



*Tampa Hillsborough County Expressway Authority*

**REQUEST FOR PROPOSAL**

**For**

**Operational Back Office System**

**Project Number: T-2325**

**Issued: December 2, 2024**

## **OPERATIONAL BACK OFFICE SYSTEM**

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## 1 ADMINISTRATIVE

### 1.1 INTRODUCTION

The Tampa Hillsborough County Expressway Authority (the “Authority”) has issued this Request for Proposal (RFP) to solicit competitive Proposals from qualified Contractors (the “Proposers”) for an Operational Back Office System (OBOS) Project (the “Project”). The Authority is using a two-phase procurement process commencing with an Expanded Letter of Response (ELOR), followed by submission of Technical and Price Proposals from Proposers who have been shortlisted for further consideration. This process is outlined below in **Section 1.18, Phase 1 – Procurement Process, Section 1.20, Phase 2 – Technical Proposal Contents and Submission** and **Section 1.21, Phase 2 – Price Proposals**.

It is the Authority’s intent to promote the use of innovative System Design concepts, technical details, and state-of-the-art technologies for the new OBOS.

The Authority intends, but is not obligated, to enter into an exclusive agreement with the selected Proposer to perform the Services for the Project as stated in the Contract Documents.

The Authority reserves the right to waive any informality in any submission, to reject any and all submissions or Proposals, to re-advertise or to elect not to proceed with the Project for any reason. All recommendations and decisions regarding the award of the Project shall be made at open public meetings in accordance with the requirements of Florida Statute 286.011, and all interested parties are invited to attend such meetings.

The term “Procurement Documents” includes all documents that are included or referenced in this RFP or provided to Proposers, including without limitation as made applicable to this Solicitation through the RFP (including, but not limited to, the advertisement, the attachments, the exhibits, the Scope of Work and Requirements (Section 4), certifications, Addenda, and the documents, reports, and information referenced in such RFP unless otherwise explicitly stated.

The term “Work” means the services required: by the Procurement Documents, by the executed Contract between the Contractor and the Authority, by the Contractor’s Proposal, and by any Contract Amendments issued after the execution of the Contract, whether completed or partially completed. The “Work” also includes all other labor, materials, Equipment and Services provided or to be provided by the Contractor for the proper execution and completion of the Contractor’s obligations.

The term “Contract Documents” includes the executed Contract between the Authority and the Contractor including all Addenda, attachments, exhibits and appendices thereto, any supplemental agreements, Contract Amendments, Deliverables, and all provisions required by law to be inserted in the Contract, whether actually inserted or not.

The Proposer must inform itself fully of the requirements under which the Work is to be performed. Proposers shall examine the Procurement Documents carefully before submitting an ELOR package and Proposal. Proposers must adhere to the requirements of all Contract Documents and Procurement Documents, and the Proposer’s Proposals.

Proposers understand that any information that has been provided by the Authority is to assist the Proposer in evaluating the Requirements for the Project and informing itself of the Work required of the Project. Drawings, schematics, reports and/or any other documents provided by the Authority are provided for information only to the Proposer, and the Authority makes no guarantee of the accuracy or completeness of such information.

In addition, by submitting an ELOR package and Proposal, the Proposer certifies that it has investigated and is fully informed of the Work Requirements, of the character, quality and quantities of Work to be performed and materials to be furnished and has included in its Submittals all items necessary for the proper execution and completion of the Work. The Proposer shall be responsible for obtaining all information that it considers necessary for the purpose of preparing and submitting its ELOR package and Proposal. The successful Proposer shall not be



relieved of its obligation to furnish all material, Equipment, labor, and Services necessary to carry out the provisions of the Contract Documents, and to complete the Work for the consideration set forth in its ELOR package and Proposals by reason of having failed to inform itself with respect to those matters. By responding to this Solicitation, the Proposer represents to the Authority that if its ELOR package and Proposal is accepted, it will execute a Contract that is inclusive of compensation for performing the Work in accordance with the Procurement Documents, including but not limited to this RFP, and the existing Authority records and Reference Documents to sufficiently support the Design developed by the Proposer.

### **1.1.1 BACKGROUND AND PURPOSE**

As an independent agency of the state, the Authority owns, maintains, and operates four facilities within Hillsborough County: the Selmon Expressway, the Brandon Parkway, Meridian Avenue, and the Selmon Greenway. The Authority currently contracts with a provider to operate and maintain both a legacy Tolling Operational Back Office System (TOBS) and a legacy roadside toll system for all toll facilities.

The legacy roadside toll system lanes capture and collect toll Transactions on all the Authority's toll facilities and interfaces to the legacy TOBS, which is utilized for Transaction aggregation and processing to external interfaces like the Florida's Turnpike Enterprise (FTE) Centralized Customer Service System (CCSS), the Authority's collection agency and the Florida Department of Highway Safety and Motor Vehicles (FLHSMV). The legacy TOBS also provides the Authority functionality for reporting, Dashboarding and Transaction research.

The purpose of this Solicitation is to procure a new OBOS to replace the legacy TOBS.

### **1.1.2 DESCRIPTION OF WORK**

The following is a general description of the Work to be performed under the Contract.

The primary function of the new OBOS, similar to the legacy TOBS, is to act as the Authority's System of record, tracking a Transaction from its initiation in the roadside toll system to its final disposition and providing business intelligence tools to report on all of the Authority's toll Transactions. Concurrent with the implementation of the new OBOS, the Authority is also procuring a new Roadside Toll Collection System (RTCS) to replace the legacy roadside system lanes. The new OBOS will receive and validate Transactions from the existing Roadside Toll Collection System and new RTCS and send them to the Florida Turnpike Enterprise's Commercial Back Office System (CBOS), known as the CCSS, where the Transactions are either applied to prepaid accounts or processed as customer invoices. As the Transactions move through the CCSS process, the CCSS provides Amendments to the OBOS which clarify the status of the Transaction. If the CCSS is unsuccessful in either assigning the Transaction to a prepaid account or receiving payment on the Transaction via a customer invoice, the unpaid Transaction is sent back to OBOS. Unpaid Transactions returned from the CCSS may be referred to the Authority's contracted collection agency and a Registration Stop may be placed on the vehicle, if registered in Florida, via a communication to FLHSMV.

The Authority is interested in soliciting Proposals from Proposers that can provide a state-of-the-art OBOS solution that is technically and operationally efficient and cost-effective with a modular, scalable architecture, utilizing proven commercial-off-the-shelf (COTS) products, where appropriate, capable of achieving all Requirements as further set forth in this Solicitation. The solicitation also includes the Maintenance and operation of the procured system.

With this Solicitation, Proposers are requested to propose a technical solution and architecture (e.g. Cloud-based, On-premises, or a mix of both) that best meets the Authority's Requirements outlined in the Procurement Documents. To this end, each Proposer shall describe their technical approach and solutions in accordance with the instructions outlined in this procurement document.

### **1.1.2.1 SUMMARY OF PROJECT PHASES**

The selected Contractor shall perform all planning, Design, development, testing and installation Services, and complete and receive the Authority's Approval on all corresponding Submittals and Deliverables required in Section 4, Scope of Work and Requirements for the Design and Implementation Phase. The Design and Implementation Phase shall begin at Notice to Proceed (NTP) and shall be complete upon System Acceptance as further defined in this Request for Proposals.

The Contractor's Operations and Maintenance Phase responsibilities shall begin upon Go-Live, and shall continue until the expiration of the Contract. Commencement of this phase shall not relieve the Contractor of any of its responsibilities to complete all Requirements and the Scope of Work of the Design and Implementation Phase and does not waive any of the rights of the Authority in this regard. The Operations and Maintenance Phase may be extended in accordance with Section 3.1.2 Contract Term, at the sole discretion of the Authority.

### **1.1.3 TIME FOR COMPLETION**

If delivered an executed Contract and Notice to Proceed for the Project, the Contractor shall proceed with the Work in accordance with the Approved, Baseline Project Schedule and within the Contract time periods specified in the Contract Documents.

- Commencing from the issuance of the Notice to Proceed, the Contractor has five hundred and twenty (520) Calendar Days to complete Project milestones one (1) through nine (9), as defined in these Procurement Documents. This includes successful, and Authority Approved, completion of the External Interface Tests, OBOS Factory Acceptance Test, Operational Readiness and User Acceptance Test, Security and Penetration Test and the Disaster Recovery Test.

Within **Section 3.1.3, Project Incentives and Liquidated Damages**, the Authority has outlined incentives and liquidated damages associated with meeting the completion of milestones 1 through 9 and all predecessor tasks.

### **1.1.4 RFP INQUIRIES / NOTICES AND CONTACT PERSON**

From the date of the Advertisement until a Notice of ~~Award~~ Decision is posted, all communications (except for communications at the pre-proposal meeting, or as otherwise explicitly stated in the Procurement Documents) relating to this procurement regarding requests for interpretation, clarification or questions about the procurement process or the Project **must be in writing** addressed to the Authority's Contracts and Procurement Manager at the following email address: **Procurement@tampa-xway.com**.

Proposers shall use the form provided in **Exhibit C, Form C-7** to submit all questions to be addressed by the Authority.

The Authority will provide two (2) separate question and answer periods related to this procurement, as such: the first will be available to all potential Proposers that opens upon release of the RFP and concludes prior to submission of ELOR packages, and the second opens after Proposer shortlisting and concludes prior to submission of Technical Proposals. The second round of questions will only be open to those Proposers that are shortlisted by the Authority.

To be considered, such requests must be received no later than the date and time stated for the **Deadline for all Proposers to Submit Questions to the Authority** referenced in **Section 1.2.3, Current Schedule of Events**. The Authority shall not respond to any Proposer questions after the deadline has passed.

Any interpretations, clarifications or changes to the Procurement Documents considered necessary by the Authority will only be made in writing by Addenda posted in accordance with **Section 1.3.7, Right to Amend and Addenda**.

### 1.1.5 COST INCURRED RESPONSIBILITY

All costs incurred by any interested party in responding to this RFP and participating in this solicitation shall be borne by such interested party. The Authority shall have no responsibility whatsoever for any associated direct or indirect costs, damages, or liabilities.

The Authority will not have stipend awards for this procurement.

## 1.2 OBTAINING THE PROCUREMENT DOCUMENTS AND SCHEDULE OF EVENTS

### 1.2.1 OBTAINING THE PROCUREMENT DOCUMENTS

The complete RFP (including attachments, appendices, exhibits and forms) for this Project is available on the Authority's website at <https://www.tampa-xway.com/doing-business/procurement/> and on DemandStar at <https://network.demandstar.com/> at no cost to the Proposer.

Exhibits noted as being provided to shortlisted Proposers shall be provided by the Authority via a OneDrive File Share after posting of the Board Approval of Shortlist on the date and time provided in **Table 1-1 Schedule of Events**.

~~Please contact the Procurement Office at [Procurement@tampa-xway.com](mailto:Procurement@tampa-xway.com) to request your link.~~

~~To be considered and receive details regarding the use of OneDrive, Proposers must contact the Authority's procurement office at [Procurement@tampa-xway.com](mailto:Procurement@tampa-xway.com) to inform the Authority of their intent to respond to this Solicitation. Once received, the Authority will setup a OneDrive folder for the shortlisted Proposer's to use in to uploading submittals- Technical and Price Proposals to the Authority. The Authority shall share OneDrive information with shortlisted Proposers after the Authority's Board approves shortlisted Proposers.~~

### 1.2.2 INFORMATION POSTING

It is the responsibility of all prospective Proposers interested in responding to this RFP to monitor the Authority's website at <https://www.tampa-xway.com/doing-business/procurement/> and on DemandStar at <https://network.demandstar.com/>, throughout the entire procurement process, for any revisions, question responses, Addenda, and changes to schedule and announcements related to this RFP.

### 1.2.3 CURRENT SCHEDULE OF EVENTS

The selection process will adhere to the following schedule. All times given are Eastern Standard Time.

The Authority reserves the right to make changes or alterations to the schedule as the Authority determines is in its best interests.

Unless otherwise notified in writing by the Authority, the dates, times and locations indicated below for submission of items or for other actions on the part of a Proposer shall constitute absolute deadlines for those activities, and failure to fully comply by the dates and times stated shall cause a Proposer's submittals to be rejected and disqualified from further consideration.

**Table 1-1: Schedule of Events**

Date and Time (all times Eastern)	Description	Location
12/2/2024 by 5:00 pm	Advertisement Published	Authority Website and DemandStar
12/18/2024 @ 9:00 am	Mandatory, Pre-Proposal Meeting	<u>In-person attendance:</u> Authority’s Office: 1104 East Twiggs Street Tampa, Florida 33602.
1/6/2025 by 5:00 pm	Deadline for Proposers to Submit Round 1 Questions to the Authority	Email to <b>Procurement@tampa-xway.com</b>
1/20/2025 by 5:00 pm	Deadline for the Authority to Respond to Proposer Round 1 Questions	Authority Website and DemandStar
1/30/2025 by 12:00 pm	Deadline for Submitting Expanded Letters of Response (ELOR) Packages	<del>Uploaded to Proposer’s assigned OneDrive folder to be provided by the Authority. Email to</del> <u><b>Procurement@tampa-xway.com</b></u>
2/13/2025 by 12:00 pm	Deadline for Evaluation Committee to Submit Scoring to Procurement Office	Email to <b>Procurement@tampa-xway.com</b>
2/18/2025 @ 10:00 am	Evaluation Committee Meets to Confirm Scoring and Recommend Proposers for Shortlisting	In-person Meeting Authority’s Office: 1104 East Twiggs Street, Suite 300 Tampa, Florida 33602.
2/19/2025 by 5:00 pm	Posting of Notice of Intended Shortlist	Authority Website and DemandStar
2/24/2025 @ 1:30 pm	Board Approval of Shortlist	Authority’s Office: Authority Board Room 1101 E. Twiggs Street Tampa, FL 33602
2/25/2025	Authority Procurement Office Contacts Shortlisted Proposers	Notification Sent to Proposer’s Email Address
3/4/2025 by 12:00 pm	Deadline for Proposers to Submit Round 2 Questions to the Authority	<del>Uploaded to Proposer’s assigned OneDrive folder to be provided by the Authority. Email to</del> <u><b>Procurement@tampa-xway.com</b></u>
3/18/2025 by 5:00 pm	Deadline for the Authority to Respond to Proposer Round 2 Questions	Authority Website and DemandStar
4/2/2025 by 12:00 pm	Deadline for Technical and Price Proposals	Uploaded to Proposer’s assigned

Date and Time (all times Eastern)	Description	Location
		OneDrive folder to be provided by the Authority.
4/9/2025	Notice of Invitation to Demonstration and Interview	Notification Sent to Proposer’s Email Address
4/21/2025 – 4/24/2025	Demonstration and Interview	In-person Meeting Authority’s Office: 1104 East Twiggs Street Tampa, Florida 33602.
5/12/2025 by 12:00 pm	Deadline for Evaluation Committee to Submit Scoring to Procurement Office	Email to <b>Procurement@tampaxway.com</b>
5/15/2025 @ 1:30 pm	Evaluation Committee Meets to Confirm Scoring, Open Price Proposals and Determine Ranking	In-person Meeting Authority’s Office: 1104 East Twiggs Street, Suite 300 Tampa, Florida 33602.
5/16/2025 by 5:00 pm	Posting of Notice of Intended Final Ranking	Authority Website and DemandStar
5/19/2025 @ 1:30 pm	Board Approval of Final Ranking and Award of Contract	Authority’s Office: Authority Board Room 1101 E. Twiggs Street Tampa, FL 33602
5/20/2025 by 5:00 pm	Posting of <del>Final Ranking</del> <u>Notice of Decision</u>	Authority Website and DemandStar

## 1.3 PROCUREMENT-RELATED MEETINGS, DETAILS, NOTICES, AND OTHER IMPORTANT INFORMATION AND REQUIREMENTS

### 1.3.1 PRE-PROPOSAL MEETING

The pre-proposal meeting is **mandatory** for all potential Proposers to this RFP. Interested, potential Proposers must attend the pre-proposal meeting in person at the Authority's office located at 1104 East Twiggs Street Tampa, Florida 33602. Any potential Proposer failing to attend the pre-proposal meeting will be eliminated from consideration. The Authority representative convening the pre-proposal meeting will provide an attendee sign-in sheet at the beginning of the meeting for those in attendance. All potential Proposers must be present and signed in prior to the start of the meeting. Any Proposer not signed in at the start of the meeting may be considered late and, at the Authority's sole discretion, may not be allowed to respond to the RFP.

The intent of the pre-proposal meeting is for the Authority and its consultant team to introduce the Project, describe the procurement process, review instructions for submitting an ELOR package and Proposal, and discuss other relevant topics related to the procurement.

The pre-proposal meeting will allow attendees to ask questions relative to any information provided by the Authority during the meeting. The Authority may choose to answer questions verbally during the pre-proposal meeting or follow up with a formal answer to any question(s) by Addendum. No oral representations or discussions, which take place at the pre-proposal meeting will be binding on the Authority. Proposers shall direct all other questions to the Authority's procurement email address (**Procurement@tampa-xway.com**) utilizing the form provided in **Exhibit C, Form C-7**.

### 1.3.2 NON-RESPONSIVE ELOR PACKAGES AND PROPOSALS

ELOR packages and Proposals found to be non-responsive shall not be considered. ELOR packages and Proposals may be rejected if found to be in nonconformance with the requirements and instructions contained in this RFP. ELOR packages and Proposals may be found to be non-responsive by reasons, including, but not limited to, any omissions, failure to utilize or complete prescribed forms, alterations of a prescribed form, conditional ELOR packages or Proposals, incomplete ELOR packages and Proposals, indefinite or ambiguous ELOR packages and Proposals, failure to meet deadlines and improper and/or undated signatures.

Other conditions which may cause rejection of ELOR packages and Proposals include evidence of collusion among Proposers, obvious lack of experience or expertise to perform the required Work, submission of more than one ELOR package or Proposal for the same Work from an individual, Contractor, joint venture, or corporation under the same or a different name, failure to perform or meet financial obligations on previous contracts, employment of unauthorized aliens in violation of Section 274A (e) of the Immigration and Nationalization Act, or in the event an individual, Contractor, partnership, or corporation is on the United States Authority of Labor's Office of Federal Contract Compliance Programs (OFCCP) Debarred Companies list, or otherwise debarred or suspended from participating in publicly procured projects.

**Note:** While an entity (e.g. individuals, Contractors, or corporations) are not allowed to submit more than one ELOR package or Proposal for the same Work under the same or different name, an entity may be a Subcontractor on more than one ELOR package or Proposal.

ELOR packages and Proposals may also be rejected if not received on or before the date and time specified as the due date for submission.

Any ELOR package or Proposal submitted by a Proposer that did not sign-in at the mandatory pre-proposal meeting may be deemed non-responsive. In addition, the Authority reserves the right to reject for any reason and without liability, in its sole discretion, any and all Proposals at any time prior to full execution of a Contract and delivery of same to the Proposer.

### **1.3.3 NO TENTATIVE OR QUALIFIED STATEMENTS OR COMMITMENTS WILL BE RECOGNIZED**

The Authority will not consider tentative or qualified commitments in ELOR packages or Technical Proposals. For example, the Authority will not consider phrases such as “we may” or “we are considering” in the evaluation process for the reason that they do not indicate a firm commitment.

### **1.3.4 WAIVER OF IRREGULARITIES**

The Authority reserves the right to waive any informalities, technicalities, abnormalities and irregularities in an ELOR package, Technical Proposal or Price Proposal and to accept the ELOR package, Technical Proposal or Price Proposal which, in the Authority's sole judgment, is in the Authority's best interests.

The Authority reserves the right to request additional or missing information and make corrections to an ELOR package, Technical Proposal or Price Proposal, upon request by a Proposer, and to waive any irregularities in any ELOR package, Technical Proposal or Price Proposal, to reject any or all ELOR packages, Technical Proposals or Price Proposals, to re-advertise the Project or elect not to proceed with the Project.

### **1.3.5 WITHDRAWAL OF ELOR PACKAGE OR TECHNICAL AND PRICE PROPOSAL**

Proposers may withdraw previously submitted ELOR packages and/or Technical and Price Proposals at any time prior to the respective ELOR package and/or Technical and Price Proposal due dates. Requests for withdrawal of a submitted ELOR package and/or Technical and Price Proposal shall be in writing and shall be signed in the same manner as the ELOR package and/or Technical and Price Proposal. Electronic signatures are allowed, and Requests for withdrawal must be received prior to the respective date and time ELOR packages and/or Technical and Price Proposals are due. Upon receipt and acceptance of such a request, the entire ELOR package and/or Technical and Price Proposal will ~~be returned to the Proposer and not be~~ considered. No ELOR package and/or Technical and Price Proposal may be withdrawn after it is submitted unless the Proposer adheres to this section. If the Proposer improperly withdraws its Technical and Price Proposal, the Authority may seek recourse against the Price Proposal Guaranty.

### **1.3.6 RIGHT TO CANCEL**

The Authority reserves the right to cancel this RFP if it is determined to be in the best interest of the Authority to do so.

### **1.3.7 RIGHT TO AMEND AND ADDENDA**

The Authority reserves the right to amend, insert, clarify or delete any item in this RFP if it is determined to be in the best interest of the Authority. If it becomes necessary to revise or clarify any part of this RFP, responses or supplemental instructions by the Authority to the Proposers will be in the form of a Letter of Clarification or written Addendum which if issued will be posted to the Authority's website at <https://www.tampa-xway.com/doing-business/procurement/> and on DemandStar at <https://network.demandstar.com/>.

Proposers are responsible for monitoring the Authority's website and Demandstar throughout the entire procurement process. Failure of any Proposers to receive any such Letter of Clarification or Addendum shall not relieve said Proposer from any obligations contained within this Advertisement.

The Authority will not be bound by, and the Proposer shall not rely on, any oral or written communication or representation regarding the RFP Documents, except to the extent that it is contained in an Addendum or Letter of Clarification to these RFP Documents or in the Questions and Answers as posted on the Authority's website. In the case of a conflict between Addenda, the latest Addendum shall apply. All Letters of Clarification and Addendum issued shall become part of the Contract Documents.

Proposers are required to provide acknowledgment of receipt of all Addenda issued to this RFP within both the ELOR package and the Technical Proposal by completing and submitting the form in **Exhibit C, Form C-8**.

### **1.3.8 MATERIALS SUBMITTED BECOME AUTHORITY PROPERTY**

All materials submitted in response to this RFP become the property of the Authority and subject to the Florida Public Records Law (Chapter 119) or other applicable laws. For any information submitted that the Proposer considers to be confidential or exempt or excepted from public disclosure Proposers shall identify information the Proposer considers to be confidential as instructed in **Section 1.3.9, Trade Secrets and Confidential Information**. Failure to properly identify and mark information the Proposer considers to be confidential as required in Section 1.3.9 will result in all information received being deemed non-confidential, non-proprietary, and in the public domain.

All presentations/interviews (if held) for this procurement will be conducted pursuant to Chapter 286, Florida Statutes, including Section 286.0113, Florida Statutes.

### **1.3.9 TRADE SECRETS AND CONFIDENTIAL INFORMATION**

The Authority may maintain confidential information, including any designated as trade secrets or otherwise proprietary, only in accordance applicable to Federal and State laws or regulations. The Authority, therefore, expects that Proposers will keep confidential information designations to a minimum.

A Proposer, having formed a good faith opinion, upon consultation with legal or other knowledgeable advisors that information submitted in an ELOR package, Technical Proposal or Price Proposal may contain records or other information that are not required to be disclosed by the Authority by the Florida Public Records Law pursuant to Chapter 119, may so designate appropriate portions of its Proposal by marking the top and bottom of pages containing confidential information in boldface type “CONFIDENTIAL.” However, labeling information provided in documents as “proprietary” or “confidential” or any other designation of restricted use shall not protect information from release if required or deemed appropriate by the Authority under applicable policies, opening meeting laws, or public records laws, see Chapters 119 and 286, Florida Statutes. Note: Special Submission requirements are set out for financial information in Section 1.18.4.1.E (Proposer Financial Information). The Authority serves only as a records custodian of information submitted by a Proposer. The Authority shall not provide legal opinions, nor act as an arbiter or defender of any claims related to assertions of confidential information. If a request is made for disclosure of records or information submitted, or an action is brought to compel the Authority to disclose records or information marked confidential, the Authority only agrees to notify the affected Proposer of such request or action.

In submitting an ELOR package, Technical Proposal or Price Proposal in response to this RFP, a Proposer agrees to: (i) defend its assertions of confidentiality by instituting appropriate legal proceedings to prevent disclosure, at its own expense and through its counsel, or by intervening in an action brought against the Authority to compel disclosure; and (ii) indemnify and hold the Authority, and any officials or employees thereof harmless from any and all damages, costs, and attorney’s fees awarded against the Authority arising out of any such actions. Nothing in this section shall preclude the Authority from participating in the defense of such actions, at its option and expense through its counsel. The Authority shall have no liability to a Proposer with respect to the disclosure of any records or information, including confidential records or information, subject to an order by a court of competent jurisdiction or any other applicable law or due to the Proposer’s failure to contest such disclosure in a court of law.



### **1.3.10 PROPOSER’S BID**

Proposers shall complete the Proposal Affirmation Form from **Exhibit C, Form C-1** which states the Proposer agrees to furnish the Services stated within the Technical Proposal at the price(s) offered within the Price Proposal.

By submitting a Technical and Price Proposal to the Authority, the Proposer agrees that the Contractor’s Technical Proposal and Price Proposal shall remain effective one hundred and eighty (180) Calendar Days from the Proposal due date.

Proposers shall complete and include the completed form in Proposal Section 7 of the Technical Proposal as a PDF.

### **1.4 REGISTRATION TO CONDUCT BUSINESS IN FLORIDA**

Proposers and Subcontractors wishing to be considered shall be properly registered and licensed to conduct business in the State of Florida with the Office of the Secretary of State at the time the ELOR package is submitted. It is the responsibility of the Proposers to verify the registration of any corporate subsidiary or Subcontractor prior to submitting a Proposal. Proposers shall be required to submit their proof of registration or license with their ELOR package.

### **1.5 WRITTEN CLARIFICATIONS**

The Authority may request written clarifications to ELOR packages and/or Proposals. The Authority will identify in its request the due date for response. If the requested information is not received by the stated due date, the Proposer’s scores may be adversely affected.

### **1.6 ORAL OR REFERENCED EXPLANATIONS**

The Authority will not be bound by oral explanations or instructions given by anyone at any time during the procurement process or after Contract award. The Authority will not consider Proposer-referenced information not included in the ELOR package or Technical/Price Proposals; however, the Authority may consider other sources in the evaluation of ELOR packages or Proposals, such as reference reviews, financial ratings, and Proposer demonstrations and interviews, for example.

### **1.7 PROPOSER’S REPRESENTATION AND AUTHORIZATION**

In submitting an ELOR, each Proposer understands, represents, and acknowledges the following (if the Proposer cannot so certify to any of the following, the Proposer shall submit with its response a written explanation of why it cannot do so).

- The Proposer, nor any corporate subsidiary or Subcontractors, is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the Proposer, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any Contractor or person to submit a complementary or other noncompetitive response.

- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other Proposer, or potential Proposer; neither the prices nor amounts, actual or approximate, have been disclosed to any Proposer or potential Proposer, and they will not be disclosed before the Price Proposal opening.
- Neither the Proposer nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, Project director, manager, auditor, or position:
  - Has within the preceding ten (10) years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- If an award is made to the Proposer, the Proposer agrees that it intends to be legally bound to the Contract that is formed with the Authority.
- The Proposer has made a diligent inquiry of its employees and Agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The Proposer shall indemnify, defend, and hold harmless the Authority and its employees against any cost, damage, or expense that may be incurred or be caused by any error in the Proposer's preparation of its Proposal.
- All information provided by, and representations made by the Proposer are material and important and will be relied upon by the Authority in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Authority of the true facts relating to the submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

## 1.8 CONTRACT

### 1.8.1 CONTRACTUAL OBLIGATIONS

The Authority will not be required to evaluate or consider any additional terms and conditions submitted with a Proposal. This applies to any language appearing in or attached to the document as part of the Proposer's Proposal. By execution and delivery of this RFP and Proposal, the Proposer agrees that any additional terms and conditions or changes to the terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect unless such are specifically accepted by the Authority. Further, all exceptions must be taken in accordance with the instructions set forth in **Section 1.20.3, Contents of Technical Proposal, Subsection G - Adherence to the Scope of Work and Requirements, Terms and Conditions and Requirements Conformance**.

### 1.9 PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Both a Payment and Performance Bond, satisfactory to the Authority, **and on the forms as provided in the RFP**, shall be required from the successful Proposer for, among other, the following purposes: a) to guarantee System Acceptance, as required in these Procurement Documents and pursuant to **Section 3.1.10.1, System**

**Acceptance of the Design and Implementation Phase**, including all applicable warranties; b) to guarantee the payment of all labor, materials, or supplies used directly or indirectly in the prosecution of the Work provided for in the Contract; c) to ensure stability and the meeting of the provided performance metrics of the system throughout the Operations and Maintenance Phase of the Project; and d) to comply fully with the requirements of Florida law.

The cost associated with obtaining and renewing the Performance and Payment Bonds shall be included in the Total Contract Amount within the Proposer's Price Proposal. The surety of the Bonds shall have a resident Agent in the State of Florida, meet all the requirements of the laws of Florida and the regulations of the Authority, and have the Authority's Approval. The Bonds shall have a surety that remains acceptable to the Authority throughout the duration of the Contract. In the event that the surety executing the Bonds, although acceptable to the Authority at the time of execution of the Bonds, subsequently becomes insolvent or bankrupt, or becomes unreliable or otherwise unsatisfactory due to any cause that becomes apparent after the Authority's initial Approval of the company, then the Authority may require that the Proposer, at the Proposer's expense, immediately replace the Bonds with similar Bonds drawn on a surety company that is reliable and acceptable to the Authority.

a. Bonds for the Design and Implementation Phase:

- The Design and Implementation Phase Payment Bond and the Design and Implementation Phase Performance Bond must each be in the amount of not less than 100 percent of the total contract amount for the Design and Implementation Phase of the Project.
- The Design and Implementation Phase Payment and Performance Bonds shall be provided at the time specified in Section 1.22.4 below.

b. Bonds for the Operations and Maintenance Phase:

- The first year of the Operations and Maintenance Phase Payment and Performance Bonds shall each be in the amount of not less than 100 percent of the total amount for Year 1 of the Operations and Maintenance Phase of the Project. The initial Operations and Maintenance Phase Payment and Performance Bonds must be provided to the Authority prior to the Authority issuing NTP for the Operations and Maintenance Phase. The Payment and Performance Bonds for the Operations and Maintenance Phase shall be annually renewable, to be renewed each year at the anniversary date of NTP issuance for the Operations and Maintenance Phase. Starting at year 2 of the Operations and Maintenance Phase, the amount of the bond shall be equal to the sum of the gross invoice amounts (prior to any KPI deductions) of the total amount for operations and Maintenance for the prior twelve (12) months.

In response to the ELOR package, Proposers shall be required to provide proof of bonding capacity in accordance with the instructions set forth in the Phase 1 ELOR package submittal procedure below.

The Proposer with the winning Proposal shall be required to provide the bond forms found in **Exhibit E – Performance and Payment Bond Forms** to the Authority in accordance with instructions in section **1.22.4, Execution of the Contract**.

## 1.10 INSURANCE REQUIREMENTS

Providing and maintaining adequate insurance coverage shall be a material obligation of the Contractor. The insurance coverage detailed in **Exhibit D – Insurance Requirements, Coverages, and Limits** is required.

Refer to **Section 3.1.12, Insurance Obligations** for additional insurance information.

## **1.11 SBE AVAILABILITY**

The Authority's Small Business Enterprise (SBE) Policy requires nondiscrimination on the basis of race, color, national origin, and gender in its employment and contracting practices and encourages the solicitation and utilization of SBE's. It is the policy of the Authority to encourage the participation of small businesses and disadvantaged business enterprises ("SBE") in all facets of the business activities of the Authority, consistent with applicable laws and regulations. Contractors proposing for this Project shall aspire to have Work performed by SBEs. Contractors are encouraged to utilize qualified SBE's as vendors, contractors, Subcontractors, and consultants for the Project.

## **1.12 CERTIFICATIONS, NOTICES, AND ADDITIONAL INFORMATION**

### **1.12.1 SCRUTINIZED COMPANY CERTIFICATIONS**

By submitting an ELOR package or Proposal, the Proposer certifies that: (a) (applicable to all agreements, regardless of value), it is not on the Scrutinized Companies that Boycott Israel List and is not engaged in a boycott of Israel, as defined in Florida Statutes § 287.135, as amended; and, (b) (applicable to agreements that may be \$1,000,000 or more), it is: (i) not on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as defined in Florida Statutes § 287.135; and, (ii) not engaged in business operations in Cuba or Syria, as defined in Florida Statutes § 287.135, as amended.

### **1.12.2 PUBLIC ENTITIES CRIMES ACT**

By submitting an ELOR package or Proposal, the Proposer certifies that it is not precluded from submitting an ELOR package or Proposal under Section 287.133(2)(a), which provides as follows: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, Proposal or reply on a contract to provide any goods or Services to a public entity; may not submit a bid, Proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform Work as a contractor, supplier, Subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount set forth in Florida Statutes s.287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list."

### **1.12.3 E-VERIFY**

Authority Contracts require contractors/consultants to comply with the requirements of E-Verify. Contractors/consultants will be required to utilize the U.S. Department of Homeland Security's Employment Eligibility Verification System (E-Verify), in accordance with the terms governing the use of the System, to confirm the employment eligibility of persons employed by the contractor/consultant, during the term of the Contract, to perform employment duties within Florida. Prime contractors/consultants are required to include an express provision in their Subcontractor/Subconsultant agreements requiring the Subcontractors/Subconsultants to do the same.

### **1.12.4 CIVIL RIGHTS**

The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### 1.12.5 DISCRIMINATORY VENDOR LIST

By submitting an ELOR package or Proposal, the Proposer certifies that it is not precluded from submitting a bid or Proposal under Section 287.134, which provides as follows: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, Proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, Proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, Proposals, or replies on leases of real property to a public entity; may not be awarded or perform Work as a contractor, supplier, Subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity unless that entity or affiliate has been removed from the list pursuant to Florida law.

### 1.12.6 FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) QUALIFICATION

~~INTENTIONALLY LEFT BLANK By submitting an ELOR package or Proposal, the Proposer represents that neither it nor its partners, Key Personnel, Key Subcontractors/Subconsultants, nor affiliates have had their Certificate of Qualification suspended, revoked or denied by the FDOT, or determined by the FDOT to be a non-responsible contractor.~~

### 1.12.7 PERMIT COSTS

Pursuant to section 218.80, Florida Statute, the “Public Bid Disclosure Act,” the Authority gives notice to the Contractor that the Authority does not issue permits for the Work and accordingly there is no fee assessed by the Authority. However, the City of Tampa, Hillsborough County, and other governmental entities may require fees for building and other permits for the Work. The Contractor shall secure and pay for all required permits that are necessary for the proper execution and completion of the Work, including, but not limited to, all applicable site permits, building permits, engineering, dewatering, National Pollution Discharge Elimination System (NPDES) stormwater management and all other permits required to complete the Work. In addition, the Contractor shall procure all required certificates of inspection, use, occupancy and completion. The Contractor shall be responsible for coordinating and scheduling all such permitting agencies’ tests and inspections. All required certificates of inspection, use, occupancy and completion shall be delivered to the Authority by the Contractor in sufficient time for occupancy of the Project, if applicable, in accordance with the schedule for the Work. All costs incurred in connection with obtaining any permit, license, test or inspection, including any required overtime in connection therewith, shall be included within the Proposer’s Price Proposal.

### 1.13 PUBLIC RECORDS LAW

Proposers are hereby notified that the Authority is subject to the Florida Public Records Law and the Government in the Sunshine Act, as set forth in Florida Statutes Chapters 119 and 286; as such, most communications to the Authority are subject to public disclosure, and the selection meeting(s), if any, will be open to the public. All presentations/interviews (if held) for this procurement will be conducted pursuant to Chapter 286, Florida Statutes, including section 286.0113, Florida Statutes.

### 1.14 CONE OF SILENCE

Any communication directly or indirectly to seek to encourage any specific result in connection with an Authority selection process, including but not limited to, written communications, any and all forms of electronic communications or messaging, including social media, oral communications either in person or by telephone, initiated by a Proposer or through a lobbyist, Agent or third person, to any Authority employee and/or Committee/Board member who is a member of any committee constituted for the purposes of ranking submissions, making recommendations or making an award, is prohibited from the time that the procurement is released to the time that the award is made. Proposers or persons acting on their behalf may not contact

members of the Evaluation Committee, other Authority staff, Authority officers or Authority Board Members, or the consultants representing the Authority with this Solicitation and project once the advertisement of the Solicitation has been published and until the Authority Board has made a final decision regarding the award of this Contract.

However, the Authority's Contracts and Procurement Manager or its designee may initiate communication with a Proposer in order to obtain information or clarification needed to develop a proper and accurate evaluation related to this procurement.

Refer to **Section 1.1.4, RFP Inquiries / Notices and Contact Person** for instructions on how to contact the Authority regarding any item related to this Solicitation.

## **1.15 CONFLICT OF INTEREST POLICY**

It is a basic tenet of the Authority's contracting program that Contracts are procured in a fair, open, and competitive manner. Proposers shall use the forms provided in **Exhibit C, Form C-3**, when submitting an ELOR package to the Authority regarding any potential conflict of interest related to this procurement.

### **1.15.1 CONSULTANT ELIGIBILITY**

The Authority requires that consultants representing the Authority must be free of conflicting professional or personal interests.

A consultant firm, its affiliate, or Subconsultant that is under contract with the Authority to provide procurement support Services on this Project cannot be a Proposer or a Subconsultant to a Proposer. A contractor cannot team, as a prime, with other Contractors to submit more than one Proposal in response to this procurement.

The following consultant firms participated in the development of the Request for Proposal for this Project and are prohibited from proposing or participating with a Proposer to propose on this Project without approval from the Authority.

HNTB Corp.  
Gannett Fleming  
RS&H Inc.  
RK&K

The consultant firms identified above may not represent a comprehensive list. Consultant firms not listed above who performed Services or who are later retained to perform Services on this Project are also prohibited from proposing or participating with a Proposer to propose on this Project unless an exception is obtained from the Authority.

### **1.15.2 UNDUE INFLUENCE**

The Contractor represents and agrees that it has not attempted, and will not attempt to, improperly influence an officer or employee of the Tampa Hillsborough Expressway Authority regarding any award, extension, continuation, renewal, Contract Amendment or modification of any contract with the Tampa Hillsborough Expressway Authority.

## **1.16 CODE OF ETHICS**

The Authority has adopted a Code of Ethics which addresses the obligation of the Authority's Board members and employees to follow the Florida Statutes in reference to these issues. This includes, but is not limited to,

the obligations of the Authority's Board members and employees with respect to having an interest in business entities, outside employment, gratuities, divulgence of information, unauthorized compensation, and acceptance of gifts. Please be aware that any violation of this policy by a Proposer and/or any attempt to influence an Authority Board member or employee to violate the policy is sufficient cause for the denial of the right of the Proposer to propose on any contract or sell any materials, supplies, Equipment, or Services to the Authority for a period of time that is determined by the Authority. A copy of this policy is on the Authority's website <https://www.tampa-xway.com>.

## 1.17 NOTICE OF PROTEST

**Protests Prior to Notice of Award:** Any potential Proposer wishing to protest the Authority's procurement process or its Solicitation documents for the procurement of Services must file a Notice of Intent to Protest accompanied by a Protest Bond within 72 hours of the Authority's publication of the Solicitation documents, (excluding Saturdays, Sundays, and legal Holidays) or within 72 hours of Notice of Intended Shortlist and the Notice of Intended Final Ranking postings. The Protest Bond shall be equal to one (1) percent of the lowest bid submitted or Five Thousand Dollars (\$5,000), whichever is greater. A person may not file a protest for which he or she is not certified to propose pursuant to the RFP requirements. Within five (5) Calendar Days of the filing of the Notice of Intent to Protest and posting of bond, the protesting party must file a written protest stating with particularity the facts and law upon which the protest is based. The protest should: (1) state the specific provision(s) of the bid or Proposal package or process applicable to the protest; (2) state the specific manner or method in which the protesting party alleges that the Authority erred in its interpretation or implementation of its Solicitation process, procedures or statutory provisions; (3) state the basis upon which the protest is premised; and (4) state the Protesting party's position and arguments of law, including any evidence supporting the position.

**Protests After Notice of Award:** Any unsuccessful Proposer wishing to protest the Authority's actions leading up to a notice of recommendation to either reject any or all bids, or to make an award ("Notice of Decision"), must file a Notice of Intent to Protest, accompanied by a Protest Bond in the amount one percent (1%) of the Total Contract Amount proposed by the lowest Price Proposal submitted with the Authority within 72 hours of the Authority's publication of its Notice of Decision, (excluding Saturdays, Sundays, and legal Holidays). Within five (5) Calendar Days of the filing of the Notice of Intent to Protest and posting of bond, the protesting party must file a written protest stating with particularity the facts and law upon which the protest is based. The protest should: (1) state the specific provision(s) of the RFP or process applicable to the protest; (2) state the specific manner or method in which the protesting party alleges that the Authority erred in its interpretation or implementation of its Solicitation process, procedures or statutory provisions; (3) state the basis upon which the protest is premised; and (4) state the protesting party's position and arguments of law, including any evidence supporting the position.

The protest bond required by this **Section 1.17, Notice of Protest** shall be conditioned upon the payment of all costs which may be adjudged against the person filing the protest in the administrative hearing in which the action is brought and any subsequent appellate court proceeding. If, after completion of the administrative hearing process and any appellate court proceedings, the Authority prevails, it shall recover all costs and charges which shall be included in the final order or judgment, including attorney's fees and costs. Upon payment of such fees, costs and charges by the person filing the protest, the bond shall be returned. If the person filing the protest prevails, he or she shall recover from the Authority all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. The entire amount of the bond shall be forfeited if the court determines that a protest was filed for a frivolous or improper purpose, including, but not limited to, the purpose of harassing, causing unnecessary delay, or causing needless cost for the Authority or parties.

## 1.18 PHASE 1 – PROCUREMENT PROCESS

### 1.18.1 GENERAL

The Authority is using a two-phase procurement process for this Solicitation. During Phase 1 of the procurement process, Proposers will be required to submit an ELOR package which will be reviewed and evaluated by the Evaluation Committee according to the criteria below. The contents of the ELOR package shall not discuss or reveal any price-related elements.

~~To be considered and receive details regarding the use of OneDrive, Proposers must contact the Authority's procurement office at [Procurement@tampa-xway.com](mailto:Procurement@tampa-xway.com) to inform the Authority of their intent to submit an ELOR package for this Solicitation. Once received, the Authority will setup a OneDrive folder for the Proposer's use in uploading submittals to the Authority.~~

~~The Authority shall share the OneDrive information only by inviting one point of contact for the Proposer. The recipient of the OneDrive information will receive an email invite from the Authority for OneDrive access. Shortlisted Proposers shall also use their designated OneDrive folder for submission of their Technical and Price Proposals.~~ To be considered, Proposers must provide complete responses to all sections of the ELOR package, in accordance with the instructions and requirements of this section, and ELOR packages must be submitted in the format as instructed in this section, including sections, and heading descriptions. Omission of any section may render an ELOR package non-responsive, at the Authority's sole discretion, and it will not be evaluated.

### 1.18.2 ELOR PACKAGE SUBMITTAL DEADLINE

Proposers wishing to be considered for shortlisting must complete and submit an ELOR package per the deadline. ELOR packages shall be ~~uploaded to the OneDrive folder provided by the Authority submitted to the Authority according to the instructions in Section 1.18.3, Phase 1 ELOR Package Submittal Procedure~~ by the due date and time provided in **Table 1-1: Schedule of Events**. The Authority ~~will~~ may not accept or consider ELOR packages received after the due date and time.

### 1.18.3 PHASE 1 ELOR PACKAGE SUBMITTAL PROCEDURE

ELOR packages shall only be submitted ~~to the Authority via email. Proposers shall email their ELOR package to the Authority's Procurement Office at [Procurement@tampa-xway.com](mailto:Procurement@tampa-xway.com). by uploading them in the Authority's OneDrive folder designated for the Proposer,~~ ELOR packages shall be submitted in PDF format, including bookmarks for each section and with the ability to be searched using an Optical Character Recognition (OCR) tool. Bookmarks that provide links to content within the ELOR package are allowed. Bookmarks that provide links to information not included within the content of the ELOR package shall not be utilized. No macros shall be allowed.

There is a 10 MB limit to emails. Proposers may submit their ELOR in multiple emails. Proposers shall label the subject line of each email with the heading "OBOS ELOR, Email 1 of X", where X is the number of emails that are to be submitted to the Authority. As an example, if all of the sections of a Proposer's ELOR submittal is less than 10 MB, except the Financial Statement, and the Proposers Financial Statement is less than 10 MB, then the Proposer would send 2 emails with the first email having a subject line of "OBOS ELOR, Email 1 of 2" and the second email having a subject line of "OBOS ELOR, Email 2 of 2". If the financial statement alone is larger than 10 MB, the Proposer may break up the Financial statement into multiple PDF files, with each PDF file being less than 10 MB.

Proposers shall be judicious regarding the inclusion of large, unnecessary images or other items not requested in this Solicitation (e.g. marketing materials) within their ELOR package.

All documents to be returned within the ELOR package requiring the Proposer's signature may be signed



electronically.

ELOR packages transmitted by facsimile, ~~e-mail~~ or mail are non-responsive and will not be considered. Only one (1) ELOR package, in one (1), combined PDF file download, per legal entity is acceptable.

It is solely the Proposer’s responsibility to ensure that their ELOR package is received by the Authority by the ELOR package due date and time **provided in Table 1-1: Schedule of Events**. Proposers are encouraged to provide themselves with ample time to ensure ELOR packages are received by the Authority on time. The Authority is not responsible for any Proposer’s delay or failure to successfully ~~upload-email~~ ELOR packages on time.

The ELOR package will be made up of three (3) sections: 1) the Pass/Fail Criteria, 2) Cover Letter and 3) the Scored Criteria, as noted below. The ELOR package shall be formatted using 8½”x11” pages, Times New Roman font, and a minimum font size of twelve (12). A minimum font size of ten (10) may be used in headers/footers, graphics, and tables.

The ELOR package does have page limitations. The Cover Letter and the Staffing, Experience/Qualifications and Approach Section of the ELOR package, as noted in the sections below, shall make up the eleven (11) page limitation. The Pass/Fail Criteria and resumes shall not count toward the eleven (11) page limitation of the ELOR package. Reference **Table 1-2** and each section’s requirements below for additional details regarding the ELOR package page limitation.

**Table 1-2: Expanded Letter of Response – Page Limitations**

Phase 1 - Expanded Letter of Response – Page Count		Maximum Page Count
<b>Section 1 - Pass/Fail Criteria:</b>		
	<u>Pass/Fail Criteria</u> a. Proof of Insurance b. Proof of Bonding Capacity c. Claims Disclosure d. Conflict of Interest e. Financial Information f. Acknowledgment of Addenda	n/a
<b>Section 2 - Cover Letter:</b>		
	Cover Letter.	1 page
<b>Section 3 - Staffing, Experience/Qualifications and Approach:</b>		
A.	Proposed Staffing.	2 pages
B.	Proposer Experience and Qualifications.	5 pages
C.	High-level Approach to Design and Implementation and Operations and Maintenance.	3 pages

		<b>Total:</b>	<b>11 pages</b>
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Note: Proposers are allowed to provide a cover sheet on the ELOR package, and it does not count towards the page count limitations of the ELOR. The cover sheet shall only include the Proposer's name, Project Name and Project Number. No other text or content shall be allowed on the cover sheet. Proposers are also allowed to include an index/table of contents in the ELOR package, which also will not count towards the page limitation.

The Authority will not consider ELOR packages not in conformance with the requirements as outlined in this section. The Evaluation Committee also reserves the right to solicit from available sources relevant information concerning a Proposer’s past performance. The Evaluation Committee may consider all such information in its selection of shortlisted Proposers.

**1.18.4 ELOR PACKAGE REQUIREMENTS**

***1.18.4.1 ELOR PACKAGE SECTION 1 – THE PASS/FAIL CRITERIA***

The following Pass/Fail information must be submitted with the ELOR package and shall make up the first section of the ELOR package. Proposers must include each subsection as noted below (A-F) and label each section with the same section heading. Proposers that fail to meet and submit all of the Pass/Fail criteria below will not be shortlisted. All information required by this Pass/Fail section is excluded from the page count.

The Pass/Fail criteria are minimum criteria that a Proposer must meet and/or provide in order for its ELOR package to be considered responsive. The Pass/Fail evaluation includes a responsiveness review and a legal sufficiency review, as described in further detail below. All information provided in ELOR Section 1 may be used in the scoring of the Proposer’s ELOR package.

Proposers must meet and/or provide all of the criteria below to be considered responsive.

**A. PROOF OF INSURANCE**

Provide evidence of the Proposer’s ability to provide the insurance coverage required in **Exhibit D – Insurance Requirements, Coverages, and Limits**, either by means of an existing policy or other verifiable proof (such as an Agent/Broker commitment letter).

**B. PROOF OF BONDING CAPACITY**

Provide a letter by the Proposer’s Surety of the Proposer’s ability to provide Performance and Payment Bonds in the amount of \$10 million for a single Project together with evidence for maximum single Project bonding capacity and Proposer’s aggregate bonding capacity. The Surety must be rated no less than “A-” as to management and no less than “VIII” as to strength, by the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Post Office Box 1107, Summit, New Jersey 07901.

Information shall be provided by the Surety on behalf of the Proposer on the Surety’s letterhead.

**C. CLAIMS DISCLOSURE**

Disclose all lawsuits, arbitrations and claims filed or raised by or against the Proposer over the last (5) years. Include the case name, case number, jurisdiction, amount at issue, and a brief description of the dispute. Identify any contracts where the Proposer has been terminated for cause or defaulted within the past five (5) years.

**D. CONFLICT OF INTEREST**

Proposers shall use the forms provided in **Exhibit C, Form C-3**, when submitting an ELOR package to the Authority regarding any potential conflict of interest related to this procurement.

Proposers shall follow the instructions on the forms, complete forms **C-3.1, Conflict of Interest Statement Form** and **C-3.2, Conflict of Interest Disclosure Form**, and include them in this section of the ELOR package as one (1) combined PDF.

**E. FINANCIAL INFORMATION**

Financial documentation may be submitted in a separate PDF ~~with the ELOR package, or multiple PDFs, to accommodate the 10 MB maximum file size for emailing the ELOR.~~ ~~with the~~ The cover page shall be clearly labeled as follows: "Confidential Financial Records Submitted under Seal and Exempt from Florida Public Records Disclosure". Include the Project title on the cover page, "Confidential Financial Records" and section 119.071(1)(c), Florida Statutes on each page of the financial documentation submitted.

Proposers shall provide the following financial information:

1. Annual revenues for the last five (5) years for the Proposer and for the subsidiary, division or group responsible for this Project.
2. A copy of the Proposer’s audited financial statements for the past two years. If a Proposer does not have an audited financial statement for the most recent year, the Proposer shall submit audited financial statements for the most recently completed years. If a Proposer does not produce audited financial statements, the Proposer shall submit any financial statements that it does have (e.g. lines of credit, statements compiled by an outside accounting firm, etc.) and any other information the Proposer feels is pertinent in establishing the financial stability of its business/organization. The Authority reserves the right to review other publicly available information regarding the Proposer’s financial stability, as part of the evaluation. If a Proposer has questions about what evidence of the Proposer’s financial stability will be acceptable to the Authority, the Proposer should communicate with the Authority as set forth in **Section 1.14, Cone of Silence**.

**F. ACKNOWLEDGMENT OF ADDENDA**

The Authority reserves the right to amend any item in this RFP if it is determined to be in the best interest of the Authority.

Proposers shall provide an acknowledgment of receipt of all Addenda issued to this RFP within the ELOR package by completing the form in **Exhibit C, Form C-8** and including it in this section of the ELOR package as a PDF.

**1.18.4.2 ELOR PACKAGE SECTION 2 – COVER LETTER**

A cover letter signed by a person with the authority to make legal commitments on behalf of the Proposer shall make up the second section of the ELOR package. The letter shall also include the name and contact information for the Contractor Project Manager. ~~The Contractor Project Manager letter shall~~ also identify and provide contact information for the individual for the Proposer that will be the main point of contact for the Authority throughout the procurement process. The cover letter shall include the Proposer’s Statement of the following:

1. The full legal name, address and phone number of the legal entity that will contract with the

Authority if awarded the Contract. Indicate all former names, if any, under which the Proposer has conducted business within the past ten (10) years and the years of operation under each name.

2. Name, address, email address, and telephone number of one (1) individual (~~the Contractor Project Manager~~) to whom all future correspondence and/or communications related to this Solicitation and the Project will be directed.

The cover letter narrative in this section shall be restricted to one (1) page and shall count toward the eleven (11) page limitation of the ELOR package.

Electronic signatures are allowed on the cover letter.

### ***1.18.4.3 ELOR PACKAGE SECTION 3 – STAFFING, EXPERIENCE AND APPROACH***

In addition to the Pass/Fail Criteria, all Proposers must provide the following with their ELOR package. This shall make up the third section of the ELOR package. Proposers must include each subsection as noted below (A-C) and label each section with the same section heading.

#### **A. PROPOSED STAFFING (2 PAGES)**

1. Proposer shall provide a short narrative and biography describing each proposed Key Personnel (See Table 1-5). This description/biography shall include:
  - Staff name
  - Proposed position
  - Number of years of experience supporting Projects in a similar role
  - Primary discipline and related experience to their assignment on the Project
  - Acknowledgment of the required experience and certifications
2. Proposer shall indicate the availability and commitment of each Key Personnel member for the Design and Implementation Phase and for the Operations and Maintenance Phase of the Project, including any Subcontractors or Subconsultants proposed for Key Personnel positions.
3. In addition to the two (2) pages that provide the narrative on Key Personnel and their availability and commitment, Proposer shall provide resumes (not to exceed two (2) pages), for each of the Key Personnel within this section of the ELOR package. Resumes shall denote any certifications attained and held by Key Personnel. **Note:** Resumes are not included in the page limitation of this section of the ELOR package.

The Proposed Staffing narrative in this section shall be restricted to two (2) pages and shall count toward the eleven (11) page limitation of the ELOR package.

#### **B. PROPOSER EXPERIENCE AND QUALIFICATIONS (5 PAGES)**

1. Proposers shall describe their firm and staff experience with On-premises, Cloud-based, and/or hybrid (e.g. mixture of On-premises and Cloud-based) architectures in the following areas, as it directly relates to the solution that is being proposed:
  - a. Design and Implementation – including System and Software Development, Testing, Transition, QA/QC and Data Migration.

- b. Technical - including Scalability, Capacity & Performance, Modular Development, Database Optimization, Replication and Storage, External Interfaces, Security, Software, API and Network.
  - c. Operation – including Real Time Transaction Processing, GUI and Data Visualization, Business Intelligence Tools, Reporting and Dashboards, Data Retention and Backup, and Disaster Recovery.
  - d. Maintenance – including On-going monitoring, Maintenance ticket management system, Response, Vulnerability Management, Scans and Audits and System Updates.
2. Proposer shall submit a short narrative describing:
- a. Past performance on three (3) projects of similar scope, complexity, and scale. One of the three (3) referenced projects must have been implemented within the last five (5) years and be under active operations and Maintenance by the Proposer.
  - b. For each of the three (3) projects included in the narrative above, the Proposer shall also include a description of the project scope, size, total dollar value and specific services provided. The Proposer shall also note the timeframes around each project (e.g. start and end dates for the Design and Implementation Phase and start and end date for Operations and Maintenance Phase).
  - c. For each of the three (3) projects, complete the Company Reference form provided in **Exhibit C, Form C-4** and submit them in this section of the ELOR package as one (1) combined PDF. The Company Reference Forms do not count towards the ELOR package page limit.

The Proposer Experience narrative in this section shall be restricted to five (5) pages and shall count toward the eleven (11) page limitation of the ELOR package.

[Electronic signatures are allowed on the cover letter.](#)

**C. HIGH-LEVEL APPROACH TO DESIGN AND IMPLEMENTATION AND OPERATIONS AND MAINTENANCE (3 PAGES)**

- 1. Proposer shall provide a concise description of their proposed approach to the Design and implementation of the OBOS with specific information related to the proposed use of an On-premises and/or Cloud-based architecture.
- 2. Proposer shall provide a concise description of their proposed approach to operations and Maintenance of the OBOS with specific information related to the proposed operations and Maintenance of the proposed solution (On-premises and/or Cloud-based architecture).

The approach narratives in this section shall be restricted to three (3) pages and shall count toward the eleven (11) page limitation of the ELOR package.

**1.18.5 ELOR PACKAGE EVALUATION CRITERIA**

The criteria for evaluating the Phase 1 ELOR packages shall be as shown in Table 1-3 below:

**Table 1-3: Expanded Letter of Response – Evaluation Criteria**

Phase 1 - Expanded Letter of Response – Evaluation Criteria	Maximum Point Value
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A.	Proposed Staffing	20
B.	Proposer Experience and Qualifications	50
C.	Approach to Design and Implementation and Operations and Maintenance	30
	<b>Total:</b>	<b>100</b>

**The 100 total points are for determining the shortlist firms only and will not carry over to Phase 2.**

**1.18.6 PHASE 1 SCORING**

The ELOR packages will first be opened and reviewed for responsiveness and responsibility based on the Pass/Fail criteria.

Each Evaluation Committee Member shall then individually score each responsive Proposer, and an average score shall be computed by the Authority.

The Evaluation Committee will select no fewer than three (3) and no more than five (5) of the most qualified Proposers to recommend for shortlist to the Authority’s Board of Directors. The Authority will determine the most qualified based on the evaluation and scoring criteria outlined in the ELOR package evaluation criteria above. The Phase 1 ELOR package scores will be used to select Proposers for the shortlist only and will not carry through to Phase 2. If fewer than three (3) qualified firms submit responses, the Authority, at its sole discretion, may elect to continue the selection process, reconvene the shortlisting meeting for reconsideration of the shortlist, or re-advertise the Project. Shortlisted Proposers will proceed to Phase 2.

## 1.19 PHASE 2 – PROCUREMENT PROCESS

### 1.19.1 GENERAL

Phase 2 of the procurement process will require submission of a separate Technical Proposal and Price Proposal. The Proposer shall not discuss or reveal elements of the Price Proposal within their written Technical Proposals.

Technical and Price Proposals must be submitted in the format, including sections, and heading descriptions, as instructed in **Phase 2 – Technical Proposal Contents and Submission** and **Phase 2 – Price Proposal** below. To be considered, Proposers must provide complete Technical and Price Proposals, including all required sections, in accordance with the instructions. Omission of any section may render a Proposal non-responsive, at the Authority’s sole discretion, and it will not be evaluated.

### 1.19.2 TECHNICAL AND PRICE PROPOSAL SUBMITTAL DEADLINE

Complete and separate Technical and Price Proposals shall be uploaded to the OneDrive folders designated by the Authority by the due date and time provided in **Table 1-1: Schedule of Events**. Proposers shall upload two separate files into separate folders: one (1) for the Technical Proposal and one (1) for the Price Proposal. The Authority ~~will~~ may not accept Proposals submitted after the due date and time. Technical and Price Proposals received after that time ~~will~~ may not be considered.

## 1.20 PHASE 2 – TECHNICAL PROPOSAL CONTENTS AND SUBMISSION

### 1.20.1 TECHNICAL PROPOSAL SUBMITTAL PROCEDURE

The Technical Proposal shall be limited to the information, paper size, and page limitation requirements as listed herein. Proposers shall be judicious regarding the inclusion of large, unnecessary images or other items not requested in this Solicitation (e.g. marketing materials) within their Technical Proposal.

The PDF portions of the Technical Proposal shall be one (1) PDF file. It is the Proposer’s responsibility to ensure all files are uploaded to the Authority.

Technical Proposals transmitted by facsimile, e-mail or mail are non-responsive and will not be considered. Only one (1) Technical Proposal package, in one (1), combined PDF file download, per legal entity is acceptable.

It is solely the Proposer’s responsibility to ensure that the Technical Proposal is received by the Authority by the Technical Proposal due date and time. Proposers are encouraged to provide themselves with ample time to ensure Technical Proposals are received by the Authority on time. The Authority is not responsible for any Proposer’s delay or failure to successfully upload their Technical Proposal on time.

#### 1.20.1.1 SUBMISSION OF TECHNICAL PROPOSAL

##### 1. Format of Technical Proposal.

- a. The Technical Proposal shall only be submitted in the formats as noted in each section below. Documents submitted in PDF will include bookmarks for each section and will have the ability to be searched using an OCR tool. Bookmarks that provide links to content within the Technical Proposal are allowed. Bookmarks that provide links to information not included within the content of the Technical Proposal shall not be utilized. No macros will be allowed.

- b. All sections required in the Technical Proposal (e.g. Cover Letter, Executive Summary, Proposal Sections 1 – 7, Appendices and Forms and Submittals) shall be compiled into a single PDF file.
- c. Any Technical Proposal exhibits, or information prepared either as graphics or with other programs, such as scheduling programs, shall be submitted in a PDF file without any other software required for review.

e.d. All documents to be returned within the Technical Proposal requiring the Proposer's signature may be signed electronically.

- 2. **Page Presentation.** Technical Proposal text shall be single-spaced, a minimum of 12-point, Times New Roman font. Each page header and/or footer should include the Proposer’s name page numbers, and date of the Proposal.

~~Headers and footers may be in different size font from that specified, but they must be legible. The Authority will not be responsible for reviewing portions of proposals with illegible text. Illegible text will be ignored. A minimum font size of ten (10) may be used in headers/footers, graphics, schedules and tables.~~

**1.20.2 TECHNICAL PROPOSAL – MINIMUM INFORMATION REQUIRED**

The minimum information to be included in the Technical Proposals is as follows:

**1.20.3 CONTENT OF TECHNICAL PROPOSAL**

Proposals shall be prepared simply and economically, providing a straightforward, concise description of the Proposer’s ability to meet the requirements of the RFP. Refer to **Table 1-4: Technical Proposal Page Limitations** below for more information on page limitations.

**Table 1-4: Technical Proposal Page Limitations**

Technical Proposal Sections to be Completed by a Proposer	Page Count Limitations
Cover Letter	1 to 2 pages (not included in 50-page count limitation.)
Executive Summary	5 pages (not included in 50-page count limitation.)
Section 1: Proposer Experience and Qualifications	Limited to a combined total of 50 printed pages (excluding all table of contents, table of tables, or table of figures and the MS Project Schedule and PDF version of the Project Schedule)
Section 2: Staffing and Key Personnel Qualifications <b>Note:</b> Resumes do not count towards the page limitation.	
Section 3: Approach to Scope of Work	
Section 4: Preliminary Project Schedule	
Section 5: Adherence to the Scope of Work and Requirements, Terms and Conditions and Requirements Conformance Matrix	No limitations
Section 6: Technical Proposal Appendices	See requirements below for each



Technical Proposal Sections to be Completed by a Proposer	Page Count Limitations
	Appendix page count limitations
Appendix 1: Sample Reports	5 pages (no more than 5 sample reports at 1 page per report. (not included in 50-page count limitation.)
Appendix 2: Key Personnel Resumes	2 page limit per resume (not included in 50-page count limitation.)
Appendix 3: Organizational Charts	Not included in 50-page count limitation.
Section 7: Forms and Submittals	No limitations

Note: Proposers are allowed to provide a cover sheet on the Technical Proposal, and it does not count towards the page count limitations of the Technical Proposal. The cover sheet shall only include the Proposer's name, Project Name and Project Number. No other text or content shall be allowed on the cover sheet. Proposers are also allowed to include an index/table of contents in the Technical Proposal, which will also not count towards the page limitation.

Each numbered section designates a specific and separate section Proposers shall include in their Technical Proposal:

**A. COVER LETTER**

The Proposal shall include a cover letter signed by an officer of the proposing company with signature authority to enter into the proposed Contract with the Authority. This letter should be very brief, (per the noted page limitations) and provide the corporate commitment that the Proposal meets the scope and Requirements of the RFP. The letter shall also include the name and contact information for the ~~Contractor Project Manager. The Contractor Project Manager individual that~~ shall be the main point of contact for the Authority throughout the procurement process.

Electronic signatures are allowed on the cover letter.

**B. EXECUTIVE SUMMARY**

The executive summary shall summarize the Proposer’s Proposal and highlight the most important aspects of the Proposer’s Technical Proposal.

**C. PROPOSAL SECTION 1: PROPOSER EXPERIENCE AND QUALIFICATIONS**

Provide the following information regarding the Proposer’s experience and qualifications, including Subcontractors. Number and provide the information in the specific format provided below:

1. Company history and description of the Proposer’s organizational structure, including size, capability, and area(s) of specialization.
2. A detailed discussion of the Proposer’s (including any Subcontractors) qualifications and experience as it relates to this Project, in the following areas:
  - a. Designing, developing, implementing, and maintaining systems of similar scope, complexity, and scale to the OBOS required with this Solicitation.

- b. Designing, developing, implementing and maintaining a system with a similar architecture to that being proposed (i.e. On-prem, Cloud-based or hybrid).
  - c. Designing, implementing, and maintaining a system that is scalable and modular.
  - d. Developing and maintaining a system that provides real time Transaction processing, GUI and data visualization, reporting and Dashboards.
  - e. Development of Interface Control Documents (ICD) and data exchange interfaces utilizing file exchanges and application programming interfaces (API).
  - f. Performing data migration from a legacy system, which is not the Proposer’s system, to a new system.
  - g. Data replication, back-up, and Disaster Recovery.
  - h. Maintaining a system with on-going monitoring, a ticket management system, response and resolution, system update and adherence to KPIs.
  - i. System Security and vulnerability management.
3. Complete the List of Subcontractors Form from **Exhibit C, Form C-2** which includes the Subcontractor name, address, work to be performed and estimated percentage of total work value to be performed. Include the completed form in Section 7 of the Technical Proposal as a PDF.

**D. PROPOSAL SECTION 2: STAFFING AND KEY PERSONNEL QUALIFICATIONS**

Provide the following information regarding the Proposer’s Key Personnel qualifications, including Subcontractors. Please number and provide the information in the specific format provided below.

1. For each Key Personnel position listed in Table 1-5 below, provide the name, position, years of relevant experience and how the experience relates specifically to this Project. Also include their specific role on this Project, specify which positions identified below will support the Design and Implementation and/or Operations and Maintenance Phases of the Project, and the estimated percentage of time each will be dedicated to this Project in each phase.

**Table 1-5: Key Personnel Roles and Qualifications**

Key Personnel Roles and Qualifications	
Key Staff Position	Qualifications
<b>Contract Project Principal</b>	<i>Shall be responsible for the oversight of the Project Manager and Quality Assurance Manager and a point of contact for any escalated Project issues that cannot be resolved by the Project Manager and/or Quality Assurance Manager. Ultimate responsibility for delivery of Project.</i>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Ten (10) years of experience in transaction processing, payment processing or a similar industry.</li> <li>• Five (5) years of senior management responsibility for projects of similar scope.</li> </ul>

Key Personnel Roles and Qualifications	
Key Staff Position	Qualifications
<b>Contractor Project Manager</b>	<i>Shall be responsible for managing day-to-day Work activities, the overall execution and delivery of the Project, and be the contact person for all Project matters for the Project team and the Authority.</i>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Seven (7) years of experience in transaction processing, payment processing or a similar industry.</li> <li>• Five (5) years of experience as a project manager.</li> <li>• Project Manager for at least one transaction processing system of similar scope, including the Design, implementation, operation, and Maintenance.</li> <li>• Direct experience in the proposed architecture.</li> </ul>
	<p><b>Desired Certification:</b></p> <ul style="list-style-type: none"> <li>• Certification in Project Management or PMP</li> </ul>
<b>Quality Assurance Manager</b>	<p><i>Shall be responsible for ensuring consistent Quality Assurance and Quality Control throughout the duration of the Contract.</i></p> <p><i>Note: The Quality Assurance Manager and the Contract Project Manager shall not be the same individual.</i></p>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Five (5) years of experience as a Quality Assurance Manager, implementing best practices for Quality Control and Quality Assurance for Projects of similar scope, including IT and database delivery.</li> </ul>
<b>Lead Software Developer</b>	<i>Shall be responsible for leading the development of the OBOS technology, systems, interfaces, and APIs.</i>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Ten (10) years of software development experience in transaction processing, payment processing or a similar industry.</li> <li>• Five (5) years of experience as a software development manager.</li> <li>• Served as the Software Development Manager for at least one transaction processing system, or system of similar scope, including the Design, implementation, and Maintenance.</li> <li>• Experienced in the proposed architecture.</li> </ul>

Key Personnel Roles and Qualifications	
Key Staff Position	Qualifications
<b>System Architect</b>	<i>Shall be responsible for the structure of the OBOS, the use of 3rd party resources, Disaster Recovery, data retention, data backup, modularity, messaging, encapsulation, and abstraction.</i>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Seven (7) years of experience with system Design and architecture.</li> <li>• Five (5) years of experience with security for systems in transaction processing, payment processing or a similar industry.</li> <li>• Direct project experience architecting a transaction processing system, or system of similar scope.</li> <li>• Experienced in the proposed architecture.</li> </ul>
<b>Test Manager</b>	<i>Shall be responsible for all aspects of internal and Formal Testing for the Project from the development of Test Plans and Scripts; conduct of internal, dry-run and Formal Testing efforts; and recording and reporting of test results. Assures that all aspects of Requirements and Design are covered in testing.</i>
	<p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Five (5) years of experience with testing, including both hardware and software.</li> <li>• Has led the planning and execution of testing for at least two (2) projects of similar size and scope and at least one (1) project that transitioned from an existing system to a new system.</li> </ul>
<b>Maintenance Manager</b>	<p><i>Shall be responsible for managing the on-going operation and Maintenance of the OBOS, including Maintenance resources, System and performance monitoring, preventative Maintenance, client coordination, issue resolution, and system security.</i></p> <p><b>Required Minimum Qualifications:</b></p> <ul style="list-style-type: none"> <li>• Five (5) years of experience operating and maintaining a system of similar scope.</li> </ul>

2. Explain the number of employees within the company/firm that are responsible for this Project or qualified to support this type of Work.
3. Provide resumes (not to exceed two (2) pages each), for each of the proposed Key Personnel. Resumes shall denote any certifications attained and held by Key Personnel. Proposers are to include resumes in **Appendix 2** of the Technical Proposal.

**Note:** Resumes do not count against the page limitation of the Technical Proposal.

4. Provide an organizational chart for the Design and Implementation Phase of the Project through System Acceptance. Proposers are to include the Design and Implementation Phase organizational chart in **Appendix 3** of the Technical Proposal. The Design and Implementation Phase organizational chart shall be titled, “Design and Implementation Phase Organizational Chart”.

**Note:** The Design and Implementation Phase organizational chart does not count against the page limitation of the Technical Proposal.

5. Provide an organization chart for the Operations and Maintenance Phase of the Project. Proposers are to include the Operations and Maintenance Phase organizational chart in **Appendix 3** of the Technical Proposal. The Operations and Maintenance Phase organizational chart shall be titled, “Operations and Maintenance Phase Organizational Chart”.

**Note:** The Operations and Maintenance Phase organizational chart does not count against the page limitation of the Technical Proposal.

6. Proposers must complete the Key Personnel and Qualifications form in **Exhibit C, Form C-5** per the instructions on the form and provide the completed form in Section 7 of the Technical Proposal as a PDF.

#### **E. PROPOSAL SECTION 3: APPROACH TO SCOPE OF WORK**

The Proposer shall provide their approach to implementing their proposed solution for each of the following areas within Section 3 of the Technical Proposal.

1. System Architecture – Proposers shall provide a system architecture diagram and provide a narrative on the architecture approach.
  - a. The Proposer shall document how the Proposer’s architecture provides scalability for future growth and functionality. Specifically address how the proposed architectures will be capable of processing up to 200% of a typical day's worth of data, on any day during the life of the Contract, and be easily scalable to accommodate future growth over the life of the Contract without experiencing System slowness or degradation.
  - b. For modularity, specify how the proposed solution will accommodate changes in technology given anticipated upgrades, growth, and technology advances during the Contract Term.
  - c. For any Cloud-based architecture elements, discuss the Proposer’s approach to choosing a Cloud provider, and their approach to evaluating Cloud providers to ensure longevity of the Cloud provider they choose to avoid transitioning from one provider to another during the Contract Term. Also describe considerations in choosing a Cloud provider to ensure the Cloud provider is capable of supporting the Proposer in meeting all System, performance, operations and Maintenance Requirements of the RFP throughout the Contract Term.
  - d. For any On-premise architecture elements, discuss the Proposer’s approach to the selection of hardware and the approach to meeting all System, Performance, operations and Maintenance Requirements of the RFP throughout the Contract Term including any necessary technology refresh.
2. Software Design – Based on the proposed solution, Proposers shall present how they have made the determination as to which of the OBOS Requirements will require the development

of new Software, which will be included within the existing code/solution, which will be met using commercial off-the-shelf Software (COTS) and how this approach will benefit the Authority. Proposers shall describe the process they shall follow to obtain feedback and Approvals from the Authority throughout the Design and development phase of the Project. Proposers will also present their approach to change management, Software Updates and patches and the associated coordination with the Authority. Discuss the Proposer’s approach to the Design and development of Software graphical User interface(s) and how the Software Design will ensure ease of use for all Users and functions.

3. Database Design – Discuss how the Proposer will Design, document, test and provide for the proper administration of data and databases to ensure the system is optimized for performance and responsiveness. Please specifically address the following:
  - a. Describe how the Proposer’s database Design will ensure proper indexing and deliver highly responsive reports and queries for the fields and reports identified during the Design and Implementation Phase.
  - b. Describe the approach the Proposer shall follow to address the need for new indexes as additional fields, reports, or queries are introduced over time.
  - c. Describe the processes used to identify and resolve poor database performance, including handling high query volumes and complex queries.
  - d. Discuss the methods and procedures the Proposer shall employ to proactively optimize and maintain database performance without impacting system availability or response times.
  - e. Describe the database replication approach proposed for the OBOS implementation, including synchronous vs. asynchronous replication, and how it supports fault tolerance (i.e. high availability) and Disaster Recovery (e.g. zero or minimal downtime during failover scenarios).
  - f. Outline the tools and processes used to continuously monitor database health, performance (including sizing and log file management), and security, as well as addressing how issues are detected and resolved before impacting system performance or availability.
  - g. Explain how the proposed OBOS database Design accommodates growth in data volume, Users, and Transactions without degrading performance.
4. System interfaces - Proposers shall provide their approach to designing, developing and/or implementing the external interfaces to other systems identified in the scope of work, and how future ICD changes can be accommodated most efficiently.
5. Reporting, Dashboards & Business Intelligence Tools – Discuss System capabilities to satisfy the reporting Requirements of the project. Please specifically address the following:
  - a. Identification of how reporting can be used to reconcile OBOS data with the various third-party entities including RTCS, TOBS, CCSS, collection agency and FLHSMV.
  - b. The relationship of reports and Dashboards to database architecture and how report and Dashboard generation is optimized.
  - c. The unique features of the Proposer’s reporting and Dashboard system.
  - d. Configurability and support of ad-hoc report generation and self-service capabilities, including the scheduling of report generation and delivery.

- e. How reports and Dashboards identified in the scope of work can be generated without a need for the User to have database analyst skills or even knowledge of the database.
  - f. Proposers will describe and provide examples of the interface for the generation of reports and Dashboards.
  - g. Proposers shall describe the proposed Business Intelligence Software, how it was selected, and how the Software is anticipated to be used in conjunction with or in lieu of system reports and Dashboards.
6. Testing – Proposers shall present their approach to testing and the testing Requirements identified in the scope of work. Please specifically address the following:
- a. Test preparation and any pre-testing activities to ensure the success of each test identified in the scope of work. Proposers should describe their approach to the informal demonstrations that are required in the scope of work and how these demonstrations will ensure both the success of the Formal Testing, but also the concurrence by the Authority of the System Design, User interfaces, System reports and Dashboards.
  - b. How the Proposer’s approach will ensure comprehensive testing to ensure the successful implementation of OBOS.
7. Data Migration – Discuss the key components of the Proposer’s Plan for migrating data from the existing operations back office (TOBS) to OBOS.
- a. Describe the proposed processes and tools the Proposer shall use to ensure the migrated data conforms to the Proposer’s database schema, indexing strategies, and performance Requirements.
  - b. Explain how the Proposer shall validate that historical data is accurately migrated and continues to support existing reports and queries without performance degradation or data inconsistencies.
  - c. Describe the following aspects of the Proposer’s migration Plan and approach:
    - i. Ensure minimal downtime during the migration process.
    - ii. Data validation and reconciliation techniques and procedures.
    - iii. Risk mitigation strategies to mitigate opportunities for data loss or corruption.
  - d. Outline how the Proposer shall test and validate the migrated data to ensure it meets functional, performance, and accuracy Requirements.
8. Security – Discuss the Proposer's approach to meeting the security Requirements identified in the scope of work and maintaining security compliance through the Contract Term. Please specifically address the following:
- a. The Proposer's approach to data security, network security, application security and access control.
  - b. How the Proposer remains on the cutting edge of emerging threats and technologies to ensure the security of OBOS?
  - c. Over the Contract period, there are likely to be changes in regulatory compliance and security standards, including NIST that will affect the OBOS. Please provide examples of how the Proposer has, and will, address changes to security Requirements and needs.

9. System Maintenance and Monitoring – Provide responses to the items below regarding the Proposer’s approach to the Operation and Maintenance of the OBOS.
- ~~b.a.~~ Proposers shall describe their Maintenance and monitoring system and their approach to System monitoring and System Maintenance. Please address the following:
    - i. Proposer’s approach to vulnerability management, system scans and audits.
    - ii. Proposer’s approach to incident management.
    - iii. Proposer’s operational approach to response and repair times and how the Proposer will manage the contractual KPIs.
  - ~~e.b.~~ Discuss the Proposer’s approach to the Operation and Maintenance of the OBOS that will meet or exceed all Contract KPIs.
  - ~~d.c.~~ Discuss the Proposer’s plan to coordinate Operation and Maintenance tasks with the RTCS team and other interfacing entities.
  - ~~e.d.~~ Discuss the tools and User interfaces the Proposer’s solution will offer both the Authority and the Proposer’s support team in monitoring the system, receiving alerts when issues are identified (either automatically or manually), how issues are tracked (from capture through resolution and confirmed, and the Proposer’s approach to system monitoring to ensure the system meets availability and issue response Requirements, as stated in **Section 4, System Scope of Work and Requirements**.
  - ~~f.e.~~ Describe the screens and reporting that will be made available to the Authority that will assist the Authority's ~~inefficient,~~ periodic audit and verification of the performance and accuracy Requirements.
  - ~~g.f.~~ Describe the reporting capabilities of your system’s Maintenance and monitoring solution, including those required to support the performance reporting as described in **Section 4, System Scope of Work and Requirements**.
  - ~~h.g.~~ Describe the available tools and functionality within the System to enable and support validation and reconciliation of all Transactions throughout a Transaction’s life cycle. Also describe how errors, exceptions, missing, and failed Transactions are identified and reported.
10. Data backup and retention and Disaster Recovery – Proposers shall document their approach and architecture for data backups and Disaster Recovery. Please specifically address the following:
- a. Location of the proposed Disaster Recovery data center.
  - b. How the approach and architecture support the Recovery Time Objective (RTO) and Recovery Point Objective (RPO).
  - c. The process for switching from the Primary OBOS data center to the Disaster Recovery data center and, after resolution of the OBOS data center issues that required the switch to the Disaster Recovery data center, the process for switching back to the Primary OBOS data center. Proposers should include an expected timeframe for the implementation of each process.

Because the Authority is seeking an innovative, yet highly cost-effective OBOS solution, Proposers are encouraged to incorporate value-added items into this section of the Technical Proposal. Additional System functionality, features, and other value-added items, while not specifically required as part of this



RFP, are desired by the Authority if offered by the Proposer as part of a Proposer's solutions without additional cost to the Authority.

If included, Proposers shall clearly describe items they intend to provide, how the item(s) will benefit the Authority, and any potential implementation risks (e.g. time to completion impacts, increased complexities, additional testing, etc.) associated with integrating the features. Proposers shall also format these items in such that they are clearly distinguishable from technical aspects that address the Authority's minimum requirements.

#### **F. PROPOSAL SECTION 4: PRELIMINARY PROJECT SCHEDULE**

Proposers shall provide the following information:

1. Provide a Preliminary Project Schedule that includes all milestones and tasks up to the Go-Live of OBOS. The Preliminary Project Schedule shall clearly show the completion of all sequential testing, up to the Disaster Recovery Test within the number of Calendar Days from NTP as specified in **Section 1.1.3 Time for Completion** and conforms to the requirements as outlined in these Procurement Documents. The Preliminary Project Schedule shall be developed in Microsoft (MS) Project and shall be provided in both MS Project and PDF file formats in this Proposal Section 4. The Preliminary Project Schedule shall be resource loaded, display the critical path with identified predecessor and successor tasks, identify each milestone separately, and utilize "finish no later than" constraints. The Preliminary Project Schedule shall not contain hidden lag durations and must display available slack. All major elements of the Project Requirements shall be addressed in the Preliminary Project Schedule, including draft submissions, review cycles and final Approvals.

**Note:** The Preliminary Project Schedule, both PDF and MS Project, does not count towards the Technical Proposal page limitation. Proposers are to include the Preliminary Project Schedule within **Section 4: Preliminary Project Schedule** of the Technical Proposal.

2. The Proposer shall describe any challenges and risks related to meeting the Preliminary Project Schedule as well as the action to be taken by the Proposer to mitigate these risks, and describe any special assistance or anticipated needs that will be requested from the Authority to meet the schedule. Also, discuss the Proposer's approach to coordination with the new RTCS vendor, the legacy roadside system lanes and TOBS provider, and other external systems to which the OBOS will interface to ensure the scheduled Go-Live date is achieved.
3. Describe the Proposer's approach to ensuring that all sequential testing, up to and including the Disaster Recovery Test, are completed in the timeframe identified in **Section 1.1.3 Time for Completion**.
4. Address the Proposer's approach to developing processes, procedures, and communication techniques (e.g. meetings, issues tracking, and Quality Control) to coordinate with internal and external entities and Project stakeholders to ensure timely communication and resolution of problems that may impact the OBOS schedule.

#### **G. PROPOSAL SECTION 5: ADHERENCE TO THE SCOPE OF WORK AND REQUIREMENTS, TERMS AND CONDITIONS AND REQUIREMENTS CONFORMANCE MATRIX**

1. The Proposer must complete and submit the Excel version of the Requirements Conformance Matrix which is provided in .XLSX format in **Exhibit C, Form C-6**. The matrix covers each of the Requirements set forth in the Scope of Work and Requirements. The Authority shall

provide shortlisted Proposers **Exhibit C, Form C-6** via a OneDrive File Share after posting of the Board Approval of Shortlist on the date and time provided in Table 1-1 Schedule of Events.

**Note:** Proposers are not to modify the technical Requirements listed in the Requirements Conformance Matrix in any way, and must use the worksheets and instructions provided within to complete the matrix. The Proposer shall submit a PDF version of the completed matrix in Section 5 of the Technical Proposal: Adherence to the Scope of Work and Requirements, Terms and Conditions and Requirements Conformance Matrix of the Technical Proposal as a PDF, in addition to submitting the Excel version of the matrix, as directed in the Technical Proposal submittal procedure.

2. Within Section 5 of the Technical Proposal, Proposers may identify and describe any assumptions or exceptions against any portion of the RFP. Assumptions and exceptions noted by the Proposer may be considered during the Proposal evaluation process at the sole discretion of the Authority. An “assumption” is a Proposer’s stated expectation or supposition that would require a change to an item within the RFP or the addition or deletion of an item with the RFP.

**Note:** The Proposer shall identify the specific part (e.g. section/subsection number, title and page number) of the RFP when they identify an exception or an assumption.

## H. PROPOSAL SECTION 6: TECHNICAL PROPOSAL APPENDICES

The Proposer shall submit the following materials in the form of Proposal Appendices within Section 6 of the Technical Proposal:

- Appendix 1 – Sample Reports

Proposers shall attach five (5) sample reports to provide the Authority with an understanding of the basic layout, format, and types of reports the Proposer’s System is capable of providing based on Scope of Work and Requirements.

**Note:** This appendix shall be restricted to five (5) pages with the Proposer providing one (1) report per page. The five (5) pages shall not count towards the fifty (50) page limit of the Technical Proposal.

- Appendix 2 – Key Personnel Resumes

Proposers shall attach resumes for proposed Key Personnel to provide the Authority with an understanding of the proposed staff’s experience and expertise at each position.

**Note:** Resumes are restricted to two (2) pages, and resumes shall not count towards the fifty (50) page limit of the Technical Proposal.

- Appendix 3 – Organizational Charts

Proposers shall attach organizational charts for both the Design and Implementation Phase of the Project through System Acceptance and the Operations and Maintenance Phase of the Project.

**Note:** The organizational charts shall not count towards the fifty (50) page limit of the Technical Proposal.

**I. PROPOSAL SECTION 7: FORMS AND SUBMITTALS**

Proposers shall complete and submit properly completed forms as required in this section. Please refer to the checklist in the table below. The checklist identifies the location of the form or the submittal requirement in the RFP and where the form or submittal is to be included in the Proposal.

Proposers shall not modify any of the forms unless specifically instructed by the Authority to do so. Completion of forms will be checked during the initial Pass/Fail screening of the submitted Proposals. Proposals not adhering to this requirement may be considered non-compliant.

**Table 1-6: Forms and Submittal Checklist**

Form #	Form/Submittal Name	Location in RFP	Location of Form/Submittal in Proposal
<b>Forms to be Submitted</b>			
C-1	Proposal Affirmation	Exhibit C-1	Technical Proposal Section 7
C-2	List of Subcontractors (if any)	Exhibit C-2	Technical Proposal Section 7
C-3.1	Conflict of Interest Statement	Exhibit C-3.1	Technical Proposal Section 7
C-3.2	Conflict of Interest Disclosure (if any)	Exhibit C-3.2	Technical Proposal Section 7
C-5	Key Personnel and Qualifications	Exhibit C-5	Technical Proposal Section 7
C-6	Requirements Conformance Matrix	Exhibit C-6	Technical Proposal Section 5
C-8	Acknowledgment of Receipt of Addenda	Exhibit C-8	Technical Proposal Section 7

**The Proposer shall not discuss or reveal elements of the Price Proposal in the written Technical Proposal.**

**1.20.4 DEMONSTRATION AND INTERVIEW OVERVIEW**

The Authority will invite shortlisted Proposers to participate in demonstrations and interviews. The demonstration and interview portion of the technical evaluation will provide an opportunity for the Evaluation Committee to further its understanding of the Technical Proposals and the Proposer’s product offering. Any such demonstrations and interviews will be conducted in accordance with Section 286.0113, Florida Statutes.

Demonstration and Interview Format

Each demonstration and interview will last 90 minutes, and the agenda will be as follows:

- Proposer Room Setup – 10 minutes, which will not count towards the Proposer’s time.
- Authority Announcements and Procurement Rules – 5 minutes, which will not count towards the Proposer’s time.
- Presentation – 20 minutes

- Demonstration of Transaction Processing System Currently in Use – 25 minutes
- Question and Answer Period – 45 minutes

#### Demonstration and Interview Rules:

- Proposers must provide their own equipment necessary to conduct the demonstration and interview (e.g. laptop computer with HDMI or C-port connection, computers, projector, screen, etc.)
- Proposers will be required to submit to the Proposer's designated OneDrive a copy of their presentation twenty-four (24) hours in advance of the first Proposer's demonstration and interview.
- Each demonstration and interview will be conducted in closed door sessions with the Proposer, Authority staff, the Evaluation Committee and the Authority's Technical Advisors.
- Each demonstration and interview will be recorded.
- Proposers will not be allowed to ask any questions to the Authority during the demonstration and interview.
- Proposers will not be allowed to provide any handouts or leave any materials behind for the Authority other than business cards.

The Authority reserves the right to modify the demonstration and interview agenda and the rules. The Authority's Procurement Office shall include each Shortlisted Proposer's specific time and date in the **Notice of Invitation to Demonstration and Interview** to be distributed by the Authority.

#### **1.20.5 TECHNICAL PROPOSAL EVALUATION**

1. **Evaluation Committee.** An Evaluation Committee will be established by the Authority to review, evaluate and score all responses submitted in response to this Solicitation. The Authority reserves the right to request additional information and clarification of any information submitted, including any omission from the original response.
2. **Material Content Conformance and Responsiveness.** Technical Proposals will be evaluated on the conformance of the material content and their responsiveness to the requirements of **Section 1.20, Phase 2-Technical Proposal Contents and Submission** and the degree of adherence to the Scope of Work and Requirements set forth in this document.
3. **Demonstration and Interview.** While each demonstration and interview will provide an opportunity for the Evaluation Committee to further its understanding of the Technical Proposals and the Proposer's product offering, they will also factor into the Evaluation Committee's technical evaluation and scoring.
4. **Technical Scoring.** The evaluation process will consist of a quantitative scoring and ranking of the Technical Proposals in order to ascertain which Proposer best meets the Authority's needs for the OBOS. Following the demonstration and interview period, the Evaluation Committee will complete and submit its technical scores to the Authority's Contracts and Procurement Manager. The scoring will consider both the Technical Proposal and the results of the demonstrations and interviews with maximum potential technical score points for each Technical Proposal as shown in **Table 1-7** below.
5. **Responsive.** Any Technical Proposal that is found non-compliant with the requirements of the RFP or that is scored below 55 out of 75 possible total points on the evaluation will be

considered non-responsive and will not be considered further. The Authority shall not open any Proposer’s Price Proposal that does not meet the minimum score of 55.

**1.20.5.1 TECHNICAL PROPOSAL SCORING**

The Evaluation Committee shall individually evaluate the written Technical Proposal submitted by each responsive Shortlisted Proposer based on the categories outlined in this section. Each Evaluation Committee Member shall score each Shortlisted Proposer individually. An average score for each Shortlisted Proposer shall then be computed by the Authority. Prior scoring from the ELOR shall not carry over to the Technical Proposal Scores.

The Evaluation Committee will meet to confirm their scores of the Technical Proposal on the date, time and at the location stated in **Section 1.2.3, Current Schedule of Events**. Proposers are not required to attend; however, the meeting is open to the public.

**Table 1-7: Phase 2 Technical Proposal Scoring and Evaluation Criteria**

<b>PHASE 2 Technical Proposal – Evaluation Criteria</b>		<b>Maximum Point Value</b>
	<b><u>Scored Categories:</u></b>	
1.	Proposer Experience and Qualifications	15
2.	Staffing and Key Personnel Qualifications	10
3.	Approach to Scope of Work	40
4.	Preliminary Project Schedule	10
	<b>Total:</b>	<b>75</b>

The 75 total points are for scoring the Technical Proposal only and will be combined with the Price Proposal to provide a final, overall score.

After the ranking of the Proposers by the Evaluation Committee, the Price Proposals will be opened.

## 1.21 PHASE 2 – PRICE PROPOSALS - PROVIDED TO SHORTLISTED PROPOSERS

### 1.21.1 GENERAL

The Price Proposal shall include all costs associated with both the Design and Implementation Phase and the Operations and Maintenance Phase of the Project. Price Proposals shall be evaluated on the total cost of ownership, including initial capital cost and the operations and Maintenance costs, as identified in the Price Proposal instructions.

Shortlisted Proposers must provide complete Price Proposals in the format (including sections and heading descriptions) as instructed in the Price Proposal submittal procedure below, as well as those instructions found in **Exhibit B – Price Proposal Form and Instructions**. The Authority shall provide shortlisted Proposers Exhibit B via a OneDrive File Share after posting of the Board Approval of Shortlist on the date and time provided in **Table 1-1 Schedule of Events**.

Any Price Proposal that is incomplete, contains significant inaccuracies or inconsistencies, or does not comply with the requirements herein, may cause the Proposer's Proposal to be rejected by the Authority.

Note: Proposers shall submit Price Proposals separately from Technical Proposals by uploading their Price Proposal to the Proposer's OneDrive folder as identified in Section 1.21.2.2.

### 1.21.2 PRICE PROPOSAL SUBMITTAL PROCEDURE

The Authority strongly urges Proposers to read the instructions carefully to avoid mistakes in preparation of the Price Proposal.

#### 1.21.2.1 PRICE PROPOSAL SUBMITTAL REQUIREMENTS

Please refer to the detailed Price Proposal instructions included below.

1. The Price Proposal must be uploaded to the OneDrive folder as designated and directed by the Authority's procurement office by the due date and time provided in **Table 1-1: Schedule of Events**. The Authority will not accept or consider Price Proposals received after the due date and time. It is the Proposer's responsibility to ensure all files are uploaded to the OneDrive folder.
2. Price Proposals shall be provided in searchable PDF (Adobe Acrobat) and MS Excel (\*.xlsx) formats. Both versions of the Price Proposal may be packaged into a single .ZIP file to upload to the Proposer's assigned OneDrive folder.
3. The file format for the electronic MS Excel copy of the Price Proposal shall be Microsoft Excel 2016 or later.
4. The Price Proposal for this Solicitation shall indicate clearly that it is the Price Proposal for this Solicitation and clearly identify the Proposer's name and address, contact number, Project number, and Project description. Price Proposals transmitted by facsimile, e-mail or mail are non-responsive and will not be considered. Only one (1) Price Proposal per legal entity is acceptable.
5. Proposers shall not include any assumptions in their Price Proposals. If the Proposer includes assumptions in its Price Proposal, the Authority may reject the Proposal.
6. Any costs for Work that is not provided in the Price Proposal will be assumed as no charge to the Authority.

~~6-7.~~ The Price Proposal may be signed electronically.

### **1.21.2.2 PRICE PROPOSAL SUBMITTAL LOCATION**

Price Proposals must be received by the Authority via upload to the designated OneDrive folder by the time specified in **Table 1-1: Schedule of Events**.

The Price Proposal, and associated files, shall be secured and unopened until the date specified for opening of Price Proposals. Price Proposals received after the due date specified in this Procurement Document ~~will~~ may not be considered.

It is solely the Proposer's responsibility to ensure that the Price Proposal is received by the Authority by the due date and time. Proposers are encouraged to provide themselves with ample time to ensure Price Proposals are received by the Authority on time. The Authority is not responsible for any Proposer's delay or failure to successfully transmit their Price Proposal on time.

Price Proposals will be publicly opened and the contents noted at the time and place specified in **Section 1.2.3, Current Schedule of Events**. Proposers or their authorized Agents are invited to be present during the Price Proposal opening.

### **1.21.3 FLORIDA SALES AND OTHER TAXES**

The Proposer is responsible for paying to the appropriate governmental entity all applicable taxes. Any applicable tax shall be included in the Price Proposal provided by the Proposer, whether or not yet effective or merely scheduled to go into effect.

### **1.21.4 PRICE PROPOSAL GUARANTY**

**Price Proposal Guaranty.** A Price Proposal Guaranty in an amount of not less than five percent (5%) of the Total Contract Amount shall accompany each Proposer's Price Proposal. ~~The Price Proposal Guaranty shall be in the form of wire transfer to the Authority. The Authority will provide wiring instructions to shortlisted Proposers. The Price Proposal Guaranty may, at the discretion of the Proposer, be in the form of a cashier's check, bank money order, bank draft of any national or state bank, certified check, or surety bond, payable to the Authority.~~

The surety on any Price Proposal Guaranty shall be a company recognized to execute bid bonds for contracts of the State of Florida. The Price Proposal Guaranty shall stand for the Proposer's obligation to timely and properly execute the Contract and supply all other submittals due therewith. If the Proposer improperly withdraws its Technical and Price Proposal, or if the Proposer receives a Notice of ~~Intent to Award Decision~~ Intent to Award Decision ~~the Contract~~ and fails to execute and deliver to the Authority any of the Contract Documents or information required by this RFP within thirty (30) Calendar Days after the Authority's written request, the Authority shall be entitled to the full amount of the Price Proposal Guaranty, not as a penalty, but in liquidation of and compensation for damages. The amount of the Price Proposal Guaranty shall be a liquidated sum, which shall be due in full in the event of default, regardless of the actual damages suffered. A Notice of ~~Intent to Award Decision~~ Intent to Award Decision may then be provided to the next highest scoring, qualified, responsible Proposer whose Technical and Price Proposal is responsive to the Request for Proposals. The Price Proposal Guaranty of all Proposers shall be released upon the Authority's award of the Contract.

### 1.21.5 PRICE PROPOSAL SCORING

Price Proposal scoring is the process of examining a prospective price without evaluation of the separate cost elements. Price analysis is conducted through the comparison of price quotations submitted. The procurement office will assign points based on the formula for Price Proposal points identified herein. The Price Proposal shall be worth a maximum of 25 points.

The criteria for Price Proposal scoring shall be based on the following formula:

*(Lowest Price Proposal of all Proposals / Proposer's Price) x Maximum Price Points (25 points) = Proposer's Price Proposal Points*



## 1.22 FINAL SELECTION AND BASIS OF AWARD

### 1.22.1 FINAL SELECTION FORMULA

The Authority shall publicly open the sealed Price Proposals and calculate a final score using the following formula:

$$\text{Technical Proposal Score} + \text{Price Proposal Score} = \text{Final Score}$$

### 1.22.2 FINAL SELECTION PROCESS AND BASIS OF AWARD

After the sealed Price Proposals are received, the Authority will have a public meeting for the announcement of the Technical Proposal scores and opening of Price Proposals. At this meeting, the Authority will announce the score for each member of the Evaluation Committee, by category, for each Proposer and each Proposer's technical score. Following the announcement of the technical scores, the Price Proposals will be opened and the final scores calculated. The Authority will document the preliminary results as presented in the meeting.

The scoring of firms based on the Evaluation Committee's evaluation will be presented to the Authority's Board for consideration and Approval with a recommendation that the highest scored firm be selected on the date, time and at the location stated for the **Board Approval of Final Ranking and Award of Contract** referenced in **Table 1-1: Schedule of Events**. The Authority's Board of Directors will review the recommendation of the Evaluation Committee and will make a final determination.

The Authority's Board reserves the right to correct any errors in the evaluation and selection process that may appear to have been made. The Authority's Board is not obligated to award the Contract and may decide to reject all Proposals. If the Authority's Board decides not to reject all Proposals and award the Contract, the results will be posted no later than the date, time and at the location stated for the posting of the **Final Ranking Notice of Decision** referenced in **Table 1-1: Schedule of Events**.

All decisions regarding the award of the OBOS Contract shall be made by the Authority's Board at open public meetings in accordance with the requirements of Florida Statutes, Section 286.011, and all interested parties are invited to attend such meetings.

### 1.22.3 REJECTION OF PROPOSALS

A Proposal may be considered irregular and may be rejected if, in the Authority's sole discretion, the Proposal contains any omissions, alterations of form, additions not called for, conditions, limitations, unauthorized alternate Proposals or other irregularities of any kind. In addition, the Authority reserves the right to reject for any reason, in its sole discretion, all Proposals at any time prior to full execution of a Contract and delivery of same to the Proposer.

#### 1.22.4 EXECUTION OF THE CONTRACT

Unless all Proposals are rejected, a Notice of ~~Intent to Award Decision~~ for the OBOS Contract will be issued to the apparent successful Proposer. The Notice of ~~Intent to Award Decision~~ does not create a contractual relationship between the parties. Rather, it triggers the Proposer's obligation to, within thirty (30) ~~Business Calendar~~ Days of the date of Notice of ~~Intent to Award Decision~~ (or other such time fixed by the Authority in writing), execute and deliver to the Authority all of the required Contract Documents, including, but not limited to the following:

- The OBOS Contract in the form contained in the Contract Documents
- The Performance and Payment Bond each for not less than the amounts specified in **Section 1.9, Payment and Performance Bond Requirements**
- The Power of Attorney and Countersignature for the Bonds
- The Certificate of Insurance evidencing the required insurance coverage

The above documents must be furnished, executed, and delivered to the Authority before the Contract Documents will be executed by the Authority. The OBOS Contract shall not be deemed awarded and shall not be binding upon the Authority until it has been executed by the Authority and a copy of the fully executed Contract Documents, including a Notice to Proceed (NTP), is delivered to the successful Proposer. The original copy will be retained in the Authority's Office.

In the event that the apparent successful Proposer fails to execute the awarded OBOS Contract and to submit the above documents within the time prescribed, the Authority may annul the award, causing the Proposer to forfeit the Price Proposal Guaranty to the Authority as liquidation of damages sustained. The Authority may then award the Contract to the responsible Proposer with the next highest, final score, re-advertise, or accomplish the Project using alternate resources.

Proposers are hereby informed that the award of this Contract is contingent upon the Authority's available funding. The Authority reserves the right not to proceed with the award of the Contract for any reason, including, but not limited to, if the lowest Total Contract Amount exceeds the Authority's estimates or budget or funding is otherwise unavailable. The Authority shall have the right to rescind its Notice of ~~Intent to Award Decision~~ without liability, except for the return of the Price Proposal Guaranty to the Proposer, at any time before the Contract Documents have been fully executed by all parties and delivered to the Proposer.

## **Section 2**

# **Defined Terms and Acronyms**

<b>2</b>	<b>DEFINED TERMS AND ACRONYMS .....</b>	<b>1</b>
<b>2.1</b>	<b>DEFINED TERMS: .....</b>	<b>1</b>
<b>2.2</b>	<b>ACRONYMS:.....</b>	<b>24</b>

## 2 DEFINED TERMS AND ACRONYMS

The following terms and acronyms apply to the RFP and the Contract.

### 2.1 DEFINED TERMS:

Defined Term	Definition
Access Control List (ACL)	A list of permissions associated with a system resource. An ACL specifies which Users or system processes are granted access to resources, as well as what operations are allowed on given resources.
Addendum/Addenda	A written interpretation, correction, clarification or change to the Procurement Documents considered necessary by the Authority.
Agent	A representative designated to act on behalf of another party (e.g. the Authority, Contractor, etc.).
Alert	The automatic identification and notification to designated parties of an OBOS failure or an anomaly that requires a response. These alerts may be generated by the OBOS or received by the OBOS from external entities.
Amendments	A message that either alters the data included in a UFM or transaction record or conveys the current status of a UFM or transaction record. Most Amendments are received by the OBOS from either the CCSS or Collections, however, there may also be outgoing Amendments from the OBOS to CCSS.
Approve	The term “Approve” and its variations (e.g., “Approval” or “Approved”), when capitalized in the Contract refer to acceptance of a process, document, condition, action or Deliverable in writing by the Authority. Approval by the Authority shall not be construed to mean endorsement or assumption of liability by the Authority nor shall it relieve the Contractor of its responsibilities under the Contract.

Defined Term	Definition
Approved, Baseline Project Schedule	The Approved, Baseline Project Schedule is the schedule that has been baselined and Approved by the Authority pursuant to the Contract. Upon Approval by the Authority, this schedule shall be maintained by the Contractor and used to track and measure all Project activities and progress.
Approved Schedule Maintenance Period	A specific period of time, requested by the Contractor and Approved by the Authority, for which the OBOS may be unavailable due to Maintenance. This may include both preventive Maintenance or Maintenance required to address an issue.
As-built System Design Document	An updated version of the System Design Document that reflects the OBOS as developed after System Acceptance.
Authority	The Tampa Hillsborough County Expressway Authority (the “Authority”) is an independent agency of the state that owns, maintains, and operates toll facilities within Hillsborough County.
Authority Project Manager	The Authority’s duly authorized representative designated to manage this Work and Contract.
Business Day	A weekday, excluding the Authority observed Holidays, beginning at 12:00:00 a.m. and ending at 11:59:59 p.m.
Business Intelligence Software	Software that ingests, retrieves and analyzes data and presents it in User-friendly views such as reports, Dashboards, charts and graphs.
Business Rules	A set of operational and System rules that detail how the OBOS operates based on Business Policies and Procedures and the Authority practices.
Calendar Day	Every day, including weekends and Holidays. beginning at 12:00:00 a.m. and ending at 11:59:59 p.m.

Defined Term	Definition
Centralized Customer Service System (CCSS)	The commercial back office owned by Florida’s Turnpike Enterprise. The CCSS provides account management, customer contact, and initial processing of Transactions for the Authority including customer service, revenue collection coordination and collection of Interoperable Agency Transactions and management duties for its Transponder and invoice programs.
Certification	The Contractor’s written verification and validation, with full supporting Documentation (including test results where applicable) that the Contractor has completed development of the Deliverable and certified its readiness for Approval, testing or review, as applicable.
Chargeable Failures	A failure to meet or exceed a KPI which is not specifically identified as a Non-Chargeable Failure. Invoice Adjustments will be assessed at the Authority’s discretion, for Chargeable Failures.
Cloud	A third-party system of off premises Hardware and software services to provide IT solutions.
Cloud-based	Any software, service or application that is hosted at a remote data center and accessed over the internet.
Collectible	Transactions that include a valid Transponder or readable license plate number.
Collections	The process of attempting to collect unpaid tolls via the Authority’s third-party collection agency.
Completed Transaction	A fully formed Transponder or Image-based Transaction (including manual or automated (e.g. ALPR/OCR) Image processing) ready for transmission to the Authority Operational Back Office System as further set forth in the Scope of Work and Requirements.

Defined Term	Definition
Configuration Table	A table that shows the current and historical values of table-driven variables in a system.
Conformed Scope of Work and Requirements Document (CSWRD)	The updated Requirements as agreed to by the Authority, as identified in the Scope of Work. When the term “Scope of Work and Requirements” is referred to in the executed Contract Documents it is referring to the CSWRD, unless otherwise indicated.
Contract	The legally enforceable contract between the Authority and the Contractor covering the RFP solicitation; <b>Section 4, Scope of Work and Requirements</b> ; the Contract Terms and Conditions; procurement questions and answers; the Contractor’s Proposal; any appendices, exhibits, and attachments thereto; and any written Contract Amendments that may be agreed to during the Contract Term
Contract Amendment	A change in the Contract executed in writing made by adding, altering, or omitting a certain part or term.  Changes to the Project scope, cost, time to complete all Work prior to Go-Live, and/or modifications to Contract Terms are examples of activities that may result in a Contract Amendment being necessary to capture and quantify a change pursuant to <b>Section 3, Terms and Conditions</b> .
Contract Documents	The documents forming the executed Contract between the Authority and the Contractor including all Addenda, attachments, exhibits and appendices thereto, any supplemental agreements, Contract Amendments, Deliverables, Contract modifications, and all provisions required by law to be inserted in the Contract, whether actually inserted or not.
Contract Term	The period of time during which the Contract between the Contractor and the Authority is in effect, including any authorized renewals and extensions.



Defined Term	Definition
Contractor	The person, Proposer, corporation or entity undertaking the execution of the Work with whom the Authority has entered into a Contract.
Contractor Project Manager	The Contractor’s duly authorized representative designated to manage the Contractor’s performance of the Work in accordance with the Contract.
Custom Software	Any source code developed or modified specifically for the Authority, System or application customizations, and configuration settings, internal embedded Software, firmware provided for the Authority and to meet the obligations of this OBOS RFP.
Dashboard	A visual display of collected information that is consolidated, arranged, and displayed on a screen(s) in an interactive and intuitive manner so that the information can be monitored and interpreted at a glance. A Dashboard should include access to drill down links for more detailed information, including, but not limited to, additional screens, static and drill-down reports.
Data Dictionaries	A centralized repository of information about data such as meaning, relationships to other data, origin, usage, and format.
Data Migration Plan	A document that describes the complete transition/data migration approach.
Days	Calendar Days, unless otherwise specified.
Deliverable(s)	All Documentation and any items of any nature submitted by the Contractor to the Authority for review and Approval pursuant to the terms of the Contract.
Demographics	Customer name and address information.

Defined Term	Definition
Deposit Materials	The tangible and intangible assets a Software developer places into escrow with a neutral third-party as set forth in the Software Escrow Agreement.
Design	The process, Documentation and Deliverables that define and establish all elements of the System, including but not limited to the architecture, components, modules, interfaces and data for the System to satisfy the Project Requirements. Also meant to refer to the completed Design Document. See “Design Documentation”.
Design Documentation	Documentation, including Deliverables required with this Project that describe, document and elaborate the Design for review and Approval by the Authority.
Design and Implementation Phase	The phase of the Project, which begins at Notice to Proceed and ends at System Acceptance, that includes but is not limited to, the System Design, development, installation, testing, transition, data migration, Go-Live and System Acceptance Testing.
Disaster Recovery	A set of processes and techniques used to help an organization recover from a disaster and continue or resume routine business operations.
Disaster Recovery Plan	A document that describes the process for continued OBOS operations and performance of OBOS and business functions in the event of an unplanned service disruption.
Disaster Recovery Test	A Formal Test to ensure that the OBOS can be returned to a fully operational state in the event of a catastrophic failure of the Primary OBOS.

Defined Term	Definition
Documentation	Material, Submittals and Deliverables that provide official information or evidence that serves as a record in accordance with the Contract.
Electronic Toll Collection (ETC)	<del>Transaction associated with a Transponder. When used in the context of a toll Transaction, it defines a transponder-based transaction. When used in the context of an account, it refers to a prepaid/prefunded account.</del>
Environments	<p>All Software, Hardware, network and data resources under the direct control of the Contractor used to support the OBOS. The OBOS Environments include the following as defined within the Scope of Work and Requirements.</p> <ul style="list-style-type: none"> <li>• Primary</li> <li>• Disaster Recovery</li> <li>• Development</li> <li>• Test</li> </ul>
Equipment	<p>Refers to the electronic appliances and services related to the System, including peripherals necessary to facilitate communication between internal and external devices, as well as servers, routers, switches, power units, network devices, hard drives, racks, other computer Hardware and components, cabling, and related or ancillary Equipment, machinery, and components necessary for the System to operate.</p> <p>See also “Hardware.”</p>
Expanded Letter of Response	The Expanded Letter of Response (ELOR) is a package of information Proposers are required to provide first as part of the two-phased approach to this RFP.
External Interface Test	A Formal Test to ensure that the OBOS will interface properly with the defined external entities (with the exception of the RTCS which will be performed separately).

Defined Term	Definition
Extra Work	Extra Work is a task or project identified as necessary by the Authority, which is outside of the Contracted Scope of Work, such as modifications or new functionality for the OBOS. Extra Work shall be contracted in the form of a Purchase Order. See also Purchase Order.
Fiscal Year	The 12-month period (July 1 to June 30) in which the Authority reports its financial activity.
Florida’s Turnpike Enterprise	A District of the Florida Department of Transportation that operates toll roads in Florida.
Formal Test	A Test which is required by the Scope of Work.
Go-Live	The time at which the OBOS becomes the system of record, transmitting Transactions and/or data to the CCSS and other interfaces as defined in the Contract.
Hardware	The physical components of the System, including but not limited to associated peripherals (e.g. internal pieces and connected external devices), firmware, electrical and communications cabling and other materials and supplies, furnished by the Contractor, necessary to provide Services pursuant to the Contract Documents.
Help Desk Support	Telephone and email support provided by the Contractor to assist Users with the operation of the OBOS. This is not to be confused with Maintenance issues reported by the Users.
Holiday(s)	Days that are designated by the Authority as Holidays for purposes of the Contract.

Defined Term	Definition
Hover-text	A common graphical User interface element in which, when hovering over a screen element or component with a cursor, a text box displays information about that element, such as a description of a button's function.
Image	The photograph of the license plate from an IBT Transaction.
Image Based Toll (IBT)	A Transaction where the license plate and Images of the license plate, rather than a Transponder, are used to process a Transaction.
Incomplete Transactions	Transactions sent to the OBOS from the RTCS that are not ready for processing by the OBOS (e.g., IBTs that do not have license plate data).
Interface Control Document (ICD)	A formalized description of the methods and structures involved in providing for and receiving output from a specific system. It outlines the communication protocols between interconnected systems.
Internet Protocol Security (IPSec)	A secure network protocol suite that provides authentication and encryption for IP packets, ensuring secure communication between two computers over an Internet Protocol network. It is commonly used in Virtual Private Networks (VPNs) to establish encrypted communication channels between remote sites.
Interoperable Agency	A toll or non-toll entity that has reciprocal rights for processing Transactions with the Authority. Interoperable agency customers may utilize their home account mechanism (Transponder or license plate) to travel on the Authority's facilities and have their home account charged for the Authority's toll.

Defined Term	Definition
Intrusion Detection and Prevention Services (IDP)	Software that monitors a computer network or system for signs of possible incidents, such as violations of security policies, provides alerts and attempts to stop the intrusion.
Invoice Adjustment	A reduction in the Contractor’s invoice as a result of non-compliance with KPIs.
ITOL	A toll that automatically posts to an account based on matching license plate characters rather than a Transponder.
Key Performance Indicator (KPI)	A subset of Requirements that will be subject to Invoice Adjustments if the Requirement/KPI is not met or exceeded.
Key Personnel	Staff designated as “key” in the Authority OBOS Contract, subject to the Approvals and conditions set forth therein.
Maintenance	Services performed by the Contractor pursuant to the Scope of Work and Requirements. May also be referred to as “Maintenance Services.” See also Operations and Maintenance Phase.
Maintenance Plan	A comprehensive document that describes the Contractor’s approach and methodology to maintaining the System and ensuring the on-going operations, and performance in compliance with the Requirements.
Maintenance Services	The Maintenance and related Services required to be furnished by the Contractor, pursuant to the Contract Documents. See Operations and Maintenance Phase.
Master Test Plan	A document that describes in detail the key features of the overall testing program including both Formal Tests and informal demonstrations.
Monthly Implementation Progress Report (MIPR)	A required status report to be submitted by the Contractor during the Design and Implementation Phase of the Contract.

Defined Term	Definition
Monthly Maintenance and Performance Report (MMPR)	A required status report to be submitted by the Contractor during the Operation and Maintenance Phase of the Contract.
Multi-Factor Authentication (MFA)	Authentication using two or more different factors to achieve authentication.
National Institute of Standards and Technology (NIST)	An agency of the United States Department of Commerce. NIST is responsible for developing, maintaining and disseminating national standards for measurement science, technology and security.
National Interoperability (NIOP)	Agencies that abide by the agreement for Nationwide Electronic Toll Collection Interoperability which allows for the exchange and settlement of tolling Transactions.
Network Time Protocol (NTP)	An internet protocol used to synchronize with computer clock time sources in a network.
Non-Chargeable Failure	A failure to meet or exceed a KPI which is identified in the SOW as a Non-Chargeable Failure.
Non-custom Software	Any Software that is not Custom Software, including routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any or all associated intellectual property rights, licensed to the Authority that shall be and remain the sole property of the Contractor.
Notice	A formal communication addressing legal and Contractual matters.
Notice to Proceed (NTP)	A written communication issued by the Authority to the Contractor authorizing the Contractor to proceed with the Contract work. NTP is also referred to as the date that the Contractor is advised by the Authority, in writing, to commence work.

Defined Term	Definition
On-premises (On-prem)	Any software, service or application that is housed within the physical location of an enterprise, rather than in a hosted remote hosted data center.
Operational Back Office System (OBOS)	The toll Transaction system of record that is specified within this procurement that includes all components, functionality, processes, and interfaces employed by the Contractor to comply with the Requirements of the Scope of Work. Also referred to as the OBOS and System.
Operational Readiness and User Acceptance Test	A Formal Test of a fully functional OBOS using TOBS as a conduit for roadside Transactions.
Operations and Maintenance Phase	Project phase that commences with Go-Live and includes all System monitoring, Transaction processing, Maintenance, and performance in accordance with the requirements of this Contract and ends with the termination of the Contract.
Optical Character Recognition (OCR)	A Software process that automatically recognizes characters without requiring human intervention.
Order of Precedence	The order in which Contract documents control in the event of a conflict or ambiguity in such documents.
Personally Identifiable Information (PII)	Information that can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information.
Pervasive Defect	A persistent or reoccurring issue or problem.
Plan(s)	Contractor Deliverable(s) that identifies the approach to a particular aspect of the Work submitted for Approval in accordance with the Contract.
POSI List	A list of the status of all Transponders that could be used in the Authority toll system.



Defined Term	Definition
Preliminary Project Schedule	The initial Project Schedule developed by the Proposer for the Design and Implementation Phase of the Project that lists all tasks related to the Design, development, data migration, testing, installation and deployment of the System as defined in the procurement documents.
Price Proposal	Contractor pricing provided in response to this RFP and in accordance with the instructions provided herein.
Primary OBOS	The OBOS utilized during operations.
Priority	Ranking and assignment of importance used in the identification, monitoring, correction and reporting of System problems, bugs, and failures.
Procurement Documents	The documents that are included or referenced in this RFP or provided to Proposers, including without limitation as made applicable to this Solicitation through the RFP (including, but not limited to, the advertisement, the attachments, the Scope of Work and Requirements (Section 4), the draft Contract, Certifications, Addenda, and the documents, reports, and information referenced in such RFP unless otherwise explicitly stated
Production Database	The OBOS database utilized during operations.
Project	The total Work set forth and detailed within the Contract Documents.

Defined Term	Definition
Project Management Plan (PMP)	A document that describes how the Contractor will implement and manage the Project, including staffing, scheduling, communication procedures for controlling all correspondence, Submittals and other communications between the Contractor and the Authority, as well as communications with other third-party entities.
Proposal	Contractor’s entire submission in response to this RFP. See also Technical Proposal and Price Proposal.
Proposer	An entity that has submitted a Proposal to this RFP.
Purchase Order	The mechanism used by the Authority to document details such as scope, schedule and cost of tasks or Projects, outside of the executed scope of work, to modify or enhance the System during the term of the Contract pursuant to <b>Section 3, Terms and Conditions</b> . Purchase Orders shall be negotiated between the Authority and the Contractor prior to the Contractor performing any work to Design, develop, test or implement the modification and/or enhancement. See also Extra Work.
Quality Assurance (QA)	The documented guidelines, processes and procedures to ensure a product, System or document does not have defects.
Quality Assurance and Quality Control Program/Plan (QA/QC)	A document that describes the Contractor’s approach and processes related to the provision and implementation of Quality Assurance and Quality Control measures throughout the duration of the Project.
Quality Control (QC)	The execution of the processes identified in Quality Assurance.

Defined Term	Definition
Recovery Point Objective (RPO)	The point in time, prior to a disruption or system outage, to which data can be recovered (given the most recent replication of the data) after an outage. It is a factor of how much data loss can be tolerated during the recovery process.
Recovery Time Objective (RTO)	The maximum amount of time that a system resource can remain unavailable before there is an unacceptable impact on the operations.
Registration Stop/Release	Term to indicate when a vehicle registration that has been flagged or released related to the non-renewal or suspension for non-payment of tolls.
Reporting Database	A database that replicates all the data from the Primary OBOS Database in near real time, to be used for all reporting purposes.
Request for Proposal (RFP)	The mechanism used to communicate Procurement specifications and to request responses from potential Proposers. An RFP may also be referred to as a "Solicitation." See also "Procurement Documents" and "Solicitation."
Requirements	Each of the required Work activities in numbered form as set forth in <b>Section 4, Scope of Work and Requirements</b> that the Contractor shall perform, including but not limited to technical, functional, project management, Maintenance and Performance.
Requirements Conformance Matrix (RCM)	A document included as an appendix to the RFP, that lists all Scope of Work Requirements, which must be completed by the Proposer and submitted as part of the RFP Proposal response.

Defined Term	Definition
Requirements Traceability Matrix (RTM)	A document, created and maintained by the Contractor and Approved by the Authority, based on the SOW Requirements. The RTM is based on the Requirements of the RFP and is used to document and ensure the Contractor's compliance with the Requirements of the RFP and Contract, as well as ensure each Requirement is traced to and included within the System Design, and Formal Tests.
Risk Management Plan	A document that describes the process used by the Contractor to identify, assess, and mitigate potential risks associated with the Project.
Roadside Toll Collection System (RTCS)	The new system being procured by the Authority to be deployed on Authority toll roads comprised of Hardware and Software components needed to identify and record customer toll Transactions for the purposes of collecting a toll. The software for the RTCS may be managed by others. The OBOS will need to interface with the RTCS.
Roadside Toll Collection System Interface Test	A Formal Test to verify that Transactions from the RTCS are received in real time and translated by the OBOS into a form compatible with UFM production as well as Dashboard and report generation.
Roadside Toll Collection System Toll Site Commissioning Test	A Formal Test to verify the OBOS compatibility with the RTCS in a full production environment and to determine that the Transactions from each RTCS gantry, as they go live, are being properly received and processed by the OBOS.
Role Based Access Control	A method of controlling and restricting system access based on the authorized roles of individual Users.
Security and Network Penetration Test	A Formal Test to ensure that the OBOS is secure from external threats and to ensure compliance with NIST standards for external threats.

Defined Term	Definition
Security Information and Event Management (SIEM)	A security solution that helps organizations recognize and address potential security threats and vulnerabilities before they have a chance to disrupt business operations. SIEM systems help enterprise security teams detect User behavior anomalies to automate many of the manual processes associated with threat detection and incident response.
Service Organization Control (SOC) 2, Type 1 Audit	A review, conducted by a licensed Certified Public Accounting (CPA) firm or agency accredited by the American Institute of Certified Public Accounts (AICPA), which evaluates an organization's cybersecurity controls at a single point in time. The goal is to determine whether the internal controls put in place to safeguard customer data are sufficient and designed correctly.
Services	All Contractor activities required by the Contract. Also referred to as “Work.”
Simple Network Management Protocol (SNMP)	An internet standard protocol for collecting and organizing information about managed devices on IP networks and for modifying that information to change device behavior.
Single Sign-on (SSO)	An authentication scheme that allows a User to log in with a single ID to any of several related, yet independent, Software systems.

Defined Term	Definition
Software	All computer programs, media, procedures, rules and associated Documentation pertaining to the control and operation of the data processing and data storage for the System. Software includes all associated features and functions described in the Contract, including all Updates, derivative works, enhancements, modifications or upgrades thereto, and all error corrections, patches and bug fixes provided by the Contractor and which is made part of the System, as well as all related or ancillary data files, modules, libraries, tutorial and demonstration programs, and other components thereof, all source and object code, firmware and all Documentation.
Software Development Plan	A document that describes the Contractors’ approach, methods, and process for ensuring the successful Design, development, implementation, on-going operation and Maintenance of the OBOS Software.
Software Escrow Agreement	The agreement established to ensure the System Software developed for this Project (e.g. source code or other critical materials) are securely held by a neutral third-party to be released to the Authority under pre-defined conditions, thereby ensuring the continuity of business operations for the Authority. Also referred to as “Escrow Agreement.”
Solicitation	See “Procurement Documents” and “Request for Proposal.”
Subconsultant	See “Subcontractor.”

Defined Term	Definition
Subcontractor	Any person, firm, Proposer or corporation, other than the Contractor’s employees, who contracts to furnish labor, or labor and materials, at the Site(s) or in connection with the Services, whether directly or indirectly, on the Contractor’s behalf and whether or not in privity with the Contractor. Also referred to as “Subconsultant”.
Submittal	See “Deliverable”.
Succession Event	The Authority’s formal notification to the Contractor to enact its Succession Plan.
Succession Plan	A document detailing the method for the orderly transfer of knowledge, data, manuals, documents, assets, licensing, warranties, and business relationships from the Contractor to the Successor.
Successor	The entity taking over the OBOS operation and Maintenance at the end of the Contract Term. The Successor may be the Authority, the Contractor or another Service provider.
System	All Software and components necessary under the Contract to meet the Requirements of the System, as set forth in the Contract Documents.
System Acceptance	The process of the Authority providing Acceptance of the Design and Implementation Phase once the Contractor has met all obligations under the Contract for the Phase.
System Acceptance Test (SAT)	A Formal Test in which the entire OBOS is utilized and scrutinized to verify that the OBOS is performing and functioning as required to Accept the System.

Defined Term	Definition
System Administration Manual	A document that shall address the tasks and responsibilities of the system administrator for maintaining and monitoring the System so that it continuously operates and performs in accordance with the Requirements.
System Design Document (SDD)	Document Deliverable that includes but is not limited to the defined architecture, components, interfaces, Design and functionality for the OBOS to satisfy applicable Requirements in the Contract, which is submitted by the Contractor for Approval by the Authority.
Tax Collector	An authorized entity of FLHSMV to place and release Registration Stops.
Technical Proposal	Technical details provided by Proposers in response to this RFP, and in accordance with the instructions provided herein.
Tolling Operational Back Office System (TOBS)	Tolling Operational Back-Office System. This is the Authority’s legacy operational back-office system.



Defined Term	Definition
Total Contract Amount	<p>The total, firm, fixed price of the OBOS Contract for both the Design and Implementation and Operations and Maintenance Phases of the Project, inclusive of all costs for the Contractor to implement and achieve System Acceptance for the System and all costs necessary for the Contractor to operate, monitor and maintain the System in accordance with the Scope of Work and Requirements, including, but not limited to: insurance, labor, Software, Hardware, licenses, subscriptions, bonding costs, any Cloud-based costs, escrow costs, etc. as detailed in the Price Proposal submitted in response to this Solicitation.</p> <p><b>Note:</b> Extra Work included in the Price Proposal is for evaluation purposes only and shall not be included in the Total Contract Amount. Any Extra Work, and associated costs, shall be negotiated between the Authority and Contractor during the development of future Purchase Orders.</p>
Training Plan	<p>A document that describes the Contractor’s training program and process for the initial training of the Authority, as well as addressing periodic training that may be necessary whenever there are material changes in the OBOS functionality or features and/or changes to key the Authority staff throughout the Contract Term.</p>
Transaction	<p>The record of a vehicle's detection at a toll point that is to be processed by the OBOS. The transaction includes all subsequent status information that is associated with the original toll record including amendments.</p>
Transmission Control Protocol/Internet Protocol (TCP/IP)	<p>A suite of communication protocols used to interconnect network devices on the internet.</p>

Defined Term	Definition
Transponder	A radio frequency (RF) device mounted within or on a vehicle and read by the RTCS RF antenna and reader Equipment in a toll lane for the purpose of toll payment through automatic vehicle identification.
Uncollectable	Transactions that cannot be processed for payment due to the lack of a valid Transponder read or a readable license plate Image.
Unified Threat Management (UTM)	A security process in which multiple security features or services are combined into a single device within your network.
Universal Financial Message (UFM)	A toll Transaction message sent by the OBOS to the CCSS that provides all Transactional information needed for processing a toll
Updated Project Schedule	The Updated Project Schedule is an update made by the Contractor to the Approved, Baseline Project Schedule due to changes in Work that affected the milestones, dates and/or tasks of the Approved, Baseline Project Schedule. The Updated Project Schedule does not replace the Approved, Baseline Project Schedule and the associated incentives and damages that are associated with not meeting milestones as identified in the Contract.
Updates	Generally, refers to a patch released for Software to fix any identified bugs, errors or security issues; may also include providing support for new Hardware, as well as performance tuning.

Defined Term	Definition
User	The staff and representatives of the Authority and the Contractor who have been permitted role-based access to the System such that permission granted to Users to perform functionality or operations is based on an authorization matrix defining the User’s role. In terms of Requirements within the Scope of Work, User shall mean an individual authorized to perform the task.
User Authorization Matrix	A table that defines access permissions for Users and access roles.
User Manual	An intuitive, easy-to-follow guide that contains detailed instructions for the use and operation of the system including navigation flows, flow diagrams and application screenshots.
Virtual Private Network (VPN)	A mechanism for creating a secure, encrypted connection over the internet between a computing device and a computer network, or between two networks.
Warranty	An assurance by the Contractor that the Services in furtherance of this Contract are guaranteed by the Contractor and the Services provided will operate in conformity with specifications as defined in the Contract.
Work	The Services required by the executed Contract. This also includes all other labor, materials, Equipment and Services provided or to be provided by the Contractor for the proper execution and completion of the Contractor’s obligations. See also “Services”.
Work Product	See also “Deliverables”.

## 2.2 ACRONYMS:

Acronym	Meaning
ACL	Access Control List
AICPA	American Institute of Certified Public Accounts
API	Application Programming Interface
BOM	Bill of Materials
COTS	Commercial Off-the-Shelf
CPA	Certified Public Accounting
CSV	Comma Separated Values
CVE	Common Vulnerabilities & Exposures
DB	Database
DMT	Data Migration Test
DR	Disaster Recovery
DR/BC	Disaster Recovery / Business Continuity
DRDC	Disaster Recovery Data Center
DRT	Disaster Recovery Test
EIT	External Interface Test
ETC	Electronic Toll Collection ( <u>See defined term in Section 2.1 Defined Terms, normally associated with a Transponder account</u> )
FAT	Factory Acceptance Test
FIPS	Federal Information Processing Standards
FLHSMV	Florida Department of Highway Safety and Motor Vehicles
FTE	Florida Turnpike Enterprise
FTP	File Transfer Protocol
GLT	Go-Live Test
GUI	Graphical User Interface
HTML	Hyper Text Markup Language
HTTPS	Hypertext Transfer Protocol Secure
IBT	Image Based Toll (non-Transponder Transaction)

Acronym	Meaning
ICD	Interface Control Document
ICT	Toll Site Commissioning Tests
IDP	Intrusion Detection and Prevention Services
IP	Internet Protocol
IPSEC	Internet Protocol Security
ISO	International Standards Organization
KPI	Key Performance Indicators
LDB	Local Developing-Business
MB	Megabyte
MFA	Multi-Factor Authentication
MIPR	Monthly Implementation Progress Report
MMPR	Monthly Maintenance and Performance Report
MS	Microsoft
NIOP	National Interoperability
NIST	National Institute of Standards and Technology
NTP	Network Time Protocol
NTP	Notice to Proceed
OCR	Optical Character Recognition
ORT	Operational Readiness Test
OFCCP	Office of Federal Contract Compliance Programs
OWASP	Open Worldwide Application Security Project
PDC	Primary Data Center
PDF	Portable Document Format
PII	Personally Identifiable Information
PTES	Penetration Testing Execution Standards
QA	Quality Assurance
QC	Quality Control
RBAC	Role Based Access Control

Acronym	Meaning
RCM	Requirements Conformance Matrix
REST	Representational State Transfer
RFP	Request for Proposal
RIT	RTCS Interface Test
RPO	Recovery Point Objective
RPT	RTCS Parallel Test
RTCS	Roadside Toll Collection System, which is the new system being procured by the Authority.
RTM	Requirements Traceability Matrix
RTO	Recovery Time Objective
SAT	System Acceptance Test
SBE	Small Business Enterprise
SDD	System Design Document
SFTP	Secure File Transfer Protocol
SIEM	Security Information and Event Management
SOC	Service Organization Control
SOW	Scope of Work
SPT	Security Penetration Test
SSL	Secure Sockets Layer
SSO	Single Sign-on
TCP/IP	Transmission Control Protocol/Internet Protocol
THEA	Tampa-Hillsborough Expressway Authority
TLS	Transport Layer Security
UAM	User Authorization Matrix
UAT	User Acceptance Test
UFM	Universal Financial Message
UTM	Unified Threat Management
VBE	Veteran-Owned Business Enterprise
VPN	Virtual Private Network

# **Section 3**

## **Terms and Conditions**

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### 3 TERMS AND CONDITIONS

#### 3.1 CONTRACT TERMS AND CONDITIONS

##### 3.1.1 PAYMENT TERMS AND CONDITIONS

1. Payment terms are net thirty (30) Calendar Days after receipt of a correct invoice. The Authority is responsible for all payments under the Contract. A “correct” invoice is one that contains an accurate description of the amounts due, has no errors, includes all required supporting information including payment Approvals, and meets all other requirements for invoicing set forth in the Contract.
2. During the Design and Implementation Phase, for all Work related to the Design and Implementation Phase, up to and including System Acceptance, the Authority will pay the Contractor the price identified in the Price Proposal for the Design and Implementation Phase, less retainage. The Authority shall retain five (5) percent of each payment milestone amount. Retainage shall be paid in full to the Contractor upon the Authority providing the Contractor System Acceptance. The price in the Price Proposal is all-inclusive of costs and expenses including but not limited to travel and meals, and any and all labor, material, Software licenses, profit, overhead, insurance, taxes, and subcontractors costs incurred by the Contractor. For all Work related to the Design and Implementation Phase, the Contractor shall invoice the Authority based on milestone percentages set forth in **Exhibit A – Project Payment Milestones**.
3. During the Operation and Maintenance Phase, the Authority will pay the Contractor fixed monthly amounts as set forth in the Contractor’s Price Proposal, less any invoice adjustments for failure to meet KPIs as identified in the Contract. This amount is all inclusive of costs and expenses including but not limited to travel, meals, and any and all labor, material, third-party Maintenance and support agreements, all Hardware and Software support, Maintenance, renewal and replacement costs, all security Updates, profit, overhead, insurance, taxes and all Subcontractor costs. Adjustments to these payments may be made if the Contractor’s performance is below the required Key Performance Indicators.
4. Extra Work is anticipated to be completed during the life of the Contract and includes tasks or projects identified as necessary by the Authority, such as modifications or new functionality for the OBOS. All Extra Work shall be contracted in the form of a Purchase Order as set forth in **Section 3.2.2, Purchase Orders**. Purchase Orders shall be contracted based on the labor rates identified in the labor rate card in the Contractor’s Price Proposal. Labor hours and materials costs for Purchase Orders shall be negotiated between the Authority and the Contractor. While Purchase Orders may be negotiated as a fixed cost (e.g. lump sum) or as time and materials (T&M), the Contractor shall be required to provide a thorough breakdown of labor costs by staff positions and hours with associated costs being based on the labor rates provided in the Contractor’s Price Proposal. Any labor rates not included in the Contractor’s Price Proposal shall be negotiated between the Authority and the Contractor.

##### 3.1.2 CONTRACT TERM

The base term of the Contract, which includes the Design and Implementation Phase as well as the Operations and Maintenance Phase, is eight (8) years. At the sole discretion and option of the Authority,

the Contractor shall provide continued Services to the Authority in the form of renewal(s) for up to two (2), two (2)-year optional, operations and Maintenance periods. Such options shall be in accordance with the terms and conditions of this Contract. Any exercised renewal option shall specify the renewal price not to exceed the prices set forth in the Contractor’s Price Proposal for such option year(s), except that the Authority may negotiate lower pricing. Renewal is contingent upon satisfactory performance evaluations and subject to the availability of funds.

### 3.1.3 PROJECT INCENTIVES AND DAMAGES

#### 3.1.3.1 INCENTIVES AND LIQUIDATED DAMAGES

The Authority requires the Contractor to work with its Subcontractors, Agents, consultants, external entities, and other stakeholders, as directed, to ensure project milestones are met without time extensions. In the event the Contractor performs more quickly than required by the Approved, Baseline Project Schedule, the Authority will increase the amount paid for the critical milestones described below.

It is also agreed by the Parties to the Contract that in the event of a delay in completing specified milestones beyond required dates set forth in the Approved, Baseline Project Schedule, subject to extensions as authorized by the Authority, damage may be sustained by the Authority, and that it is or will be impracticable to determine the actual amount of the damage by reason of such delay. The parties therefore agree the Authority may impose liquidated damages, as described below, in the event of the Contractor’s delay in completing the specified milestones beyond the required date. For the purposes of this section, the use of the term “Days” means “Calendar Days.”

#### 1. Completion of Milestones 1 through 9

##### a. Performance Incentive for successfully completing payment milestones one (1) through nine (9)

If the Contractor successfully completes payment milestones one (1) through nine (9) of **Exhibit A – Project Payment Milestones**, fourteen (14) Calendar Days or more prior to the date set forth in the Approved, Baseline Project Schedule, the Authority will increase the percent payment associated with the Disaster Recovery Test by 5%, raising the milestone payment percentage from 5% to 10%.

**Note:** If the Contractor receives the incentive for this milestone, the subsequent milestone for System Acceptance will be reduced by the percent increase for this milestone. For example, if the Contractor achieves the incentive, the Disaster Recovery Test milestone payment percentage will be increased from 5% to 10%, and the System Acceptance milestone will be reduced from 10% to 5%. The Contractor will only be owed the remaining 5% of the total amount for the Design and Implementation Phase and the full retainage amount upon completion of the System Acceptance milestone. Refer to **Exhibit A – Project Payment Milestones** for Project payment milestones and associated percentages. The Authority shall provide shortlisted Proposers Exhibit A via email after posting of the Board Approval of Shortlist on the date and time provided in **Table 1-1 Schedule of Events**.

If the Contractor is unable to complete milestones one (1) through nine (9) in advance of the date specified in the Approved, Baseline Project Schedule by the required fourteen (14) Calendar Days, the Contractor is not entitled to any incentive increase in the milestone payment amount. No partial incentive for partial completion of any Work will be made.

b. Liquidated Damages for Delay in completing payment milestones one (1) through nine (9)

Should the Contractor be delayed in meeting the completion of milestones one (1) through nine (9) set forth in the Approved, Baseline Project Schedule, the Authority may assess liquidated damages in the amount of \$1,000 for the first Calendar Day, or portion of a Calendar Day, that the Contractor is late in completing the milestones.

For every subsequent Calendar Day, or portion of a Calendar Day, from day two (2) through sixty (60) the Contractor is late in completing milestones one (1) through nine (9), the Authority may assess \$2,500 for each Calendar Day, or portion of a Calendar Day, the Contractor is late in completing the milestones.

Beginning on day sixty-one (61) the Contractor is late in completing milestones one (1) through nine (9), the Authority may assess \$5,000 for each Calendar Day, or portion of a Calendar Day, due to the Contractor being late in completing the milestones.

2. **Provisions Applicable to All Performance Incentives**

The following applies to the possible performance incentive described in **Section 3.1.3, Project Incentives and Damages**.

- a. By accepting a performance incentive payment, the Contractor waives, releases, and discharges any claim for any payment for delay that may have occurred prior to the completion of milestones one (1) through nine (9), and for payment related to any Purchase Order arising from Work associated with any work prior to the completion of milestones one (1) through nine (9).
- b. If the Authority grants a Purchase Order, and there is a dispute over whether such Purchase Order relates to the incentive milestones, and the Contractor is otherwise entitled to receive an incentive payment, no such payment will be due until the parties resolve the dispute in accordance with **Section 3.3.4.8, Dispute Resolution**.

3. **Provisions Applicable to Liquidated Damages Related to Project Milestones**

- a. For delays in completing milestones one (1) through nine (9) solely caused by a Force Majeure Event (as defined in Section 3.3.4.13) beyond the reasonable control of the Contractor, the Contractor will be granted an extension of time, provided first that the Contractor notifies the Authority's Project Manager in writing of the causes of delay within five (5) Calendar Days from the beginning of any such delay. The Authority's Project Manager will then ascertain the nature of the delay and determine whether an extension of time is warranted, which determination will be final and conclusive. The Contractor has the burden of proof that the delay was beyond its control.
- b. In the event the Contractor believes it will be unable to meet the dates scheduled for completion of specified milestones and is subject to liquidated damages, the Contractor must notify the Authority in writing of the delay. Such notification must set forth the cause(s) of the delay and measures and actions the Contractor is taking to remedy or minimize the delay.
- c. The total and cumulative amount assessed by the Authority for liquidated damages for delay in completing milestones one (1) through nine (9) shall not exceed twenty-five percent (25%) of the total amount of the Design and Implementation Phase of the Contract as described in **Section 3.1.1, Payment Terms and Conditions**, the Contractor's Price Proposal and/or as modified by any Purchase Orders.

- d. The Authority may recover all liquidated damages by deducting the amount thereof from any monies due or that may become due to the Contractor.
4. In the event that liquidated damages are disallowed for any reason whatsoever, the Authority shall be entitled to actual damages incurred by the Authority, including any and all consequential or incidental damages resulting from delay in Contractor completing milestones one (1) through nine (9).
5. Nothing herein contained shall be construed as limiting the Authority's rights to recover from the Contractor any and all other amounts due or that may become due to the Authority, or any and all costs and expenses sustained by the Authority for improper performance hereunder, or for breach or breaches in any other respect including, but not limited to, defective workmanship or materials.
6. Nothing herein shall be construed to negate, abridge, or otherwise reduce any other right of indemnity that Authority may have as to any party or person. The indemnity obligation of the Contract shall not be limited by any liquidated damages or actual damages remedy, it being the intent of the parties for such remedies to be cumulative and mutually exclusive.

### **3.1.3.2 ACTUAL AND CONSEQUENTIAL DAMAGES**

1. The Contractor acknowledges that its performance after Go-Live, once the OBOS becomes the OBOS of record, is critical to the operation of the Authority in so much as the Services to be provided pursuant to the Contract directly involve the Authority's revenue and customer service. The Contractor agrees the actual and consequential damages set forth below, resulting from a failure of the OBOS, are fair and reasonable and shall be incurred by the Contractor in the event of unsatisfactory performance.
2. The Contractor shall reimburse the Authority for lost toll revenue, which the Authority identifies as having been lost due to the sole fault of the Contractor and cannot be reasonably recovered. The Authority may choose, in its sole discretion, to recover such lost toll revenue from the Contractor that has been demonstrated and documented by the Authority to have been lost due to the sole fault of the Contractor by deducting such amounts from any payments otherwise due and owing from the Authority to the Contractor. Lost toll revenue includes, but is not limited to, such events as lost Transactions; lost Images; lost or corrupt data; Transactions that are not able to be collected due to delays caused solely by the Contractor in Contractor processing; delays solely caused by the Contractor in escalation, sending the CCSS incorrect information resulting in Transactions posting to a customer account in error or to the wrong customer's account. Delays, as defined in this paragraph, shall be defined as any of the listed events occurring where the pursuit of the Transaction is more than ninety (90) Calendar Days after the lane exit date of the Transaction.

In the event the Authority incurs a loss of revenue due to the action or inaction of the Contractor, the Contractor shall be obligated to make payment to the Authority for all lost revenue and other direct damages associated with the loss. In the event that the Authority is unable to determine the amount of lost revenue because data is lost or otherwise unavailable, the Parties agree that lost revenue shall be based on historical revenue as determined by the Authority.

3. The Contractor shall be responsible for any other damages and costs incurred, which are the results of its improper handling of these Services, including but not limited to such things as the effort required (from the Authority's staff or consultants) to investigate and/or implement corrective actions, for special mailings to customers to notify them of issues with their toll Transactions due to Transaction gathering and processing failures and inaccuracies.
4. The Contractor shall be responsible for any damage to any property of the Authority arising out of, or alleged to have arisen out of, or in connection with the performance of Services pursuant to the Contract; the risk of loss or damage to any property of the Contractor's Agents, employees, and Subcontractors arising out of, or alleged to have arisen out of, or in connection with the performance of Services pursuant to the Contract.
5. Except for events resulting in Liquidated Damages being assessed for delay in completing Project payment milestones one (1) through nine (9), the Authority reserves the right to recoup actual damages from the Contractor whenever they occur throughout the term of the Contract. The Authority's failure or decision not to seek recovery for its damages from the Contractor for such event or any other event giving rise to damages.

#### **3.1.4 CONTRACTOR COOPERATION**

1. During the Contract, the Authority may undertake or award other agreements for additional Work. It is critical that close coordination with interfacing contractors occurs throughout the term of the Contract. The Contractor shall fully cooperate with the Authority and the parties to all other contracts and carefully integrate and schedule the Contractor's Work with said parties.
2. The Authority will expect the Contractor and all Subcontractors to comply with all technical specifications, special provisions and other terms and conditions applicable to the Contract at all times during the performance of the Contract. In the event of a dispute between contractors, clarifications may be sought from the Authority; provided Contract Terms, conditions and/or obligations shall remain in effect, except in instances wherein a Purchase Order or other Contract Amendment is duly executed in writing; however, contractors shall engage in all efforts to resolve disputes prior to participation of the Authority and further, such participation by the Authority does not imply or represent the Authority's responsibility for resolution or payment of claims that arise out of a dispute between two contractors.
3. **Interface Control Document Development and Ongoing Cooperation Requirements**

The Contractor shall fully cooperate with the Authority and its designated Agents, consultants, stakeholders, and/or contractor(s) as necessary to develop and/or support all required Interface Control Documents (ICDs). The ICDs shall specify all specifications, parameters, System Requirements, programming interfaces and all other elements to effectively and completely interface to RTCS components and other external interfaces being provided by the various interfacing contractors and/or agencies.

#### 4. Additional Coordination and Cooperation Requirements

Should problems in coordination with other contractors occur, the Contractor shall make the Authority aware of these problems immediately and shall take steps to address the problems and mitigate any delays or additional costs. The Contractor shall not commit or permit any act that will interfere with the performance of Work by any other contractor or by the Authority.

### 3.1.5 WARRANTIES

#### ***3.1.5.1 SYSTEM WARRANTY DURING OPERATIONS AND MAINTENANCE PHASE***

A full System Warranty shall be provided by the Contractor on all System Equipment, Hardware and Software for the term of the Contract and any extensions thereof regardless of whether the Contract implements a Cloud-based and/or On-premise based solution. As a result, the Authority shall not pay any additional charges above the prices set forth in the Contractor's agreed-to Price Proposal for the Design and Implementation Phase or the Operations and Maintenance Phase Work, other than Work related to agreed-to Force Majeure Events or agreed-to out of scope work requested by the Authority, pursuant to the Contract. Notwithstanding the foregoing, in the period prior to Go-Live, all operations and Maintenance responsibilities and Work shall also be at the Contractor's sole expense. Such Work shall be at no charge to the Authority and shall include replacement on any unit of Equipment, Hardware or Software, or part or component thereof, (including Equipment Upgrades, Software patches/fixes, Software/System enhancements, Service Provider System modifications, etc.) and/or revision of Software defects or Software which the Authority deems defective or insufficient, or which the Authority deems to have failed to comply with the Scope of Work and Requirements. All transportation, labor and fees associated with restocking canceled or returned orders shall also be the responsibility of the Contractor. All defective Equipment replaced by the Contractor will become the property of the Contractor.

Contractor shall ensure that each third-party service provider engaged by Contractor (a "Service Provider") to provide software services ("Software Services") or Cloud-based Systems ("Service Provider Systems") represents, warrants and covenants as follows: (a) the Software Services and the Service Provider Systems will perform in accordance with applicable Specifications contained in the latest release of the Documentation; (b) it is the owner of or is duly authorized to provide all Services, including all Software Services and the Service Provider Systems; (c) it has the right to grant the licenses set forth in this Contract, and generally to provide the Software Services and Service Provider Systems as contemplated by this Contract; (d) the Software Services and the Service Provider Systems do not and will not infringe or otherwise violate any statutory, common law or other rights of any Third-Party in or to any Intellectual Property Rights therein; and, to Service Provider's knowledge, no Third-Party has asserted, is asserting, has threatened, or has any reasonable basis to assert a claim of any of the foregoing; (d) the Software Services, the Service Provider Systems, and all supporting Documentation will be complete and will enable Customer personnel, with appropriate skills and experience, to fully utilize the Service Provider Systems and the Software Services for all purposes for which they are intended; and (e) the Software Services and the Service Provider Systems, as applicable, will be virus-free and will not include any Trojan horses, trap doors, lock outs, interrupt mechanisms or similar disabling Software or code that does or can disable, damage, corrupt, interfere with or delete any element of Software, data, computer or electronic records or files of Customer or any Affiliate of Customer including any such code that allows Service Provider or any Third-Party, including any Service Provider Personnel, to access or to perform any unauthorized operations on Customer's Systems or the Systems of a Customer Affiliate without Customer's prior authorization in each instance.

After expiration and termination of the Contract, Contractor shall have no liability with respect to any representation or Warranty set forth in this **Section 3.1.5, Warranties**, except with respect to 3<sup>rd</sup> party warranties that are still in effect shall be transferred to the Authority and the Authority may make claims for latent defects.

### ***3.1.5.2 DESIGN AND SOFTWARE WARRANTIES***

1. Upon Approval of the System Design, the Contractor shall assume responsibility for the Design to the extent that if the OBOS does not meet the Key Performance Indicators of this Contract, the Contractor shall be responsible for the costs of any redesign and/or any other costs associated with the sub-standard performance. The Contractor shall be responsible for coordinating with the Authority to review and Approve any necessary system redesign.
2. The Software shall operate in accordance with the Scope of Work and Requirements. The Contractor warrants that, upon Go-Live and for the Contract Term, thereafter, including any extensions thereof, the Software and each module or component and function thereof shall:
  - a. be free from defects in materials and workmanship when used in accordance with applicable Documentation;
  - b. remain in good working order, be free from viruses; trap doors; disabling devices; Trojan horses; disabling codes; back doors; time bombs; drop-dead devices; worms, and any other type of malicious or damaging code or other technology or means which has the ability to interfere with the use of the System by the Authority or its designees, or permit access to the Authority's computing systems without its knowledge or contrary to its System connectivity policies or procedures;
  - c. operate and function fully, properly and in conformity with the warranties in the Contract,
  - d. operate fully and correctly in the operating environment, including by means of the full and correct performance of the Software, and all Updates, enhancements, or new releases of the Software, on or in connection with the Equipment, any Updates, enhancements, or new releases to such Equipment, and any other Software used by or in connection with any such Equipment;
  - e. be fully compatible and interface completely and effectively with external interfaces and interfacing entities, the Equipment, including other Software programs provided to the Authority hereunder, such that the other Software and Equipment combined will perform and continuously attain the Key Performance Indicators as specified in the Scope of Work and Requirements, and
  - f. accurately direct the operation of the System, as required by the Scope of Work and Requirements, and the descriptions, specifications and Documentation set forth therein and herein.
3. During the term of the Contract, including any extensions, the Contractor shall provide Services to maintain the Software provided hereunder in good working order, keeping it free from defects such that the System shall perform in accordance with the Contract and the warranties set forth herein.

4. The Contractor shall provide technical support and shall remedy any failure, malfunction, defect or non-conformity in Software, in accordance with the Contract, but in any event not later than the deadline(s) in the Scope of Work and Requirements for Maintenance and Repair Times.
5. The Contractor shall promptly provide Notice to the Authority in writing of any defects or malfunctions in the Software provided hereunder, regardless of the source of information. The Contractor shall promptly correct all defects or malfunctions in the Software or Documentation discovered and shall promptly provide the Authority with corrected copies of same, without additional charge. If Software can only be corrected in conjunction with additional or revised Hardware, the Contractor shall provide such Hardware to the Authority, and the cost of such Hardware shall be borne solely by the Contractor.
6. No Updates or enhancements shall adversely affect the performance of the System, in whole or in part, or result in any failure to meet any Requirements.
7. The Contractor shall ensure continued satisfactory performance of the Software in accordance with the Key Performance Indicators.
8. With regard to Software, the Contractor shall provide Software Services in accordance with the Contract.
9. The Contractor shall be responsible for obtaining and maintaining agreements, licenses and/or subscriptions for the implementation and Maintenance of third-party Software throughout the term of the Contract. The Contractor shall secure such agreements, licenses and/or subscriptions for the same duration and upon the same terms and conditions as the Maintenance provisions between the Contractor and the Authority. All third-party contracts, subscriptions and licenses shall be assignable to the Authority. The Contractor shall also be responsible for monitoring and managing all Software license and subscription renewals on behalf of the Authority, and shall not let any agreement, license or subscription expire without express written direction from the Authority.
10. In the event that the Software does not meet or exceed the Key Performance Indicators, the Contractor is obligated to promptly repair or replace such Software at the Contractor's sole cost and expense or, if expressly agreed to in writing by the Authority, provide different Equipment or Software or redesign, and perform Services required to promptly meet the Key Performance Indicators set forth in the Contract.
11. In the event of any defect in the media upon which any tangible portions of the Software are provided, the Contractor shall provide the Authority with a new copy of the Software.
12. Without releasing the Contractor from its obligations for Warranty (during an applicable Warranty period), support, or Maintenance of the Software, the Authority shall have the right to use and maintain versions of the Software provided by the Contractor which are one or more levels behind the most current version of such Software and to refuse to install or delay installation of any Updates or enhancements if, in the Authority's discretion, installation of such Updates or enhancements would interfere with its operations. The Contractor shall not, however, be responsible or liable for the effect of any error or defect in the version of the Software then in use by the Authority that occurs after the Contractor has both (i) offered, by written Notice to the Authority, a suitable correction (by way of Update, enhancement or otherwise) of such error or defect and (ii) provided the Authority



a reasonable opportunity to implement such existing correction, provided that the Contractor establishes that neither the Implementation nor the use of such correction would limit, interfere with, adversely affect, or materially alter the functionality or quality of the System.

13. All provisions of this **Section 3.1.5.2, Design and Software Warranties** referring or relating to obligations to be performed pursuant to an applicable Warranty period that extends beyond the term hereof, shall survive the expiration, cancellation, or termination of the Contract.

### ***3.1.5.3 THIRD-PARTY WARRANTIES***

In addition to the foregoing warranties, the Contractor shall, upon completion of the Work, assign to the Authority, and the Authority shall have the benefit of, any and all Subcontractors' and suppliers' warranties and representations with respect to the System and Services provided hereunder. The Contractor's agreements with Subcontractors, suppliers and any other third-parties shall require that such parties (a) consent to the assignment of such warranties and representations to the Authority, (b) agree to the enforcement of such warranties and representations by the Authority in its own name, and (c) furnish to the Authority, the warranties set forth herein. At the Authority's request, the Contractor shall provide supporting Documentation that confirms that these warranties are enforceable in the Authority's name.

### ***3.1.5.4 SERVICES WARRANTIES***

The Contractor warrants that all Services shall be performed in a high-quality, professional manner by qualified and skilled personnel in compliance with the Authority's Requirements as set forth in the Contract. In the event the Authority determines, in its sole discretion, that any Services do not conform to the foregoing Warranty, the Authority shall be entitled to elect one of the following remedies: (i) re-performance of the Services by the Contractor until the Authority deems them to be in conformity with the Requirements and Warranty in this Section 3.1.5.4, at no charge to the Authority; (ii) refund from the Contractor for all fees paid in connection with the Services, which the Authority deems were not as warranted, subject to the provisions of the Contract such that the Contractor is not required to refund fees for non-provision of Services for which liquidated damages have been assessed, (iii) reimbursement by the Contractor for the Authority's costs and expenses incurred in having the Services re-performed by the Authority or someone other than the Contractor. Notwithstanding the foregoing, nothing in this **Section 3.1.5.4, Services Warranties** shall be construed to limit the Authority's rights pursuant to **Section 3.2.5.2, Termination for Cause**.

### ***3.1.5.5 DATA ACCURACY***

The Contractor acknowledges and understands that the data and/or information it collects, processes and/or provides to the Authority and the external interface partners will be relied upon by the Authority and other persons or entities that are now or will in the future be under Contract with the Authority. Should information derived and provided by the Contractor be inaccurate due to a failure by the Contractor to perform its obligations under the Contract, and cause the Authority to incur damages or additional expenses, the Authority shall notify the Contractor and the Contractor shall immediately place any applicable insurance carrier on Notice of a potential claim. This provision shall survive termination of the Contract, and the Contractor agrees to waive any applicable limitation periods consistent with enforcement of this provision.

### **3.1.5.6 ADDITIONAL WARRANTIES**

The Contractor warrants the following:

1. All guarantees and warranties made herein are fully enforceable by the Authority acting in its own name.
2. The Equipment and Systems the Contractor installs and places into operation will not result in any damage to existing facilities, walls or other parts of adjacent, abutting or overhead buildings, structures, surfaces, or any physical/mental damage to any individual utilizing any units(s) of Equipment.
3. All provided Equipment is new and unused.

### **3.1.5.7 PERVASIVE DEFECTS**

The Contractor agrees to promptly remedy, at no cost to the Authority, any defects determined by the Authority to be Pervasive, such that if the Authority determines that any Equipment, component, sub-component or Software is experiencing continued or repetitive failure, the Contractor agrees that a “Pervasive Defect” shall be deemed to be present in such affected types of Equipment or Software. The Contractor shall promptly, and at its own expense, perform an investigation of the issues and prepare a report that includes a reason for the failure and its Plan for remedy. Such correction shall be in a time and manner satisfactory to the Authority and that permanently addresses the problem and corrects the defect so that such defect does not continue to occur.

The obligations set forth in this section shall be in addition to any Warranty obligations set forth in the Contract. After expiration and termination of the Contract, Contractor shall have no liability whatsoever with respect to any representation or Warranty set forth in this Section **3.1.5.7, Pervasive Defects**, except with respect to latent defects and claims made by the Authority whereby the basis for such claim arose prior to such expiration and termination.

### **3.1.5.8 GENERAL GUARANTY**

Neither acceptance of the System and Services or payment therefor, nor any provision in the Contract, nor partial or entire use of the System and Services by the Authority shall constitute an acceptance of System and Services not performed in accordance with the Contract or relieve the Contractor of liability for any express or implied warranties or responsibility for faulty materials or workmanship.

## **3.1.6 SOFTWARE AND LICENSE**

A Software license and escrow agreement shall be required for this Contract, and shall include the Terms and Conditions set forth below in this section, and **Section 3.1.7, Escrow**.

### **3.1.6.1 DESCRIPTION OF LICENSE**

The Contractor hereby grants to the Authority, for purposes of operating the System, an unlimited, fully-paid-up, royalty-free, perpetual, universal, irrevocable, non-exclusive license: (i) to use, maintain, disclose, modify, adapt, and improve any and all Software and other Equipment; notwithstanding the foregoing, any modifications not made by the Contractor, its Subcontractors or Agents shall be subject to Contractor validation in order to continue to maintain applicable warranties. (ii) to use all resulting versions,

modifications, adaptations and improvements of any and all Software and other Equipment; (iii) to make, have made, use, distribute and display copies, reproductions, and derivative Works of any and all Software and Documentation; (iv) to use all Contractor Property (defined below) in connection with the Authority's use of any and all Software and other Equipment; and (v) to permit any other person or entity providing Services to the Authority to do any and all of the foregoing (i) through (iv). "Contractor Property" shall mean all intellectual property, technology, know-how, methodologies, works of authorship, Software, Systems, processes, applications, technical data specifications and other materials in use by the Contractor pre-existing the Contract, or created, acquired, or licensed by the Contractor separately from the Contract, or created in the performance of the Contract which are not specific to the Authority, including any modifications, enhancements, improvements, or derivative works. The foregoing license includes the right to use any Systems, processes, methods, applications, technical data specifications and other Documentation (including those provided by the Contractor, any third-party or currently used by the Authority) comprised or practiced by the Equipment or that are necessary or useful to operate the System.

### **3.1.6.2 SCOPE OF LICENSE**

All rights, licenses, and subscriptions granted to the Authority under the Contract shall be exercisable at any time by the Authority and each of the persons and entities provided Services by the Contractor. The license shall permit the Authority to add at any time, entities or persons to receive Contractor Services with no additional license or subscription fees charged to the Authority. The foregoing shall apply to the Authority, and such persons and entities and their respective successors and assigns. Contractor shall include, without requirement of any payment or provision of any consideration other than or in addition to that which is expressly specified by the Contract, the right of the Authority and each other person or entity referred to in this subparagraph:

1. to utilize the System (including all Equipment and related Documentation), in whole or in part, in connection with Services provided by or to the Authority or such other persons or entities, without regard to present or future location, including for purposes of technical support, Maintenance or repair;
2. to make multiple copies of the Software and related Documentation for purposes of the exercise of the Authority's rights and licenses hereunder;
3. to use the Software and related Documentation on or in connection with multiple processors, components obtained by or on behalf of the Authority from the Contractor or third-parties, and Systems (including the System) utilized by the Authority or any person or entity providing Services to or on behalf of the Authority;
4. to maintain and modify the Software subject to the Contractor validation set forth in **Section 3.1.6.1, Description of License** and to use the resulting versions and modifications thereof;
5. to sell or distribute User technology, device or method permitting public access to and use of the User interface of the System, to any person or entity; and
6. to exercise any and all such rights and licenses under the Contract through the Services of its employees, Agents, independent contractors or Subcontractors, or such other persons or entities as it may employ or engage in its own discretion, and to disclose the Software and related Documentation, in whole or in part, to such persons or entities for such purposes.

For the avoidance of doubt, nothing in the Contract shall restrict or preclude the Authority from providing to any other person or entity, or any such other person or entity from using, any of the Equipment, Software or other materials provided to the Authority hereunder by the Contractor, in connection with the provision of any products or Services to or on behalf of the Authority, or to any person or entity providing Services to or on behalf of the Authority.

Contractor Property shall remain the property of the Contractor and nothing in the Contract shall be construed to provide title to such Contractor Property to the Authority, subject to the license or subscription provided in the Contract.

### ***3.1.6.3 SOFTWARE AND INTELLECTUAL PROPERTY***

The Contractor represents that Custom Software (developed or modified) may be necessary under this Contract. If the Contractor develops or modifies the Software to meet the Deliverables under this Contract it will provide to the Authority all firmware upgrades, service releases, and patch releases as part of this Contract subject to the Contractor's commercial terms for Software/firmware license rights to embedded intellectual property. Separate and apart from the embedded intellectual property rights the Contractor has licensed to the Authority, the following provisions shall apply.

### ***3.1.6.4 INTERNAL/EMBEDDED SOFTWARE LICENSE***

1. This section on Software licenses applies to any source code developed or modified for the Authority, System or application customizations and configuration settings, internal embedded Software, firmware and unless otherwise provided in this, the Authority's OBOS RFP, or in an attachment hereto ("Custom Software").
2. Deliverables, as used herein, include "Work Product" and shall comprise all Project materials, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, Designs, programs, enhancements, goods, all Custom Software, Software licenses/subscriptions, technical information, specifications, drawings, records, Documentation, and data created during the performance or provision of Services hereunder. Deliverables are the property of the Authority. Contractor Property licensed to the Authority shall be identified to the Authority by the Contractor prior to use or provision of Services hereunder and shall remain the property of the Contractor. Embedded Software or firmware shall not be a severable Deliverable. All Contractor Property is the property of the Contractor ("Licensor") and is licensed nonexclusively to the Authority in perpetuity, at no additional license fee, pursuant to the terms of the Software license contained herein.
3. Work Product Deliverables shall be considered Works made for hire (as that term is used in the United States Copyright Act, 17 U.S.C. Section 101, or in analogous provisions of other applicable laws) provided by Contractor for the Authority and shall belong exclusively to the Authority and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the Authority. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the Authority automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the Authority and its designees the ownership of such Work Product, including all related intellectual property rights. The Authority shall grant the Contractor a royalty-free, fully paid worldwide, perpetual, irrevocable, non-exclusive license to use Custom Software and any other material or information that might be considered Work Product in connection with other Contractor Software improvements. The Contractor

agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the Authority to perfect its intellectual property rights with respect to the aforementioned Work Product.

Notwithstanding any provision of this Contract to the contrary, any Contractor Property including, but not limited to, any Software which is not Custom Software, routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any or all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the Authority shall have no interest in or claim to such Contractor Property, Work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the Authority shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of Contractor Property, materials and Development Tools, except as specifically limited in the Solicitation documents or any attachment or exhibit to this Contract.

The Contractor and its Subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the Services under this Contract, so long as the Contractor or its Subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the Authority, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

4. Deliverables comprising goods, Equipment, or products (Hardware) may contain Custom Software, embedded Software or firmware that is generally not sold or licensed as a severable Software product. Software may be provided on separate media or may be included within the Hardware at or prior to delivery. Such Software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. The Contractor grants the Authority a license to use the source and object code (or any replacement provided) on, or in conjunction with, the Deliverables purchased, or with any System identified in the Solicitation documents. The Authority shall have a worldwide, nonexclusive, fully-paid up, royalty-free, perpetual, irrevocable sub licensable license to use such Software and/or Documentation for its internal use. The Authority may make and install copies of the Software to support the authorized level of use described in this Contract. Provided, however that if the Hardware is inoperable, the Software may be copied for temporary use on other Hardware. The Authority shall promptly affix to any such copy the same proprietary and copyright Notices affixed to the original. The Authority may make one copy of the Software for archival, back-up or Disaster Recovery purposes.
5. Outsourcers, facilities management or service bureaus retained by the Authority shall have the right to use the Deliverables thereof to maintain the Authority's business Operations, including data processing, for the time period that they are engaged in such activities, provided that the Authority gives Notice to Contractor of such party, site of intended use of the Deliverables, and means of access.

Any third-party with whom the Authority has a relationship to perform an Authority function or business operation shall have the temporary right to use Deliverables, provided

that such use shall be limited to the time period during which the third-party is using the Deliverables for the function or business activity.

6. The parties acknowledge and agree that the Authority shall own all rights, title and interest in and to the copyright in any and all Software, technical information, specifications, drawings, records, Documentation, data and other Work Products first originated and prepared by the Contractor for delivery to the Authority ("Deliverables"). To the extent that any Contractor Property or Contractor Technology (defined below) is contained in any of the Deliverable, the Contractor hereby grants the Authority a royalty-free, fully paid worldwide, irrevocable, perpetual, non-exclusive license to use such Contractor Property and Contractor Technology in connection with the Deliverable for the Authority's business purposes. Contractor shall not acquire any right, title and interest in the copyrights for goods, any and all Software, technical information, specification, drawings, records, Documentation, data or derivative Works thereof, or other Work Products provided by the Authority to Contractor.
7. As the Authority's business operations may be altered, expanded or diminished, licenses or subscriptions granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license or subscription, including transfers between Agencies ("permitted license transfers"). The Authority will not have to obtain the approval of the Contractor for permitted transfers but must give thirty (30) Calendar Days prior written Notice to Contractor. There shall be no additional license, subscription or other transfer fees due to the Contractor.
8. The Contractor shall provide to the Authority an executable copy of all Software developed for the Authority, including source code Documentation and application information. Included with the provision of source code, the Contractor shall demonstrate to the Authority that the provided executables are the correct Software for the Systems as delivered.

### ***3.1.6.5 PATENT, COPYRIGHT AND TRADE SECRET PROTECTION***

1. Contractor has created, acquired, or otherwise has rights in, and may, in connection with the performance of Services for the Authority, employ, provide, create, acquire, or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general-purpose consulting and Software tools, utilities and routines (collectively, the "Contractor Technology"). To the extent that any Contractor Technology is contained in any of the Deliverables including any derivative Works, the Contractor hereby grants the Authority (including without limitation its officers, directors, employees, contractors, and agents) a royalty-free, fully paid, worldwide, perpetual, non-exclusive, non-assignable, non-sublicensable, and irrevocable license to use such Contractor technology in connection with the Deliverables for the Authority's purposes.
2. Contractor shall not acquire any right, title, and interest in and to the copyrights for goods, any and all Software, technical information, specifications, drawings, records, Documentation, data or derivative Works thereof, or other Work Products provided by the Authority to Contractor. The Authority hereby grants the Contractor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for the Contractor's internal use to non-

confidential Deliverables originated and prepared by the Contractor for delivery to the Authority.

3. The Contractor, at its own expense, shall indemnify, hold harmless and defend the Authority's Board of Directors, the Authority and its officers, employees and anyone directly or indirectly employed by either of them from and against any action, suit, proceeding, claim, demand, loss or liability of any kind (an "Action") brought against the Authority, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, to the extent that such Action is based upon a claim that the Services or Deliverables supplied by the Contractor, or the operation of such Deliverables pursuant to a current version of Contractor-supplied Software, infringes a patent, copyright, trademark, or other intellectual property right or violates a trade secret in the United States. The Contractor shall pay those costs and damages finally awarded against the Authority in any such action. Such defense and payment shall be conditioned on the following:
  - a. That the Contractor shall be notified within a reasonable time in writing by the Authority of any such claim; and,
  - b. That the Contractor shall have the sole control of the defense of any action on such claim however, the Contractor may not settle any Action without the prior written consent of the Authority unless such settlement relieves the Authority of any and all liability and obligation and such settlement does not limit, unduly interfere, or otherwise adversely affect the rights granted herein or the Authority's obligations under this Contract The Authority shall have the option to participate in such action at its own expense.

These obligations shall survive termination of the Contract and survive acceptance of any goods, Services, and/or performance and payment therefore by the Authority.

4. Should any Services or Software supplied by Contractor, or the operation thereof become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, trademark, or a trade secret in the United States, the Authority shall permit the Contractor, at its option and expense, either to procure for the Authority the right to continue using the goods/Hardware or Software, or to replace or modify the same to become non-infringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/Hardware or Software by the Authority shall be prevented by injunction, the Contractor agrees to take back such goods/Hardware or Software and refund any sums the Authority has paid Contractor less any reasonable amount for use or damage and make every reasonable effort to assist the Authority in procuring substitute Deliverables. If, in the sole opinion of the Authority, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Contractor under this Contract impractical, the Authority shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables and refund any sums the Authority has paid the Contractor less any reasonable amount for use or damage.

5. Nothing stated herein, however, shall affect the Contractor's ownership in, or rights to, the Contractor Property, including its pre-existing Software intellectual property and proprietary rights.

### ***3.1.6.6 TOLLS DATA OWNERSHIP AND SECURITY***

1. All Project materials, Designs, programs, enhancements, goods, technical information, specifications, drawings, records, Documentation, data, reports, and operations history information shall remain property of the Authority at all times during the life of the Contract and after Contract termination.
2. The Contractor(s) shall ensure that no unauthorized personnel will have access to individual facilities, cabinets, data and records, payment histories, or any personal information of existing or potential Authority toll customers. Paper records shall be locked when not in use; Systems shall have secure password and ID controls for any data access.
3. Personally Identifiable Information (PII) of existing or potential Authority toll customers shall not be accessible to persons outside of the United States. Such data includes unmasked detailed Transaction data, Transponder and license plate data, and demographic information. Data used in test systems that is derived from production data that is accessible to persons outside of the United States shall be masked or otherwise anonymized. Persons outside of the United States accessing the production system for Maintenance or monitoring shall not be able to view or download unmasked PII.

### ***3.1.6.7 SOFTWARE MAINTENANCE/SUPPORT SERVICES***

1. This general requirement applies unless otherwise provided in the Authority's Solicitation document or in an attachment hereto.
2. For the first year and all subsequent Contract years, the Contractor agrees to provide the following Services for the current version and one previous version of any Software provided with the Deliverables, commencing upon Go-Live:
  - a. **Error Correction.** The Contractor shall use reasonable efforts to respond, resolve or provide a working solution for the error or defect at the Contractor's expense according to the Key Performance Indicators in the Scope of Work and Requirements. The Authority shall comply with all reasonable instructions or requests of the Contractor in attempts to correct an error or defect in the Program. The Contractor shall act promptly and in a reasonably timely manner in communicating error or defect logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or effect Operation and Maintenance Services under this paragraph.
  - b. The Contractor shall immediately notify the Authority of any material errors or defects in the Deliverables known or made known to the Contractor from any source during the Contract Term that could cause the production of inaccurate or otherwise materially incorrect, results. The Contractor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
  - c. **Updates.** The Contractor shall provide to the Authority, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") for any Software



Deliverable developed or published by the Contractor and made generally available to its other customers at no additional charge. All such Updates shall be a part of the Program and Documentation and, as such, shall be governed by the provisions of this Contract.

- d. **Telephone Assistance.** The Contractor shall provide the Authority with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software errors and defects.

### 3.1.7 ESCROW

#### 1. Establishing the Escrow Agreement

Prior to Go-live, the parties shall enter into a Software Escrow Agreement (“Escrow Agreement”). Prior to finalizing the Escrow Agreement and prior to depositing the Software and related Documentation into escrow, the Contractor shall submit the name of the escrow Agent, the Escrow Agreement, any associated costs born by the Contractor, including any optional costs, to the Authority for its review and Approval. The form of Escrow Agreement used by the escrow Agent shall be subject to the Authority’s review and potential revision prior to the Authority providing written Approval of the Escrow Agreement. If Escrow Agreement used by the escrow Agent is not Approved by the Authority or if mutual agreement on revisions to the Escrow Agreement cannot be reached, then the Contractor shall select another escrow Agent. If the escrow Agent’s form of Escrow Agreement is Approved by the Authority, said Escrow Agreement shall be used.

#### 2. Deposits

Pursuant to the terms of the Escrow Agreement, the Contractor shall deposit with the escrow Agent, without charge to the Authority, all Deposit Materials (as hereinafter defined) necessary or useful to: (i) use, reproduce, modify, repair and maintain the Software; (ii) operate, modify, repair and maintain the Equipment, and (iii) operate, use, modify, repair and maintain the System in accordance with the Contract. Access to and rights in the materials in the escrow shall be governed by the terms and conditions hereof and as further defined in the Escrow Agreement.

Materials so deposited (“Deposit Materials”) shall include but not be limited to: all Software programs (including all source and object code with respect thereto); configuration files; ICDs; operator’s and User’s manuals, and other associated Documentation; reports; control files, utilities, and packages; operating Systems; data base Systems; network packages; Maintenance items (including test programs and program specifications); functional Documentation, compilers, instructions for generating the Software, and any proprietary Software tools that are necessary in order to maintain the Software and other Equipment. A list of all Deposit Materials shall accompany the Deposit Materials.

The Contractor shall deposit a complete set of Deposit Materials at Go-Live and shall make deposit updates no less frequently than quarterly and when major Updates are made to Software.

In the event the Contractor revises or supplements any of the Deposit Materials or creates

additional materials related to the System, the Contractor shall deposit a complete set of such revised, supplemented, or additional Deposit Materials with the above-named escrow Agent within thirty (30) Calendar Days of such revision, supplement or addition and shall indicate with each deposit which documents and which pages have been revised, supplemented or added since the last deposit. Any deposits made pursuant to the two preceding sentences shall become part of the Deposit Materials.

The Contractor shall provide Notice to the Authority confirming and describing the content of any deposits made within thirty (30) Calendar Days of such deposits, certifying that all such deposits are complete and include accurate copies of the required materials.

To the extent the Software includes components developed by third-parties, the Contractor shall ensure that the Deposit Materials include copies of license agreements, computer programs, disks and Documentation for all Software obtained by the Contractor from third-parties. At the Contractor's expense, the Contractor shall ensure that all third-party licenses are transferable to the Authority at the time of any release of the escrow provided for hereunder.

3. Payment for Costs of Escrow

The Contractor shall be responsible for payment of all costs arising in connection with the establishment and maintenance of the escrow, referred to in this **Section 3.1.7, Escrow**, throughout the Contract Term, including any fees of the escrow Agent, and the Authority shall not be charged by the Contractor for its time in compiling and depositing Deposit Materials. The Contractor's obligation to maintain the escrow in place shall continue until the release of escrow deposit terms are met.

4. Verification of Escrow Deposits

The Contractor shall provide to the Authority, for each Escrow Deposit, a detailed summary of all Deposit Materials, both existing and newly deposited. From time to time while the escrow is in place, the Authority may, at its sole discretion, verify directly, using the escrow Agent, or hire a contractor qualified and mutually and reasonably acceptable to both parties, to provide verification of the applicable escrow deposits at the Authority's expense, and to prepare a report. The agreement between the Authority and such contractor will include non-disclosure provisions deemed appropriate by the Authority. Should any deficiencies or differences be noted between the System implemented under the Contract and the applicable deposits delivered to the escrow Agent, the Authority shall provide Notice to the Contractor and shall provide the Contractor with a copy of the audit report. Within thirty (30) Calendar Days after its receipt of such notification and accompanying audit report, the Contractor shall deliver to the escrow Agent for deposit the applicable Deposit Materials necessary to make the escrow deposits consistent with the System.

5. Release of Escrow Deposits

Except as may be otherwise provided in the Escrow Agreement, the Deposit Materials are to remain in escrow unless or until withdrawal of such Deposit Materials is permitted pursuant to this Contract, or upon end of the Contract, whether due to termination or expiration, at which time such Deposit Materials shall be provided to the Authority and shall be incorporated into the licenses granted to the Authority hereunder.

In addition, effective upon any release of the Deposit Materials to the Authority, the Contractor hereby grants to the Authority and its designees a perpetual, irrevocable, universal, non-exclusive, fully-paid-up, royalty-free license to use, reproduce, adapt, modify, enhance and reverse engineer the Non-custom and custom source code form of the Software and all Deposit Materials for the purpose of supporting and maintaining the System, and for using, making, and having made derivatives of the Software and Deposit Materials in connection therewith. The license granted hereunder shall cover the full definition of Software, including components directly owned, developed, or licensed by the Contractor, as well as components owned, developed or licensed by any Contractor affiliates, licensors, or Contractor parties, including third-party Software suppliers.

### **3.1.8 AUTHORITY OF PROJECT MANAGER**

The Authority's Project Manager shall determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, the Contract including, without limitation: questions as to the value and acceptability of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to the execution of the Contract; questions as to the interpretation of the Scope of Work and Requirements; and claims for damages, compensation and losses. The Authority's Project Manager is authorized to reject Work that does not conform to the Contract Documents. Whenever the Authority's Project Manager considers it necessary or advisable, the Authority's Project Manager is authorized to require additional inspection, examination, or testing of the Work regardless of the stage of completion or delivery of the Work.

### **3.1.9 KEY PERSONNEL**

The Contractor has designated an individual Project Principal, who is an officer authorized to sign the Contract, any Contract Amendments and to speak for and make commitments on behalf of the Contractor. The Contractor shall designate a Contractor Project Manager, identified in the Proposal, who shall act as the primary point of contact in all matters on behalf of the Contractor. The Contractor Project Manager shall assign other individuals as contacts with regard to specific functional areas of the Work, subject to the Approval of the Authority. The Authority shall have input into determining who shall be assigned as Contractor Project Manager and the Contractor may not change the Contractor Project Manager without consulting with the Authority and obtaining Approval from the Authority as set forth in the following paragraph.

The Contract identifies certain job categories as "Key Personnel" for the Contract. The Authority, in part, awarded the Contract based on the Authority's confidence and reliance on the expertise of the Contractor's Key Personnel. Key Personnel for this Project are identified in the Contractor's Proposal, in accordance with this RFP, and shall be required to work in the position and be committed to the Project, as indicated in the Contract. Other than in the case of an unexpected departure, the Contractor shall not substitute Key Personnel assigned to this Contract or make any significant reduction in the level of effort/commitment for such Key Personnel until and unless the Authority, in its sole discretion, Approves a replacement in writing. In the event of an unexpected departure of Key Personnel, the Contractor must: 1) inform the Authority of the departure with as much advance Notice as reasonably possible, and 2) provide a transition Plan including the Contractor's identification of the proposed resource for replacement of the key position, how the position will be handled until a permanent staff is assigned and the plan and schedule for the identification and presentation for Approval of the replacement. The transition Plan shall be provided for the Authority's review and Approval within ten (10) Business Days of the time the Contractor becomes aware of the unexpected departure.

The Authority reserves the right to direct the removal of any personnel when, in the Authority's opinion, the individual's performance is unsatisfactory. Replacement of personnel does not excuse the Contractor from compliance with all requirements of the Contract. If the Authority becomes dissatisfied with the performance of any person designated as Key Personnel performing under the Contract, the Authority shall notify the Contractor in writing. Within ten (10) Business Days of receipt of such Notice, the Contractor shall either propose a replacement person for evaluation and Approval by the Authority, or present to the Authority a Plan for correcting the incumbent's performance deficiencies within a period of thirty (30) Calendar Days thereafter. If either the Authority rejects the Plan presented by the Contractor or the incumbent's performance deficiencies are not corrected to the Authority's satisfaction within the thirty (30) Calendar Day Plan period, the Contractor shall, within ten (10) Business Days after rejection of the Plan or expiration of the thirty (30) Business Day Plan period, propose to the Authority a replacement person for evaluation and Approval by the Authority.

When making a request to replace Key Personnel, the Contractor shall provide a resume detailing the proposed personnel's work history for the Authority's review and Approval, as well as professional references, with contact information. Replacement Key Personnel being proposed must meet the minimum qualifications for the position. The Authority will Approve or disapprove the request in a timely manner.

Should the Authority determine during the term of the Contract, and if the list of Key Personnel does not include personnel essential to the successful performance of the Work, the Authority may require the Contractor to add any existing job category to such list.

The Contractor shall maintain detailed and up to date organizational charts, escalation charts, and related contact information, so the Authority may expeditiously escalate issues up the chain of command, if needed. Such information will be reviewed and updated regularly (and as needed) for accuracy and submitted to the Authority as modifications are made.

### **3.1.10 ACCEPTANCE FOR PROJECT PHASES**

Refer to the section below regarding conditions the Contractor must achieve to be granted acceptance for the Design and Implementation Phase.

#### ***3.1.10.1 SYSTEM ACCEPTANCE OF THE DESIGN AND IMPLEMENTATION PHASE***

System Acceptance of the Design and Implementation Phase shall be deemed to have occurred when the following conditions have been met:

1. The Contractor shall provide a System Acceptance letter Certification to close out the Design and Implementation Phase of the Project. The Certification shall include but not be limited to: total amounts associated with the Phase, date of Work completion and any additional required information contained in items 2 through 10 below, if applicable;
2. Successful completion and the Authority's Approval of all Formal Tests defined in the Scope of Work and Requirements, up to and including the System Acceptance Test;
3. The Contractor has provided the Authority with all required materials, Equipment and Software, Documentation and manuals (including As-built Documentation). All such materials have been verified by the Authority to be in good, working order;
4. The Contractor has provided all required training;

5. Any and all punch list items have been satisfactorily completed and Approved by the Authority;
6. The Contractor has deposited all current escrow materials required under the Contract, including all necessary Documentation and support materials;
7. An Affidavit has been delivered to the Authority signed by the Contractor, stating all debts and claims of suppliers and Subcontractors have been paid and/or settled;
8. All Contractor claims for the Design and Implementation Phase are deemed to be resolved by the Authority, and the Contractor has submitted a statement that no such requests or protests will be applied for; any and all claims under the Contract are resolved, and that no such claims will be made;
9. All Requirements for the Design and Implementation Phase shall be verified and Certified by the Contractor to be successfully delivered, and shall be Approved by the Authority; and
10. The Authority shall have delivered to the Contractor a Notice of System Acceptance for the Phase.

### **3.1.11 CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE**

The Contract is subject to the terms and conditions of this Solicitation, which, in case of conflict, shall have the following order of precedence:

1. Executed Contract Amendments, including all exhibits and attachments RFP **Section 3, Terms and Conditions**, including Addenda
2. RFP **Section 1, Administrative**
3. RFP **Section 4, Conformed Scope of Work and Requirements**, including Attachments and Addenda
4. Contractor's Price Proposal
5. Contractor's Technical Proposal, including Exhibits and Appendices other than Price Proposal

The more stringent requirements shall apply in the event any conflicts cannot be resolved by applying the order of precedence. The Authority's standards, guidelines, specifications, quantity and quality requirements represent the minimum standards and may not be lessened by omission, modification or revision.

### **3.1.12 INSURANCE OBLIGATIONS**

The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract.

Before commencing Work for the Authority and as a condition of payment, the Contractor shall purchase and maintain insurance that will protect it from claims arising out of its Work under the Contract, whether

the Work is performed by the Contractor, or any of its consultants or Subcontractors or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and, at a minimum, coverage and limits must meet the requirements as specified in **Exhibit D – Insurance Requirements, Coverages, and Limits**. The Contractor shall not allow any Subcontractor to commence Work on this Project until all insurance required of the Subcontractor has been obtained. Liability insurance coverage must be considered as primary and not as excess insurance to any coverage carried by the Authority and shall be non-contributory. The Contractor shall furnish a certificate evidencing such coverage, with the Authority named as an additional insured on a primary and non-contributory basis, except for professional liability, workers' compensation and employer's liability.

The Contractor shall submit the required Certificate(s) of Insurance to the Authority's Procurement Office in accordance with **Section 1.22.4, Execution of the Contract**. Certificate(s) shall remain in force during the duration of the Project/Services and will not be canceled or non-renewed until thirty (30) Calendar Days after the Authority receives written Notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A-VII and licensed to do business in the State of Florida (must be acknowledged on the Proposal response form).

The Contractor shall assume all responsibility for risks or casualties of every description, for any and all damage, loss or injury, to persons or property arising out of the nature of the Work, including but not limited to the negligence or failure of its Subcontractors (as well as Contractor's employees) to comply with Contract Documents.

## **3.2 CONTRACT CHANGES AND TERMINATION**

### **3.2.1 GENERAL**

The Authority may, at any time, by written Amendment, make changes within the SOW and Services described in the Contract. If such changes cause an increase or decrease in the budgeted cost of or the time required for the performance of the agreed upon Work, an equitable adjustment as mutually agreed will be made in the limit on compensation as set forth in **Section 3.1.1, Payment Terms and Conditions**, or in the time of required performance as set forth in **Section 1.1.3, Time for Completion**, or both.

### **3.2.2 PURCHASE ORDERS**

The Authority may request the Contractor to modify or enhance the System during the term of the Contract. Upon the Authority's request, the Contractor shall be responsible for coordinating with the Authority to fully document and submit a Purchase Order for the Authority's review and Approval. Purchase Orders shall contain, but not be limited to, the following information as directed by the Authority:

- Detailed scope of work describing the desired modification and/or enhancement
- Impacts of the change on the system, including system function, Maintenance and operation
- Level of effort to make the change (e.g. detailed hourly breakdown by Contractor staff)
- Testing needs and impacts
- Proposed, detailed implementation schedule and timeline
- Proposed price for the Design, development, testing and implementation of the modification and/or enhancement

Purchase Orders shall be negotiated between the Authority and the Contractor prior to the Contractor performing any work to Design, develop, test or implement the modification and/or enhancement.

Any proposed, pricing for Purchase Orders shall be developed using the Contractor's labor rates identified on the labor rate card in the Contractor's Price Proposal. While Purchase Orders may be negotiated as a fixed cost (e.g. lump sum) or as time and materials (T&M), the Contractor shall be required to provide a thorough breakdown of labor costs by staff positions and hours with associated costs being based on the labor rates provided in the Contractor's Price Proposal. Any labor rates not included in the Contractor's Price Proposal shall be negotiated between the Authority and the Contractor.

Purchase Orders shall be payable based on the terms of the Purchase Order Approved by the Authority. Approved revisions to any Requirement must be tracked in the Requirements Traceability Matrix (RTM) to be incorporated into the System Design and tests and/or as-built Documentation.

### **3.2.2.1 DISPUTED PURCHASE ORDER**

In the event the Contractor and the Authority are unable to agree on the terms of a Purchase Order, the Contractor shall perform the scope of work as outlined in the Purchase Order as directed by the Authority, and in such cases, the cost for the work shall be based on the Contractor's actual cost, based on the labor rates provided in the Contractor's Price Proposal, plus a reasonable profit margin, as defined in this Contract or, if undefined, at an industry-standard rate. The Contractor shall provide detailed Documentation supporting their costs (e.g. Contractor staff utilized and associated hours, meetings attended, work produced, etc.), and the reasonable profit margin shall be agreed upon by both parties, or determined by an independent third-party if necessary. The Contractor shall furnish weekly status reports regarding such Work, including such Documentation as the Authority may require in order to support all costs.

### **3.2.3 TIME EXTENSIONS AND SCHEDULE CHANGES**

In the event that Contractor believes it will be unable to meet the date within the Approved, Baseline Project Schedule for Go-Live, the Contractor must notify Authority of the delay in writing. Such notification must set forth the cause(s) of the delay and measures and actions the Contractor is taking to remedy or minimize the delay. The Authority may require that the Contractor propose a schedule recovery Plan to the Authority for Approval. The following provisions shall apply to time extensions and schedule changes:

1. Submission of a schedule recovery Plan made against the Approved, Baseline Project Schedule (in the form of a proposed, Updated Project Schedule) shall not release or relieve the Contractor from full responsibility for completing the Work within the time set forth in the Approved, Baseline Project Schedule.
2. Any changes to the Approved, Baseline Project Schedule, as proposed in an Updated Project Schedule, requires the Authority's written Approval.
3. Daily reports, applications for payments, requests for information and other administrative documents required by the Contract do not constitute written Notice of a claim for additional time or compensation.
4. Unless otherwise expressly agreed to by the Authority, the Contractor shall not receive extra compensation or damages for any time extension Approved by the Authority for completion of additional and/or altered Work, with the exception of executed Purchase Orders for which compensation for the work shall be documented in the Purchase Order.

### 3.2.4 SUSPENSION OF WORK

1. The Authority may in its sole discretion suspend any or all activities under the Contract or Purchase Order, at any time, when in the best interests of the Authority to do so. The Authority shall provide the Contractor with a written Notice outlining the particulars of suspension. Examples of the reason for suspension include but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension Notice, the Contractor shall comply with the Notice. Within ninety (90) Calendar Days, or any longer period agreed to by the Contractor, the Authority shall either (1) issue a Notice authorizing the resumption of Work, at which time activity shall resume, or (2) terminate the Contract or Purchase Order. Suspension of Work shall not entitle the Contractor to any additional compensation. The Contractor shall be granted an appropriate extension of time, which shall not exceed the day-for-day period of suspension and shall be granted an equitable adjustment to the Contractor's compensation for the increased direct costs of maintaining and securing the Project during the suspension period.

### 3.2.5 CONTRACT TERMINATION

#### 3.2.5.1 *TERMINATION GENERAL REQUIREMENTS*

1. The Contract issued for OBOS Services will terminate at the end of the Contract Term(s) set forth above, inclusive of any operations and Maintenance and/or extension periods as noted in **Section 3.1.2, Contract Term**, unless otherwise terminated earlier as set forth below.
2. The Authority may terminate the Contract, in whole or in part, for cause or convenience subject to the default provisions set forth below.
3. Any required Notices of termination made under this Contract shall be transmitted via U.S. Mail, Certified Return Receipt Requested, via email from the Authority's General Counsel or personal delivery to the Contractor's contract administrator. The period of Notice for termination shall begin on the day the return receipt is signed and dated or upon personal delivery to the Contractor(s) contract administrator.
4. The Authority may terminate this Contract, in whole or in part, pursuant to the Terms and Conditions in the Contract.
5. The Authority will notify the Contractor at least ninety (90) Calendar Days prior to the termination of the Contract in the absence of termination for cause. This notification will require the Contractor to initiate succession responsibilities and hand off operations and Maintenance activities to replacement entities. These actions shall include:
  - a. Acknowledgment of receipt of end of Contract notification, and
  - b. Act in accordance with **Section 3.2.5, Contract Termination** and **Section 3.2.6, End of Contract and Succession**.



**3.2.5.2 TERMINATION FOR CAUSE**

1. In the event, any Equipment, Hardware Software, or Services furnished by the Contractor during the performance of any Contract Term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written Notice thereof to Contractor, the Authority may terminate the Contract and procure the Work or Services from other sources; holding Contractor liable for any excess costs occasioned thereby. The rights and remedies of the Authority provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. The Contractor shall not be relieved of liability to the Authority for damages sustained by the Authority arising from the Contractor's breach of this Contract; and the Authority may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties..
2. Cause shall mean a material breach of the Contract by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to elsewhere in the Contract as a breach, a material breach shall include the following:
  - a. the Contractor failed to receive, transmit and/or process Transactions and data in accordance with the Contract;
  - b. the Contractor materially inhibited the Authority's collection of toll revenue;
  - c. the Contractor has not submitted acceptable Deliverables to the Authority on a timely basis;
  - d. the Software/Equipment proves incapable of meeting the Requirements set forth in the Contract;
  - e. the Contractor exhibits a pattern of missing deadlines and/or milestone dates negatively impacting the Approved, Baseline Project Schedule or the schedule of other Project entities, like that of the RTCS.
  - f. the Contractor refused or failed, to supply enough properly skilled workers or proper materials to properly perform the Services required under the Contract;
  - g. the Contractor failed to make prompt payment to Subcontractors or suppliers for materials or labor;
  - h. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received from the Contract for the benefit of its creditors, or it has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's property or affairs have been put in the hands of a receiver;
  - i. any case, proceeding or other action against the Contractor is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismissed, undischarged or unbonded for a period of thirty (30) Calendar Days;

- j. the Contractor fails to maintain insurance policies and coverages or fails to provide proof of insurance or copies of insurance policies as required by the Contract;
  - k. any Warranty, representation, certification, financial statement or other information made or furnished to induce the Authority to enter into the Contract, or made or furnished, at any time, in or pursuant to the terms of the Contract or otherwise by the Contractor, or by any person who guarantees or who is liable for any obligation of the Contractor under the Contract, shall prove to have been false or misleading in any material respect when made;
  - l. any intentional violation by the Contractor of the ethics provisions, or applicable laws, rules or regulations;
  - m. the Contractor has failed to obtain the Approval of the Authority where required by the Contract;
  - n. the Contractor's Audited Financial Statements or those of its parent company submitted to the Authority do not fairly represent the Contractor or its parent's true financial position;
  - o. the Contractor has failed in the representation of any warranties stated herein;
  - p. the Contractor makes a statement to any representative of the Authority indicating that the Contractor cannot or will not perform any one or more of its obligations under the Contract;
  - q. the Contractor fails to remedy Pervasive Defects;
  - r. any act or omission of the Contractor or any other occurrence which makes it improbable at the time that the Contractor will be able to perform any one or more of its obligations under the Contract;
  - s. any suspension of or failure to proceed with any part of the Services by the Contractor which makes it improbable that the Contractor will be able to perform any one or more of its obligations under the Contract;
  - t. a pattern of repeated failures to meet the Key Performance Indicators of the Contract;
  - u. the suspension or revocation of any license, permit, or registration necessary for the performance of the Contractor's obligations under the Contract;
  - v. the Contractor's appearance on any applicable debarment list; or
  - w. the default in the performance or observance of any of the Contractor's other obligations under the Contract and the continuance thereof for a period of thirty (30) Calendar Days after the Notice given to the Contractor by the Authority.
3. Cure/Warning Period. Prior to terminating the Contract for cause, the Authority may issue a Notice of cure/warning to the Contractor(s) thirty (30) Calendar Days prior to the termination date if the Authority determines such breach can be curable. The Notice will

be transmitted via U.S. Mail Certified Return Receipt Requested, commercial overnight carrier, or personal delivery to the Contractor(s) contract administrator, and may send a copy of such Notice via email (read receipt requested) to the Contractor contract administrator. The period of Notice for termination shall begin on the date the Return Receipt is signed and dated, upon delivery to the Contractor contract administrator, or upon delivery of such Notice via email, whichever occurs first. The Notice will specify the corrective actions/Work required to be taken by the Contractor to come into compliance with the terms and conditions of the Contract. If the corrective actions/Work is performed within the cure/warning period, in a manner acceptable to the Authority, the Contract will remain in effect in accordance with the terms and conditions thereof.

4. Termination Without Notice of Cure/Warning. If (1) the Authority determines that the breach is not curable; or (2) the Authority has issued two (2) Notices of cure/warning to the Contractor, upon the issuance of the third or subsequent Notice, the Authority reserves the right to terminate the Contract without further Notice. The failure of the Authority to exercise this right on any occasion shall not be deemed a waiver of any future right.

### **3.2.5.3** *TERMINATION FOR CONVENIENCE WITHOUT CAUSE*

1. The Authority may terminate the Contract without cause, in whole or in part by giving ninety (90) Calendar Days prior Notice in writing to the Contractor. The Contractor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract prior to termination. In the event the Contract is terminated for convenience, the Authority will pay for all Work performed and products delivered in conformance with the Contract up to the date of termination.

### **3.2.6** **END OF CONTRACT AND SUCCESSION**

If the Contract is not renewed at the end of the base term or the Contract, or has completed the Contract Term extensions, or is canceled prior to its expiration, for any reason, the Contractor shall cooperate with the Authority to facilitate a smooth succession to the Authority's selected successor for the expired or canceled portion of the Services, whether the successor is the Authority or a third-party, to enable the Authority's System and operations to continue without interruption or adverse effect. Succession Services provided prior to the end of the Contract shall be provided as set forth in the requirements of the Contract.

Prior to beginning succession Services for the Authority, the Contractor and the Authority shall meet to discuss succession needs, and expectations, as well as payment terms. For example, the Authority may pay the Contractor, based on a time and materials basis, for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

Upon completion or termination of the Contract and as outlined within the SOW and Requirements, the Contractor shall provide the Authority with copies of all data, owned by the Authority, and all documents, in-progress or completed created for this Project, and provide reasonable assistance with ensuring that such data is accessible, readable and usable by the Authority.

While providing succession Services to the Authority, the Contractor shall be required to submit a Succession Status Report weekly to the Authority to track activities the Contractor performed in support of succession activities and related expenses. The content of the status report shall include, at a minimum: a list of all activities the Contractor performed for the week, broken down by staff and/or position and associated labor rate, activities performed and/or meetings attended and hours spent by staff members on

each activity. The Succession Status Report shall be the total cost to be invoiced to the Authority for the week's Work. The Contractor shall invoice the Authority monthly for succession support.

If the Authority cancels the Contract for cause, then the Authority shall be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing succession assistance with any damages the Authority may have otherwise accrued as a result of said cancellation.

Upon termination or expiration of this Contract, Contractor shall promptly and at its sole cost, where permitted under the terms of the applicable agreements, take all steps and undertake all measures necessary, including the execution of documents, to assign to the Authority all rights, title, and interest in and to any contracts or agreements with Cloud service providers related to Cloud-based Services utilized under or in relation to the Contract.

### **3.3 GENERAL TERMS AND CONDITIONS**

#### **3.3.1 CONTRACTOR RESPONSIBILITY**

The Contractor shall be responsible for the proper execution of all Work, including but not limited to, all required and necessary internal and external agency coordination; schedule development and management, updates and execution; workshop facilitation to refine all Business Rules and Work Requirements; meeting facilitation to update the Authority on Project status; preparation of all Documentation related to the Work for Authority's Approval; and completion of System Design, development, data migration, testing, implementation, monitoring, operation and Maintenance; and ensuring the System meets all Requirements set forth in the Contract.

The Contractor shall be responsible for compliance with the Requirements set forth in the Contract Documents.

The Contractor shall be responsible for coordinating with the Authority regarding Business Rules and/or SOW Requirements conformance and/or any information related to legacy TOBS, System interfaces, or other information necessary for the Contractor to complete the Work. The Contractor will not be compensated for any additional costs or time associated with Re-evaluation(s) or re-work resulting from proposed Design changes due to Contractor assumptions or poor coordination or resulting from proposed changes that are not coordinated through or Approved by the Authority in advance of the change being made.

The Contractor shall be required to provide complete transparency to the Authority during all phases of the Project. For example, during the Design and Implementation Phase of the Project, the Contractor shall provide full transparency to the Authority regarding Project progress, schedule updates (via Updated Project Schedules) and impacts related to changes and delays, OBOS Design, development progress, internal testing results (providing insight into the number and severity of bugs/issues, especially ahead of all Formal Tests), data migration progress, and Go-Live planning. During the Operations and Maintenance Phase of the Project, the Contractor shall provide the Authority with transparency into System issues, test results, and the implementation of any System update/patch/modification.

The Contractor shall demonstrate good project management practices while working on this Project. These include communication with the Authority and others as necessary and as directed by the Authority, management of time and resources, and Documentation.

### 3.3.2 SUBCONTRACTING

1. The Contractor may subcontract the performance of required Services with other contractors or third-parties, or change Subcontractors, only with the prior written consent of the Authority. The Contractor shall provide the Authority with complete copies of any agreements made by and between the Contractor and all Subcontractors. The Contractor remains solely responsible for the performance of its Subcontractors. Subcontractors, if any, shall adhere to the same standards required of the Contractor. Any contracts made by the Contractor with a Subcontractor shall include an affirmative statement that the Authority is an intended third-party beneficiary of the Contract; that the Subcontractor has no agreement with the Authority; and that the Authority shall be indemnified by the Contractor for any claim presented by the Subcontractor. Notwithstanding any other term herein, The Contractor shall timely exercise its contractual remedies against any non-performing Subcontractor and, when appropriate, substitute another Subcontractor.

### 3.3.3 CONTRACTOR'S REPRESENTATION

1. The Contractor warrants that qualified personnel shall provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. The Contractor agrees that it will not enter into any agreement with a third-party that might abridge any rights of the Authority under this Contract. The Contractor will serve as the prime Contractor under this Contract. Should Subcontractors be contracted by the Contractor, the Contractor shall be legally responsible for the performance and payment of the Subcontractor(s). Names of any third-party contractors or Subcontractors of Contractor may appear for purposes of convenience in Contract Documents; and shall not limit Contractor's obligations hereunder.
2. Intellectual Property. The Contractor represents that it has the right to provide the Services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third-party. Contractor also represents that its Services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third-party.
3. Inherent Services. If any Services or other Deliverables, functions, or responsibilities not specifically described in this Contract are required for Contractor's proper performance, provision and delivery of the Services and other Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract.
4. The Contractor warrants that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that the Contractor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against the Contractor that could materially adversely affect the performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

### **3.3.4 OTHER GENERAL PROVISIONS**

#### ***3.3.4.1 GOVERNMENTAL RESTRICTIONS***

1. In the event any restrictions are imposed by governmental requirements after execution of the Contract that necessitates alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Contractor shall provide written notification of the necessary alteration(s) to the Authority. The Authority reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. The Authority may advise the Contractor of any restrictions or changes in specifications required by Federal or Florida legislation, rule or regulatory authority that require compliance by the Authority. In such event, the Contractor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified in the Contract, the Authority may terminate this Contract in accordance with **Section 3.2.5, Contract Termination**, or elect to enter into a Purchase Order to effectuate such compliance.

#### ***3.3.4.2 ADVERTISING / PRESS RELEASE / PUBLICITY***

1. The Contractor, its employees, Subcontractors, and/or Agents will not publicly disseminate any information concerning the Contract or this Project, or refer to the Authority for use any logos, Images, or photographs of the Authority for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without the Authority's prior written consent. Such written consent will not be required for the inclusion of the Authority's name on a customer list.

#### ***3.3.4.3 PUBLIC RECORDS, CONFIDENTIAL MATTERS AND DATA OWNERSHIP***

1. The Contractor agrees all data, Documentation, records and information that are property of or licensed to the Authority, are the subject of this Contract, and which the Contractor, its Agents and employees, obtain access, remains at all times exclusively the property of the Authority or its licensors (other than Contractor). The Contractor agrees all such data, Documentation, records, Plans and information constitutes and shall be treated at all times by the Contractor as proprietary information of the Authority. The Contractor agrees that it will not disclose, provide, or make available any of such Authority data, Documentation, records or information in any form to any person or entity, except as authorized by the Authority. In addition, the Contractor agrees it will not use any names or addresses contained in such data, records, Documentation, Plans and information for the purpose of selling or offering for sale any property or Service to any person or entity who resides at any address in such data. In addition, the Contractor agrees it will not sell, give or otherwise make available to any person or entity any names or addresses contained in or derived from such data, Documentation, records and information for the purpose of allowing such person to sell or offer for sale any property or Service to any person or entity named in such data. The Contractor agrees it will take all reasonable steps and the same protective precautions to protect the Authority's proprietary information from disclosure to third-parties as with the Contractor's own proprietary and confidential information. The Contractor agrees that all data, regardless of form that is generated as a result of this Contract is the property of the Authority.

- a. Care of Information: Contractor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the Authority during the performance of any contractual obligation from loss, destruction or erasure.
- b. The Contractor warrants that all its employees and any approved third-party contractors or Subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in Florida. The Contractor will, upon request of the Authority, verify and produce true copies of any such agreements. Production of such agreements by the Contractor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that the Contractor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the Florida Public Records Law in Chapter 119. The Authority may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the Authority for the Contractor's execution. The Authority may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services or the Florida Department of Revenue pursuant to future statutory or regulatory requirements.
- c. Nondisclosure: Contractor agrees and specifically warrants that it, its officers, directors, principals and employees, and any Subcontractors, shall hold all information received during the performance of this Contract in the strictest confidence and shall not disclose the same to any third-party without the express written Approval of the Authority.
- d. The Contractor shall protect the confidentiality of all information, data, instruments, studies, reports, records, and other materials provided to it by the Authority or maintained or created in accordance with this Contract. No such information, data, instruments, studies, reports, records, and other materials in the possession of the Contractor shall be disclosed in any form without the prior written consent of the Authority. The Contractor will have written policies governing access to and duplication and dissemination of all such information, data, instruments, studies, reports, records, and other materials.
- e. All Project materials, including Software, data, and Documentation created during the performance or provision of Services hereunder that are not licensed to the Authority or are not proprietary to the Contractor are the property of the Authority and must be kept confidential or returned to the Authority, or destroyed.
- f. Proprietary Contractor materials shall be identified to the Authority by Contractor prior to use or provision of Services hereunder and shall remain the property of the Contractor. Derivative Works of any Contractor proprietary materials prepared or created during the performance of provision of Services hereunder shall be subject to a perpetual, royalty free, nonexclusive license to the Authority.





- f. Failure to provide the public records to the Authority within a reasonable time may also subject the Contractor to penalties under section 119.10, Florida Statutes.
- g. If a civil action is filed against the Contractor to compel the production of public records relating to the Contract, the Contractor will be solely responsible and liable for its attorney's fees and any resulting damages.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, THE CONTRACTOR MUST CONTACT THE AUTHORITY'S CUSTODIAN OF PUBLIC RECORDS, WHO CAN BE REACHED AT: (813-272-6740); AND 1104 E. Twiggs Street, Suite 300 Tampa, FL, 33602.**

#### ***3.3.4.4 CLOUD PROVIDER AGREEMENTS***

1. In the event the solution proposed by the Contractor and accepted by the Authority has OBOS deployed within a Cloud-based environment/architecture and prior to deployment, the Contractor shall provide any agreements/contracts, language, associated costs, service level agreements (SLA), licensing, or other agreements between the Contractor and the Cloud service provider to the Authority for review and Approval.
2. The Contractor and/or Cloud provider shall not alter or change any agreements/contracts, language, associated costs, service level agreements (SLA), licensing, or other agreements between the Contractor and the Cloud service provider without the Authority's Approval.
3. The Contractor shall request and provide the results of the most recent information security audit report for the Cloud provider to the Authority for review and Approval prior to deploying the OBOS within a Cloud-based environment.

#### ***3.3.4.5 LATE DELIVERY, BACK ORDER***

1. The Contractor shall advise the Authority immediately upon determining that any Deliverable will not, or may not, be delivered at the time (as specified in the Approved, Baseline Project Schedule or latest Updated Project Schedule) or place specified. Together with such Notice, the Contractor shall state the projected delivery time and date. In the event the delay projected by the Contractor is unsatisfactory, the Authority shall so advise the Contractor and may proceed to procure substitute Deliverables or Services.

#### ***3.3.4.6 ASSIGNMENT***

1. The Contractor may not assign this Contract or its obligations hereunder except as permitted in this paragraph. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any Purchase Order issued pursuant to the Contract, without the prior written consent of the Authority. In the event of any assignment, the Contractor remains secondarily liable for performance of the Contract,

unless the Authority expressly waives such secondary liability. The Authority may assign the Contract with prior written Notice to the Contractor of its intent to do so.

The Contractor shall provide reasonable Notice of not less than thirty (30) Calendar Days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract atoning to the terms and conditions agreed, and the Contractor shall affirm that the assignee is fully capable of performing all obligations of the Contractor under this Contract.

An assignment may be made, if at all, in writing by the Contractor, Assignee and the Authority setting forth the foregoing obligation of the Contractor and Assignee.

### **3.3.4.7 CLAIMS**

1. Time limits and claim substantiation. All claims by the Contractor must be made within fourteen (14) Calendar Days after occurrence of the event giving rise to such claim or within fourteen (14) Calendar Days after the Contractor first recognizes the condition giving rise to the claim, whichever is later. Claims must be initiated by written Notice to the Authority and contain a thorough description of the basis of the claim, with copies served on the Authority and the Authority's Project Manager. Daily reports, applications for payments and other administrative documents required by the Contract do not constitute written Notice of a claim.
2. The responsibility to substantiate a claim shall rest with the party making the claim. All claims made by the Contractor shall be substantiated and quantified within thirty (30) Calendar Days of the written Notice by an itemized, detailed cost breakdown sufficient to analyze the value and impact of the claim, stating applicable cost and time. Failure to comply with the time requirements for providing written Notice and substantiation of claims shall result in a waiver of the applicable claim. Under no circumstances shall the Contractor be entitled to any indirect, incidental, special, or consequential damages in any proceeding arising out of or relating to the Contract or the breach thereof.
3. Continuing Contract Performance. Pending final resolution of a claim, including, but not limited to during the process set forth in **Section 3.3.4.8, Dispute Resolution**, the Contractor shall proceed diligently with the performance of the Work. Neither the Authority's payment on an application for payment pending final resolution of a claim nor the Authority's agreement to relief in connection with a claim, Purchase Order request, or otherwise shall be deemed to expressly, impliedly, by course of conduct or otherwise waive the requirement for Notice and substantiation of claims.
4. By making the final payment, the Authority does not waive any claim that arises from: (a) liens, claims, security interests, or encumbrances arising out of the Contract and unsettled at the time final payment is made; (b) latent defects; (c) failure of the Work to comply with the Contract Documents; (d) terms of special warranties required by the Contract Documents; or (e) any claim for overpayment, including, but not limited to, those resulting directly or indirectly from any erroneous measurement, estimate, or quantity.
5. Claims for Concealed, Unforeseen or Unknown Conditions. If conditions are encountered at the site that are (1) concealed physical conditions that differ materially from those indicated in the Contract or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent

in construction activities of the character provided for in the Contract, then the Contractor shall give written Notice to the Authority’s Project Manager promptly before conditions are disturbed and in no event later than seven (7) Calendar Days after first observance of the conditions. This Notice shall include a written description of the concealed or unknown condition and the Contractor’s proposed method to resolve the concealed or unknown condition. If the Authority’s Project Manager determines that the conditions at the site are not materially different from those indicated in the Contract, and that no change in the terms of the Contract is justified, the Authority’s Project Manager shall so notify the Contractor in writing. The Contractor shall notify the Authority’s Project Manager of any opposition to the determination by the Authority’s Project Manager within seven (7) Calendar Days after the Authority’s Project Manager has given Notice of its determination. Substantiation and quantification of any claims related to concealed or unknown conditions must be provided within thirty (30) Calendar Days of the date that the Contractor’s claim Notice is received by the Authority’s Project Manager or thirty (30) Calendar Days from the date that the Authority’s Project Manager has issued direction on how to resolve the concealed or unknown condition. If such concealed or unknown site conditions are encountered, and if the critical path is directly impacted as a result, the Contractor shall be entitled to an adjustment in the Contract time for performance for the delay caused by the correction of concealed or unknown conditions, subject to the requirements of **Section 3.2, Contract Changes and Termination**. If such concealed or unknown site conditions are encountered, requests for compensation for the reasonable direct costs that are caused solely by the delay are subject to the requirements of Section 3.2. If the concealed or unknown condition causes a decrease in the cost of performing the Work, the Authority shall be entitled to deduct the decreased cost from the Total Contract Amount.

6. Injury or Damage to Person or Property. If the Contractor suffers injury or damage to person or property because of an act or omission of the Authority, of the Authority’s employees or Agents, or of others for whose acts the Authority is legally liable, written Notice of such injury or damage, whether or not insured, shall be given to the Authority, and no later than fourteen (14) Calendar Days after first observance. The Notice shall provide sufficient detail to enable the Authority to investigate the matter.
  
7. The Contractor shall, within fifteen (15) Business Days from delivery of Notice from the Authority or Authority’s Project Manager, produce for examination by the Authority, Authority’s Project Manager, or an authorized representative of either of them, all of the Contractor’s records related to the Work or under the Contract, including, but not limited to, books of account, bills, invoices, payrolls, Subcontracts, Subcontractor payment requests, time sheets/cards, progress records, daily logs, daily reports, cost accounting records, correspondence, and any other document or record regarding all of the Contractor’s acts and transactions in connection with or relating to or arising by reason of the Contract, and provide appropriate personnel familiar with such records to explain such records and answer questions regarding any claims made under the Contract. The Contractor’s failure to furnish the requested information or appear for examination shall result in the Contractor’s waiver and release of all claims arising out of, relating to, or by reason of the Contract, except for the sums certified by the Authority’s Project Manager to be due under the provisions of the Contract. In addition to the foregoing, to the extent any claim by the Contractor includes any claims by Subcontractors or Subconsultants, arising under or by reason of the Contract, the Authority shall also have the right through its designees, upon written Notice, to require the Subcontractor to produce the above described records related to Work in connection with the Contract in the Subcontractor’s

or Subconsultant's possession and to submit itself and persons in its employ to similarly explain its records and answer questions, within fifteen (15) Business Days from delivery of written Notice from the Authority to the Contractor requesting same. The Contractor shall ensure that the Subcontractor or Subconsultant timely complies with this provision.

### **3.3.4.8 DISPUTE RESOLUTION**

1. In the event of any dispute whatsoever arising out of or relating to the Contract Documents, the Work or the Project, the disputing party must furnish a written Notice to the other party, setting forth in detail the dispute. Such Notice must be addressed to the other party's Project Manager. Within five (5) Business Days after the receipt of the Notice by the receiving Project Manager, the two Project Managers shall meet in the Authority's offices to attempt to resolve the dispute. If the Project Managers cannot resolve the dispute then, within fourteen (14) Calendar Days after the date of written Notice by either Project Manager to the Executive Director of the Authority and the Project Principal, the Executive Director of the Authority and the Project Principal shall meet in the Authority's offices to attempt to resolve the dispute. If the Executive Director of the Authority and the Project Principal cannot resolve the dispute or otherwise agree to extend the time within which to attempt to resolve the dispute, then either Party may pursue those remedies as allowed under this Contract.
2. **MANDATORY PRE-SUIT MEDIATION.** All Claims, disputes, or other matters in question arising out of or relating to the Contract, shall be subject to mandatory pre-suit mediation under the auspices of a mediator to be selected by the parties. Mediation must occur before a lawsuit is filed. Discovery prior to the scheduled mediation shall be limited to one (1) request for production of documents and two (2) depositions per party not exceeding 8 hours total time per deposition. Each party shall equally bear the costs of mediation and shall be solely responsible for its own attorneys' fees and other legal costs prior to and during the mediation process. In the event the case does not settle at mediation, the parties may re-depose either or both witnesses on non-repetitive matters.
3. The parties agree that all legal proceedings that relate in any way to the Contract shall be brought only in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. It is further stipulated and agreed that no person or entity has power to waive any of the foregoing provisions of this section, and that in any action against the Authority to recover on any claim or any sum in excess of the sums certified by the Authority's Project Manager to be due under or by reason of the Contract, the Contractor must allege in its complaint, and prove at trial, compliance with the provisions of this section.
4. **CERTIFICATION OF SUBCONSULTANT OR SUBCONTRACTOR CLAIM.** For any Claim made by the Contractor against the Authority, the basis of which includes a Claim by a Subconsultant, Subcontractor, or any other person or entity under the Contractor's control, for acts or omissions allegedly attributable to the Authority, the Contractor must certify by affidavit that it has carefully examined each Subconsultant's or Subcontractor's Claim and has verified the truth and accuracy of each Claim. Such certification under oath must be made by the Contractor prior to the submission of any Subconsultant or Subcontractor Claim to the Authority and shall constitute an express condition precedent to the Contractor having a cause of action against the Authority that includes a Subconsultant's Claim or a Subcontractor's Claim. A copy of such certification shall be

provided to the Authority contemporaneously with the submission of any Subconsultant or Subcontractor Claim to the Authority. The Authority will not consider any Claim that has not been properly certified by the Contractor, nor is the Contractor entitled to relief by the Authority unless the certification contemplated by this section has been properly furnished to the Authority.

#### **3.3.4.9 DEFAULT**

1. In the event any Deliverable furnished or Work performed by the Contractor during performance of the Contract Term fails to conform to any requirement of the Contract, a Notice of cure/warning shall be issued to the Contractor by the Authority, and if the failure is not cured within thirty (30) Calendar Days, or the Contractor fails to meet the acceptance Requirements of the Contract, the Authority may cancel and procure the articles or Services from other sources; holding Contractor liable for any excess costs occasioned thereby, subject only to the limitations of liability and the obligation to informally resolve disputes as provided in these Terms and Conditions. Default may be cause for debarment. The Authority reserves the right to require performance guarantees from the Contractor without expense to the Authority. The rights and remedies of the Authority provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. The Authority allows for thirty (30) Calendar Days to cure a termination, pursuant to paragraph 3.2.5.2, **Termination for Cause**.
2. If the Contractor fails to deliver Deliverables within the time required by this Contract, the Authority may provide written Notice of said failure to Contractor, and by such Notice require payment of liquidated damages.
3. The Contractor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Contractor's bid documents that prove erroneous or are otherwise invalid.
4. The Contractor shall provide a plan to cure any default if requested by the Authority. The plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, the details regarding the plan to cure, and such other information as the Contractor may deem necessary or proper to provide.
5. This **Section 3.3.4.9, Default** shall survive termination, cancellation, or expiration of the Contract.

#### **3.3.4.10 WAIVER OF DEFAULT**

1. Waiver by the Authority of any default or breach by the Contractor shall not be deemed a waiver or any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract.

#### **3.3.4.11 CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY**

1. The Contractor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of the Authority, employees of the Authority, persons designated by the Authority for training, or person(s) other than Agents or employees of the Contractor, designated by the Authority for any purpose, prior to, during, or subsequent

to delivery, installation, acceptance, and use of the Deliverables either at the Contractor's site or at the Authority's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.

2. The Contractor agrees to indemnify, defend and hold the Authority and its Officers, employees, Agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, Contractor or corporation furnishing or supplying Work, Services, materials or supplies in connection with the performance of this Contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Contractor, its officers, employees, Agents, assigns or Subcontractors, in the performance of this Contract.
3. The Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Contractor, or for damage to alterations or attachments that may result from the normal operation and Maintenance of the Contractor's goods.

#### ***3.3.4.12 FLORIDA SALES AND OTHER TAXES***

1. The Proposer is responsible for paying to the appropriate governmental entity all applicable taxes. Any applicable tax legally enacted when the Proposals are received shall be included in the Total Contract Amount by the Proposer, whether or not yet effective or merely scheduled to go into effect.

#### ***3.3.4.13 FORCE MAJEURE***

1. Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term of the Contract, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect after the date of the Contract; pandemic or epidemic; or national or regional declared emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give Notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event. Notwithstanding the foregoing, it is specifically acknowledged, understood and agreed that the terms and conditions set forth herein, including, without limitation the Project milestones and schedule reflect and include all considerations necessitated by the COVID-19 pandemic ("COVID") including, without limitation, delays, suspensions and interruptions of work and/or Services that are in place or scheduled, as well as restrictions on the working environment, construction means and methods, supply chain manufacturing lead times, and logistical methods, including freight and delivery time frames. Accordingly, the parties hereby acknowledge and agree that in no event shall either party be entitled to claim COVID or the impacts thereof (including, without limitation, supply chain or logistical issues, staffing shortages, changes in market prices or conditions, or financial distress) as a Force Majeure Event. Force Majeure Events shall not otherwise limit the Authority's rights to enforce contracts.

**3.3.4.14 WAIVER**

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

**3.3.4.15 SEVERABILITY**

1. In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statute, including statutes of repose or limitation.

## **Section 4**

# **Scope of Work and Requirements**