

SECTION 00200

INSTRUCTIONS TO BIDDERS

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SECTION 00200

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

- 1.1 Terms used in these Instructions to Bidders which are defined in the General Conditions have the meanings assigned to them in the General Conditions, as supplemented. The term "Apparent Low Bidder" means the Bidder submitting the lowest Bid at the Bid opening without correction of numerical discrepancies, consideration of alternates or determination of responsiveness and responsibility. The term "Successful Bidder" means the Bidder to whom Owner awards or expects to award the contract. Bidding Documents consist of the Project Manual dated September 2013 and Drawings dated September 2013, both as may be modified by Addenda.
- 1.2 The Work, as defined in the General and Supplemental Conditions, is described in Article 1 of the Agreement.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of Bidding Documents in the number and for the sum stated in the Advertisement for Bids may be obtained from the Town's website at <http://www.town.windermere.fl.us> or from Demand Star at <http://demandstar.com>.
- 2.2 Complete sets of full size Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

Each Bidder shall complete the Questionnaire (Section 00401) included in the Bid Form. To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit, within seven (7) days of Owner's request, the additional qualifications submittals set forth in Article 22 of the Instructions to Bidders.

ARTICLE 4 - EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 4.1 It is the responsibility of each Bidder before submitting a Bid to: (a) examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below); (b) visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work; (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work; (d) study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and (e) promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents.
- 4.2 Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and

Engineer do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

- 4.3 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Paragraphs 4.2 and 4.3 of the General Conditions.
- 4.4 Before submitting a Bid each Bidder will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.5 On request, with advanced notice, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid, Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.
- 4.6 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.
- 4.7 The provisions above of 4.1 through 4.6, inclusive, do not apply to Asbestos, Polychlorinated Biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material covered by Paragraph 4.06 of the General Conditions.
- 4.8 The submission of the Bid shall be an indication that the Bidder has considered normal local weather conditions (daily and monthly variations) and accounted for these circumstances in the preparation of the bid and schedule of construction.

ARTICLE 5 - AVAILABILITY OF LANDS FOR WORK, ETC.

- 5.1 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 6 - ADDENDA AND INTERPRETATIONS

- 6.1 Bidders shall promptly notify Engineer of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or the site.

All questions about the meaning or intent of the Bidding Documents shall be submitted to Engineer in writing. Replies considered necessary shall be issued through Addenda by registered mail to all parties recorded by Engineer as having received complete sets of Bidding Documents up to seventy-two (72) hours before bid time. Brief addenda which do not materially alter the scope of work may be issued between seventy-two (72) hours and twenty-four (24) hours before bid time by facsimile (fax) to all General Contractors only. Questions received less than seven (7) calendar days prior to the date for opening of Bids shall not be answered. Only questions answered by formal written Addenda shall be binding and prospective Bidders are warned that no other source than a formal written Addenda is authorized to give information concerning, or to explain or interpret the Bidding Documents. Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from its terms and requirements.

ARTICLE 7 - BID SECURITY

- 7.1 Bid Security shall be submitted and shall be made payable to Owner, in an amount of not less than five percent of the Bidder's Contract Price and in the form of a cashier's check or a Bid Bond issued by a Surety meeting the requirements of Article 21 of this section and Article 5 of the General Conditions. The Bid Bond shall be issued by a company having a registered agent in the State of Florida. Personal checks are not acceptable.
- 7.2 The Bid Security of the Bidder shall be retained until such Bidder has executed the Agreement and furnished the required payment and performance bonds, whereupon the Bid Security shall be returned. If the Successful Bidder fails to furnish the qualifications submittals or fails to execute and deliver the Agreement and furnish the required Bonds within ten days of the Notice of Award, Owner may annul the Notice of Award and the Bid Security of that Bidder shall be forfeited. The Bid Security of any Bidder whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the ninety-first day after the Bid opening. Bid Security of other Bidders shall be returned approximately seven (7) days after the Bid opening.

ARTICLE 8 - CONTRACT TIME

The number of consecutive calendar days within which, or the date by which, the Work is to be completed (the Contract Time) is set forth in the Agreement (Section 00520).

ARTICLE 9 - LIQUIDATED DAMAGES AND INDEMNITY

- 9.1 Provisions for liquidated damages are set forth in the Agreement (Section 00520).
- 9.2 The Bidder must execute an Indemnification Agreement (Section 00540) with the signing of the Agreement as provided in Article 27 of this Section.

ARTICLE 10 - SUBSTITUTE MATERIAL AND EQUIPMENT

The Contract, if awarded, shall be awarded on the basis of material and equipment described in the Drawings or specified in the Specifications with consideration of possible substitute or "or equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance shall not be considered by Engineer until after the "Effective Date of the Agreement." The procedure for submittal of any such application by Contractor and consideration by Engineer is set forth in the General Conditions, as may be supplemented in Division 1, General Requirements. If a substitution list is provided as part of the prescribed Base Bid Form, Bidders must identify proposed substitute materials. These substitute materials and equipment shall be evaluated after "Effective Date of the Agreement." Only the proposed alternatives, substitutions or "or equal" items listed on the Substitution List shall be evaluated by the Engineer in accordance with the General Conditions.

The cost of changes in related work, additional drawings which may be required to illustrate or define the alternate equipment and its relationship to the other parts or portions of the Work shall be paid by the Contractor. No change shall be made in the amount of time in which to complete the Work or in the liquidated damages. If the proposed substituted material or equipment is found to be unacceptable to the Engineer as an "or equal" item, then the Base Bid material or equipment named in the specification or the Bid Form (circled item) shall be furnished by the Contractor.

ARTICLE 11 - SUBCONTRACTORS, ETC.

- 11.1 Each Bid must identify the names and addresses of the subcontractors listed in the Bid Form "Questionnaire (Section 00401)." If requested by the Owner or Engineer, the Bidder, and any other Bidder so requested, shall, within seven (7) days after the date of the request, submit to Owner an experience statement with pertinent information as to similar projects and other evidence of qualification for each such subcontractor, person and organization. If Owner or Engineer after due investigation has reasonable objection to any proposed subcontractor, other person or organization, either may, before giving the Notice of Award, request the Bidder to submit an acceptable substitute without an increase in Contract Price nor Contract Time. If the Bidder declines to make any such substitution, the Owner may elect not to award the Contract to such Bidder. A Bidder's declining to make any such substitution shall not constitute grounds for sacrificing his Bid Security. No Bidder shall be required to employ any subcontractor, other person or organization against whom Bidder has reasonable objection.
- 11.2 Procedures for approval of other subcontractors after execution of the Agreement are described in the General and Supplementary Conditions.
- 11.3 Each Bidder must complete the Bid Form "Questionnaire" (Section 00401) listing each item of work to be subcontracted and the estimated not-to-exceed cost of these items. (Work in this respect does not include cost paid to suppliers for materials and equipment furnished for this project)

ARTICLE 12 - BID FORM

- 12.1 One (1) set of the Bid Form is included in the Contract Documents for the Bidder's use.
- 12.2 Bid Forms must be completed in duplicate in ink or typed. The Bid price of each item and lump sum "Total Bid" or "Total Base Bid" on the Bid Form must be stated in words and numerals; in case of a conflict, words shall take precedence.
- 12.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and State of incorporation must be shown below the signature. If requested, the person signing a Bid for a corporation or partnership must produce evidence satisfactory to the Owner of the person's authority to bind the corporation or partnership. If the Bidder is a corporation, and if the Bid is executed by someone other than the President or Vice President of the corporation, attach to the Bid a certified copy of corporate resolutions of the board of directors of the corporation authorizing the person to execute the Bid on behalf of the Corporation.
- 12.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 12.5 All names and titles must be typed or printed below the signature.

- 12.6 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).
- 12.7 The address in which communications regarding the Bid are to be directed must be shown.
- 12.8 Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State contractor license number, if any, must also be shown.
- 12.9 Bids must be priced on a lump sum basis for the base contract and include a separate price for each alternate described in the Specifications as provided for in the Bid Form. The price of the Bid for each alternate will be the amount to be added to or deducted from the price of the base Bid if Owner selects the alternate.
- 12.10 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances named in the Contract Documents as provided in Section 00700 - Article 11 - 11.03..
- 12.11 Bids which are incomplete, conditional, or which contain additions not called for, alterations or irregularities of any kind may be rejected.

ARTICLE 13 - SUBMISSION OF BIDS

- 13.1 Bids shall be submitted before the time and at the place indicated in the Advertisement for Bids, and shall be submitted in an opaque sealed envelope. The envelope shall be marked on the exterior **"BID NO. #2013-07 • TOWN HALL LANDSCAPE AND HARDSCAPE IMPROVEMENTS"** with the name and address of the Bidder and accompanied by the Bid Security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "SEALED BID ENVELOPE ENCLOSED" on the face thereof. The Owner shall in no way be responsible for delays caused by the United States Postal Service or for delays caused by any other occurrence. Bids sent by e-mail, telegram or telecopy shall not be accepted by the Owner.
- 13.2 Each Bid must contain the following documents in completed form: (Two (2) copies each as provided herein):
- A. Bid Forms (Bidding Documents, entire Section 00400, 00400A, 00401 and 00401A).
 - B. Bid Bond (surety bond or cashier's check). (Section 00430) (Original and one (1) copy).
 - C. Power of Attorney (for surety bond only).
 - D. Non-collusion Affidavit (Section 00450).
 - E. Certification of Non-segregated Facilities (Section 00451).
 - F. Sworn Statement on Public Entity Crimes (Section 00452).
 - G. Certification of Non-discriminatory Labor Practices (Section 00453).
 - H. Corporate Authority to Execute Documents (any corporate employee other than president or vice-president). (Section 00501).
- 13.3 More than one Bid received for the same work from an individual, firm or partnership, a corporation or association under the same or different names shall not be considered. Reasonable grounds for believing that any Bidder is interested in more than one Bid for the same work shall cause the rejection of all such Bids in which the Bidder is interested. If there are reasonable grounds for believing that collusion exists among the Bidders, the Bids of participants in such collusion shall not be considered.

ARTICLE 14 - MODIFICATION AND WITHDRAWAL OF BIDS

- 14.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the deadline for submitting Bids. A request for withdrawal or a modification must be in writing and signed by a person duly authorized to do so; and, in case signed by a deputy or subordinate, the principal's proper written authority to such deputy or subordinate must accompany the request for withdrawal or modifications. Withdrawal of a Bid shall not prejudice the rights of a Bidder to submit a new Bid prior to the Bid Date and Time. After expiration of the period for receiving Bids, no Bid may be withdrawn, modified, or explained.
- 14.2 If within 24 hours after bids are opened, any Bidder files a duly signed written notice with Owner and within 48 hours thereafter demonstrates to the reasonable satisfaction of the Owner that: a) there has been a material and substantial mistake in the preparation of the Bid; and that b) the mistake is of such great consequence that to enforce the Contract would be unconscionable; and that c) the mistake occurred notwithstanding the exercise of reasonable care in the preparation of the Bid; the Bidder may withdraw its Bid, and the Bid Security shall be returned provided that the Owner is not seriously prejudiced, except for the loss of its bargain.

ARTICLE 15 - OPENING OF BIDS

- 15.1 At the specified time and place as indicated in the "Invitation to Bid," Bids shall be opened publicly (unless obviously non-responsive) and read aloud.
- 15.2 An abstract of the amounts of the Total Bids and suppliers of major equipment or alternates, (if any), shall be prepared and made available to all Bidders within a reasonable time after the opening of Bids.

ARTICLE 16 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 16.1 All Bids shall remain open for delivery by the Owner of the Notice of Award for ninety (90) calendar days after the day of the Bid opening, but Owner may, at his sole discretion, release any Bid and return the Bid Security prior to that date.
- 16.2 Extensions of time when Bids shall remain open beyond the ninety (90) day period may be made only by mutual agreement between Owner, the Bidder, and the surety, if any, for the Bidder.

ARTICLE 17 - AWARD OF CONTRACT

- 17.1 To the extent permitted by applicable state and federal laws and regulations, Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful skill or ability or fails to meet any other pertinent standard or criteria established by Owner. Bids may be considered irregular and subject to rejection if they show serious omission, unauthorized alterations of form, unauthorized alternate bids, incomplete or unbalanced unit prices or irregularities of any kind. Owner also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Bidder. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

- 17.2 If the Contract is to be awarded, it shall be awarded on the basis of the lowest "Total Bid" or "Total Base Bid". Additive or deductive alternates determined by the Owner, in its sole discretion, to be acceptable (if any) shall be considered in determining the lowest responsive, responsible Bidder. In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- 17.3 A Contract shall be awarded by the Owner pursuant to applicable law. The Owner, in its sole discretion, reserves the right to reject any and all Bids and to waive any informality concerning Bids whenever such rejection or waiver is in the best interest of the Owner. If Bids exceed the amount of funds estimated by the Owner as available to finance the Project, the Owner may reject all bids or may award the Contract in the best interest of the Owner. Award of this Contract is contingent upon the Town of Windermere securing adequate bond financing or funding for this Project. The Town of Windermere shall not be required to award this Contract if adequate funding is not available. The ability of a Bidder to obtain a performance and payment bond shall not be regarded as the sole test of such Bidder's competency or responsibility. Nothing contained herein shall place a duty upon the Owner to reject Bids or award the contract based upon anything other than its sole discretion as described herein. By submitting a Bid, Bidder recognizes and accepts that the Owner may reject the Bid based upon the exercise of its sole discretion and Bidder waives any claim it might have for damages or other relief resulting from the rejection of its Bid based on these grounds.
- 17.4 Owner may consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of materials or equipment) proposed for those portions of the Work as to which the identity of Subcontractors and other persons and organizations must be submitted as provided in Articles 11 and 22 of these Instructions to Bidders.
- 17.5 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and ability of the Bidders, proposed subcontractors and other persons and organizations to perform the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time. Owner reserves the right to reject the Bid of any Bidder who does not pass any such evaluation to Owner's satisfaction.
- 17.6 One contract for the Work shall be awarded, if award is made, to the lowest responsible, responsive Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project. The Successful Bidder who is awarded the Contract shall be required to perform the Work as a prime Contractor. No assignment of the Contract shall be allowed without written permission of the Owner.
- 17.7 If the Contract is to be awarded, the Owner will give the Successful Bidder a Notice of (Intent to) Award within Sixty (60) days after the day of the Bid opening.

ARTICLE 18 - TAXES

- 18.1 The Contractor shall pay all applicable sales, consumer, use and other similar taxes required by law. The Contractor is responsible for reviewing the pertinent State statutes involving the sales tax and complying with all requirements.

ARTICLE 19 - ORGANIZATION OF DRAWINGS AND SPECIFICATIONS

- 19.1 Drawings and Specifications for the Work are incorporated as follows:

- A. The Project Manual, consisting of Division 0 - Bidding and Contract Requirements, Division 1 - General Requirements, Division 2 - Site Construction, Division 3 - Concrete and Division 11 - Equipment
- B. The Drawings have been separately bound together within a single document.

ARTICLE 20 - REQUIRED DISCLOSURE

- 20.1 Any person submitting a Bid in response to this invitation must execute form PUR. 7068, SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES, including proper check(s), in the space(s) provided, and enclose it with his Bid. The required disclosure form (provided in Section 00452 of these Specifications) must be completed by the appropriate individual within the organization, notarized and provided with the Bid proposal. Corrections to the form will not be allowed after the Bid opening time and date. Failure to complete this form in every detail and submit it with Bidder's Bid may result in disqualification.
- 20.2 At its sole discretion, the Owner, may reject any Bidder the Owner finds to lack, or whose present or former executive employees, officers, directors, stockholders, partners or owners are found by the Owner to lack honesty, integrity, or moral responsibility. The discretion of the Owner may be exercised based on the disclosure required herein, the Owner's own investigation, public records, or any other reliable sources of information. The Owner may also reject any Bidder failing to make the disclosure required herein. By submitting a Bid, Bidder recognizes and accepts that the Owner may reject the Bid based upon the exercise of its sole discretion and Bidder waives any claim it might have for damages or other relief resulting from the rejection of its Bid based on these grounds.

ARTICLE 21 - QUALIFICATIONS OF SURETY COMPANIES

In order to be acceptable to the Owner, a surety company issuing Bid Guaranty Bonds, or 100 percent Performance/ Payment Bonds or 25 percent Maintenance Bond, called for in these Specifications, shall meet and comply with the following minimum standards:

- A. Surety must be admitted to do business in the State of Florida and shall comply with the provision of Florida Statute 255.05.
- B. Surety companies executing bonds must appear on the United States Treasury Department's most current list (Circular 570 as amended).
- C. Attorneys-in-fact who sign Bid Bonds or Performance/Payment Bonds must file with such bond a certified copy of their power of attorney to sign such bond.
- D. Agents of surety companies must list their name, address and telephone number on all bonds.
- E. Surety shall have at least the following minimum ratings;

<u>CONTRACT AMOUNT</u>	<u>BEST'S RATINGS</u>	
to 50,000	Class IV	B+ or better
50,000 to 500,000	Class V	A or better
500,000 to 2,500,000	Class VI	A or better
2,500,000 and over	Class VII	A or better

RATINGS SCHEDULE (net worth of Bonding Company)

Class IV	3,750,000 to 5,000,000
Class V	,500,000 to 12,500,000
Class VI	25,000,000 to 50,000,000
Class VII	75,000,000 to 100,000,000

- F. All bonds must be provided on the forms contained in the Bid Documents. Failure to provide bonds on the Owner's forms may result in the rejection of the bid and the forfeiture of the Bid Security.

ARTICLE 22 - QUALIFICATIONS SUBMITTALS

- 22.1 It is the intention of the Owner to award this contract to a Bidder competent to perform and complete the Work in a satisfactory manner. Accordingly, Owner shall require the Bidder to submit, within seven (7) days of written request by the Owner and prior to award of Contract, 1) evidence of Bidder's certification and license to perform the Work and services, 2) experience statement, 3) Preliminary Progress Schedule, and 4) Preliminary Schedule of Values all as set forth below, to allow Owner to conduct qualifications investigations.
- 22.2 The experience statement shall provide data additional to that information provided in the Bid Form pertaining to Contractor's adequacy of organization, equipment and prior experience.
- 22.3 The Successful Bidder and his surety, if any, hereby agree that any delays within Bidder's control in the delivery of these Qualifications Submittals shall constitute a request by Bidder for an extension of the time during which the Bid shall remain open for the Owner's acceptance. Should Owner agree to such extension, Bidder shall be required to comply with this submittal requirement within five additional days. At the Owner's option, failure by the Successful Bidder to deliver these qualifications submittals within the extended period shall void evaluation of the Bid and shall constitute proof that the Successful Bidder has abandoned his Bid; his Bid Security may be declared forfeited to the Owner as liquidated damages, and the Work may be awarded to another Bidder.
- 22.6 If upon receipt and evaluation of the submittals the Successful Bidder does not pass the evaluations to Owner's satisfaction, Owner reserves the right to reject the Bid.

ARTICLE 23 - INTERPRETATION OF QUANTITIES

In the case of unit price items, the quantities of work to be done and materials to be furnished under this Contract, as given in the Proposal, are to be considered as approximate only and are to be used solely for the comparison of Bids received. The OWNER and/or his ENGINEER do not expressly or by implication represent that the actual quantities involved shall correspond exactly therewith; nor shall the Bidder plead misunderstanding or deception because of such estimate or quantities or of the character, location or other conditions pertaining to the work. Payment to the CONTRACTOR shall be made only for the actual quantities of Work performed or material furnished in accordance with the Drawings and other Contract Documents, and it is understood that the quantities may be increased or diminished as provided in the General Conditions without in any way invalidating any of the unit or lump sum prices bid.

ARTICLE 24 - UNIT PRICES INFORMATION

N/A

ARTICLE 25 - CONSTRUCTION SAFETY

- 25.1 In instances where such is applicable due to the nature of the Work matter with which this Bid is concerned; all materials, equipment, etc., as proposed and offered by Bidders must meet and conform to all Occupational Safety and Health Act (OSHA) requirements. The Bidders' signature upon the Bid Form (Section 00400) is considered certification of conformance to such requirements.
- 25.2 In the event this contract requires trench excavation, the requirement of Florida Statutes 553.60, et seq., shall be adhered to by all Bidders.

ARTICLE 26 - SPECIAL WARRANTY, PERFORMANCE BOND, INSURANCE AND CORRECTION PERIOD REQUIREMENTS

There are special requirements pertaining to Warranty, Performance Bond, Insurance, and the Correction Period which are described in the Bidding Documents. The Bidder must include in his Bid the consideration to be paid by the Owner for the Special Warranty, Performance Bond, Insurance and Correction Period requirements as set forth in the Contract Documents.

ARTICLE 27 - SIGNING OF AGREEMENT

- 27.1 When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by at least six (6) unsigned counterparts of the Agreement (Section 00520) and all other Contract Documents. Within ten (10) days of receipt thereafter, Successful Bidder shall sign and deliver four (4) counterparts of the Agreement to the Owner together with the required Bonds, Insurance Certificates and Endorsements. Within ten (10) days after receipt of the properly executed and completed submittals, Owner shall deliver a fully signed counterpart to Successful Bidder.
- 27.2 A Successful Bidder who is awarded the Contract and fails to execute the Agreement or furnish the required Bonds or insurance certificates and endorsements within the period specified in 27.1 above, shall have its Notice of Award rescinded and shall forfeit its Bid Security to Owner as liquidated damages for its failure to enter into a contract with the Owner.

ARTICLE 28 - PROTESTS

The Owner is responsible for the resolution of protests by Bidders for contract award, claims, disputes, alleged patent infringements, alleged license fee(s) and other related procurement matters. The following procedures SHALL be used for all such protests.

- 28.1 Any party with a direct financial interest adversely affected by Owner's procurement decision SHALL file a protest under this Article, or be barred further relief.
- 28.2 A protest: (a) must be in writing (oral protests shall NOT be acknowledged); (b) adequately state the basis of the protest and the relief requested; and (c) be received by Owner within seven (7) calendar days from the date the basis of the protest was, or should have been, known.
- 28.3 After a protest has been properly filed with the Owner, the Owner shall make a determination on the merits of the protest within thirty (30) calendar days of receipt of the protest. If the Owner denies the protest, the Owner may proceed with award of the Contract unless enjoined by order of a Court of competent jurisdiction.
- 28.4 A protest SHALL be limited to: (a) issues arising from the procurement provisions of the Project Manual; and (b) state or local law. No protest may be filed with respect to basic project design.

28.5 The Owner's legal counsel shall establish procedures to resolve the protest based on Florida law. If the Florida law is not clearly established, the Owner shall rely on decisions issued by other states, Federal courts, the U.S. Comptroller General or other Federal agencies with related procurement experience.

ARTICLE 29 - APPRENTICES

In the event this Contract is in excess of \$25,000.00, the apprentice employment requirements of Chapter 446.011(3), Florida statutes are hereby incorporated:

29.1 The CONTRACTOR agrees:

29.1.1 That he will make a diligent effort to hire for the performance of the Contract a number of apprentices in each occupation which bears to the average number of the journeyman in that occupation to be employed in the performance of the Contract, the ratio of at least one apprentice to every five journeymen.

29.1.2 That he will, when feasible, assure that 25 percent of such apprentices are in their first year of training, except when the number of apprentices to be hired is fewer than four. Feasibility here involves a consideration of the availability of training opportunities for first-year apprentices, the hazardous nature of the work for beginning workers and excessive unemployment of the apprentices in their second and subsequent years of training.

29.1.3 That, during the performance of the Contract, he will make diligent efforts to employ the number of apprentices necessary to meet requirements of subparagraphs 1 and 2.

29.2 The CONTRACTOR agrees to return records of employment by trade of the number of apprentices and apprentices by first year of training and of journeymen and the wages paid and hours of work of such apprentices and journeymen, on a form as prescribed by the Bureau of Apprenticeship of the Division of Labor and Employment Opportunities at three-month intervals. Submission of duplicate copies of forms submitted to the United States Department of Labor shall be sufficient compliance with the provisions of this section.

29.3 The CONTRACTOR agrees to supply to the Bureau of Apprenticeship of the Division of Labor and Employment Opportunities, at three-month intervals, a statement describing steps taken toward making a diligent effort and containing a breakdown by craft of hours worked and wages paid for first-year apprentices, other apprentices and journeymen.

29.4 The CONTRACTOR agrees to insert in any subcontract under this Contract the requirements contained in this section. The term "Contractor," as used in such clauses and any subcontract, shall mean the subcontractor."

ARTICLE 30 - DRUG-FREE WORKPLACE

Every Bidder shall provide a certification on the form provided (Section 00401A) indicating whether the Bidder has implemented a drug-free workplace program pursuant to the requirements of Florida Statute Section 287.087. Preference in the award process shall be given, according to the statutory requirements, to a business that certifies it has implemented a drug-free workplace program.

ARTICLE 31 - LICENSES AND PERMITS

31.1 Permits for this Construction Project obtained by the Owner are limited to those permits listed in Division 1 of the Contract Documents. The Contractor shall be required to comply with all

provisions of such permits regarding workmanship, schedules, notification of starting construction, and any other conditions under which the permits are issued.

31.2 The Town of Windermere, Orange County, Florida will waive all permit fees, however, the Contractor shall obtain all necessary building permits from the Town.

31.3 The Contractor shall obtain and pay for all other federal, state, and county permits, licenses, and other authorizations required for the prosecution of the Work, including the cost of all Work performed in compliance with the terms and conditions of such permits, licenses, and authorizations, whether by himself or others.

ARTICLE 32 - CONTINGENCY ALLOWANCES

A contingency allowance may be included as part of the Schedule of Bid Prices. This allowance is included to cover Contract items identified in Section 01025 - Measurement and Payment. Prior to the initiation of any expenditure of any contingency allowance, an executed formal Change Order is necessary for the utilization of contingency funds. The method for computing Change Order dollar amounts shall be as specified in the General Conditions.

ARTICLE 33 - RETAINAGE

Provisions concerning retainage and Contractors' rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 34 - PRE-BID CONFERENCE

A mandatory pre-bid conference will be held at the time and place indicated in the "Invitation to Bid." Representatives of Owner and Engineer will be present to discuss the Project. Bidders are required to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

END OF SECTION