTANT nor the CONSULTANT'S representative has been required by the COUNTY, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

1. employ or retain, or agree to employ or retain, any firm or person, or
2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The COUNTY further acknowledges that this Agreement will be furnished to the Florida Department of Transportation, in connection with this Agreement involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

O. The Consultant hereby certified that it has not:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above Consultant) to solicit or secure this Agreement;
2. agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out this Agreement; or
3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above Consultant) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement.

The Consultant further acknowledges that this Agreement will be furnished to the State of Florida Department of Transportation and a Federal Agency in connection with this Agreement involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

X. OWNERSHIP AND USE OF DOCUMENTS

The documents, or reproducible copies, including reports, designs, specifications, notebooks, tracings, photographs, negatives, findings, data, memoranda and other documents developed by the CONSULTANT in connection with its Services

shall be delivered to, and shall become the property of the COUNTY as they are received by the COUNTY. The CONSULTANT hereby assigns all its copyright and other proprietary interests in the products of this Agreement to the COUNTY. Specific written authority is required from the COUNTY'S Administrative Agent for the CONSULTANT to use or disclose any of the work products of this Agreement on any non-COUNTY project.

XI. TIMELY PERFORMANCE OF CONSULTANTS PERSONNEL

The timely performance and completion of the required Services is vitally important to the interest of the COUNTY. The CONSULTANT shall assign a Project Manager, together with such other personnel as are necessary to assure faithful prosecution and timely delivery of Services pursuant to the requirements of this Agreement. The personnel assigned by the CONSULTANT to perform the Services of this Agreement, shall comply with the information presented in the Professional Services Response Proposal made a part hereof by reference. The CONSULTANT shall ensure that all key personnel, support personnel, and other agents are fully qualified and capable to perform their assigned tasks. Any change or substitution to the CONSULTANT'S key personnel must receive the COUNTY'S Administrative Agent's written approval before said changes or substitution can become effective.

- A. The Services to be rendered by the CONSULTANT shall commence within ten days of the CONSULTANT'S receipt of written Notice to Proceed from the COUNTY'S Administrative Agent.
- B. The CONSULTANT specifically agrees that all Work performed under the terms and conditions of this Agreement shall be completed within the time limits as set forth in Section III of this Agreement, subject only to delays caused through no fault of the CONSULTANT or the COUNTY. Time is of the essence in the performance of this Agreement. CONSULTANT shall not be entitled to any claim for damages including loss of profits, loss of use, overhead expenses, equipment rental, etc. because of hindrances or delays for any cause whatsoever, whether or not occasioned by an act of God, or by any act or omission on the part of the COUNTY. COUNTY'S agents or governmental agencies having jurisdiction which hinder or delay may entitle CONSULTANT to an extension of time in which to complete the Work, which shall be determined by the COUNTY, provided that the CONSULTANT will give written notice within two weeks as provided herein of the cause of such act, hindrance or delay. An extension of Time shall be the CONSULTANT'S sole and exclusive remedy for all claims for delay, including delays attributable to breach of the Agreement or tort. However, the Time shall not be extended past the completion date stipulated in any grant agreement executed by the COUNTY. If any emergency or natural disaster causes delay or interference with the use or delivery of the Services, the COUNTY reserves the right to cure from other sources any services during any suspension of delivery.
- C. The CONSULTANT agrees to provide to the COUNTY'S Administrative

Agent as defined herein, monthly written progress reports concerning the status of the Project if requested. The COUNTY'S Administrative Agent may determine the format for this progress report. The COUNTY shall be entitled at all times to be advised at its request, and in writing, as to the status of Work performed by the CONSULTANT. The CONSULTANT, upon request, will include a Project Schedule update with all written progress reports.

- D. In the event unreasonable delays occur on the part of the COUNTY or regulatory agencies as to the approval of any plans, permits, reports or other documents submitted by the CONSULTANT which delay the Project Schedule completion date, the COUNTY'S Administrative Agent shall not unreasonably withhold the granting of an extension of the Project Time limitation equal to the aforementioned delay.

XII. PERSONAL SERVICES; ASSIGNMENT

The Work and Services provided for herein shall be performed by the CONSULTANT, and no other person shall be engaged upon such work or services by the CONSULTANT except upon the written approval of the COUNTY, provided, however that this provision shall not apply to secretarial, clerical or other similar incidental services needed to assist the CONSULTANT in performance of this Agreement. The CONSULTANT shall not hire DeSoto County Board of County Commissioners' employees to perform any portion of the Work or Services provided for herein. Neither this Agreement nor any interest or claims hereunder shall be assigned or transferred by the CONSULTANT to any party or parties, except with the written consent of the COUNTY.

CONSULTANT agrees that no more than 75% of the dollar value of the Work shall be performed by any sub-consultant(s). CONSULTANT shall advise COUNTY of the identity of sub-consultant(s) performing Work prior to the sub-consultant(s) beginning any Work.

XIII. TERMINATION FOR DEFAULT

The COUNTY shall be the sole judge of nonperformance, which shall include any failure on the part of the CONSULTANT to accept the award, to furnish required documents, and/or to fulfill any portion of this Agreement within the time stipulated.

Upon default by the CONSULTANT to meet any term of this Agreement or related Exhibit, the COUNTY will notify the CONSULTANT, providing three (3) days (weekends and holidays excluded) to advise the COUNTY of its plan for corrective action to remedy the default. The corrective action plan must be accepted by the County Engineer. Failure on the CONSULTANT'S part to correct the default within the approved time period shall result in the Agreement being terminated and the COUNTY notifying in writing the CONSULTANT of the effective date of the termination. The following shall constitute an act of default:

1. Failure to perform the Work required under the Agreement and/or within the time required or failing to use the sub-consultants, entities, and personnel as identified and set forth, and to the degree specified in the Agreement.
2. Failure to begin the Work under this Agreement within the time specified.
3. Failure to perform the Work with sufficient workers to ensure timely completion.
4. Neglecting or refusing to correct Work where prior work has been rejected as nonconforming with the terms of the Agreement.
5. Becoming insolvent, being declared bankrupt by a US Bankruptcy Court, renders the successful firm incapable of performing the Work in accordance with and as required by the Agreement.
6. Failure to comply with any of the terms of the Agreement.
7. Failure to pay sub-consultants or others pursuant to Work done under this Agreement.

In the event of default, the CONSULTANT shall pay any damages sustained by the COUNTY including attorney's fees and court costs incurred in collecting any damages. Title to all materials, work-in-progress, and completed but undelivered goods will pass to the COUNTY after costs are claimed and allowed. All documents prepared by the CONSULTANT in connection with this Agreement will be the property of the COUNTY.

The County Engineer shall authorize payment to the CONSULTANT, the costs and expenses for Work performed by the CONSULTANT prior to receipt of the Notice of Termination; however, the COUNTY may withhold from amounts due the CONSULTANT such sums as the Administrative Services Director deems to be necessary to protect the COUNTY against loss caused by the CONSULTANT because of the default.

XIV. TERMINATION FOR CONVENIENCE

- A. The COUNTY reserves the right to cancel this Agreement by written notice to the CONSULTANT effective the date specified in the notice, for any of the following reasons:
 1. The COUNTY has determined that such cancellation will be in the best interest of the COUNTY to cancel the Agreement for its own convenience.

2. Funds are not available to cover the cost of the Services. The COUNTY'S obligation is contingent upon the availability of appropriate funds.

The Purchasing Manager shall give written notice of the termination to the CONSULTANT specifying the reason for the Agreement termination and when termination becomes effective.

The CONSULTANT shall incur no further obligations in connection with the terminated Work and on the date set in the Notice of Termination the CONSULTANT will stop Work to the extent specified.

The COUNTY shall pay the CONSULTANT under following conditions:

1. All costs and expenses incurred by the CONSULTANT for Work accepted by the COUNTY prior to the CONSULTANT'S receipt of the Notice of Termination.
2. Anticipatory profit for work and services not performed by the CONSULTANT shall not be allowed.

If, after Notice of Termination of the CONSULTANT'S right to proceed under the provisions of this clause, it is determined for any reason that the CONSULTANT was not in default under the provisions of the Agreement, the COUNTY may at its option, agree to reinstate the Agreement allowing for project completion.

Neither the COUNTY nor CONSULTANT shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to uncontrollable forces, the effect of which, by the exercise of reasonable diligence the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage and governmental actions.

Neither party shall, however be excused from performance if non-performance is due to forces, which are preventable, removable, or remediable, and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the

obligations under this Agreement.

- B. Loss of Funding. This Agreement shall remain in full force and effect only as long as receipt of LAP grant funding provided for in the Agreement have been appropriated by the County Commissioners of DeSoto County in the annual budget for each fiscal year of this Agreement. The Agreement is subject to termination based on a lack of LAP funding.
- C. Convenience. The COUNTY reserves the right to cancel this Agreement if the cancellation is in the best interest of the COUNTY for its own convenience.
- D. In addition to termination, if during the term of the Agreement, the CONSULTANT should refuse or otherwise fail to perform any of its obligations under the Agreement, the COUNTY reserves the right to: 1) obtain the services from another CONSULTANT, and/or 2) suspend the CONSULTANT from bidding for a period of twenty-four (24) months on other COUNTY Solicitation or Requests for Proposals. In the event the COUNTY has not terminated the Agreement and there remains a dispute with the CONSULTANT, the CONSULTANT agrees at the COUNTY'S request to continue to operate and perform under the terms of the Agreement while such dispute is pending and further agrees that, in the event a suit is filed for injunction or other relief, it will continue to operate until the final adjudication of the suit by the County unless otherwise requested by the COUNTY.

XV. MISCELLANEOUS

- A. This Agreement constitutes the sole and complete understanding between the parties and supersedes all agreements between them, whether oral or written with respect to the subject matter. No amendment, change or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. For any material change in the Scope of Services or any increase in the compensation for the services, the Board of County Commissioners for the COUNTY and the duly authorized representative for the CONSULTANT shall agree in writing to this change. All changes shall be in accordance with the requirement of the DeSoto County Procurement Policy.
- B. Any reference to a specific chapter of the Florida Statutes in this Agreement shall incorporate that law by reference and made a part of this Agreement.
- C. The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law. The rights and obligations of the parties under this Agreement shall be governed by the laws of the

State of Florida and the venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in DeSoto County, Florida. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

- D. The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.
- E. Any notices, invoices, reports, or any other type of documentation required by this Agreement shall be sufficient if personally delivered or sent by the parties via United States certified mail, postage paid, to the addresses listed below:

TO THE COUNTY:

Jan Brewer, County Administrator
DeSoto County Board of County Commissioners
201 E. Oak Street, Suite 201
Arcadia, Florida 34266

With a copy to

Nancy Stuparich, County Attorney
Desoto County Board of County Commissioners
201 E. Oak Street, Suite 201
Arcadia, Florida 34266

TO THE CONSULTANT:

With a copy to:

- F. The CONSULTANT shall keep books, records, and accounts of all activities related to the performance of this Agreement in compliance with generally accepted accounting procedures. All document, papers, books,

records, and accounts made or received by the CONSULTANT in conjunction with the Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY, the Florida Department of Transportation and the U.S. Department of Transportation.

- G. It is possible that during the course of and subsequent to the termination of this Agreement, the CONSULTANT may desire to publish certain results of scientific, technical or general interest study originating under or existing by virtue of this Agreement in, or by means of journals, magazines, newspapers, radio broadcasts, or other media of communication. The CONSULTANT shall not, without the written approval of the COUNTY, disclose to others, publish or authorize anyone to publish any technical or confidential information acquired in the course of doing Work or rendering services under this Agreement unless required by Chapter 119, Florida Statutes.
- H. Captions and paragraphs are added for the mere convenience of the parties. Both parties have had an opportunity for legal review prior to signing this document. This Agreement shall not be construed more strictly against the party responsible for the primary drafting of the document.
- I. In the event of litigation, attorney fees, shall be awarded to the prevailing party, including any and all attorney fees incurred by virtue of appellate review

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____, 2010.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
DESOTO COUNTY, FLORIDA**

By: _____

Jan B. Brewer
County Administrator as
Authorized by Sec.2.15(q)
DeSoto County Code of Ordinances

By: _____

Ronald P. Neads
Chairman

BoCC Approved: _____

WITNESSES:

[Contractor Name]

By: _____

Printed Name: _____

Title: _____

Approved as to form and
Legal sufficiency:

Date: _____

Nancy Stuparich
County Attorney

LEGAL LINE AD

REQUEST FOR QUALIFICATIONS Ecological Services for DeSoto and Morgan Park Sidewalk-Multi Use Paths RFQ# 10-04-00

The DeSoto County Board of County Commissioners is requesting proposals from qualified firms and individuals for Ecological Services for a Local Agency Program for DeSoto and Morgan Park Sidewalk-Multi Use Path as described within the context of this Solicitation. Proposals are to be submitted no later than 2:00 p.m. on February 8, 2010 at the DeSoto County Purchasing Department. For more information concerning this Request for Qualifications please call 863-993-4816 or e-mail c.talamantez@desotobocc.com Cindy Talamantez, Purchasing Manager, CPPB

Publish: January 12, 2010

(LEGAL LINE AD)

Charlotte Sun

Bill To:

DeSoto County Purchasing Department
201 East Oak Street, Suite 203
Arcadia, FL 34266

Contact Person:

Jacque Daniels
863-993-4816

PO#

PLEASE CALL OR EMAIL WITH PRICE. THANKS