

# DEVELOPER PIPELINE BID AND PAYMENT PROCESS (Amended/Updated August 1, 2016)

## 1. Pasco County Engineering Services Department Standard Construction Provisions

Upon County approval of the related Development Agreement (DA), amendments to the DA or other Board of County Commissioners (BCC) approved Agreement, all Developers who will be seeking compensation from the County (cash, transportation impact fee credits, etc., as provided under the County's Transportation Impact Fee Ordinance, Mobility Fee Ordinance or economic development agreement) for the infrastructure improvements to be performed pursuant to the DA, amendments to the DA or other BCC approved Agreement will be provided with a set of the County's Standard Construction Provisions for Developer Pipeline Projects that is attached hereto as Exhibit A. The Developer shall incorporate these provisions into any final bid document and resulting contract prepared for the project. (The County reserves the right to modify its sample bid document and standard construction provisions at its discretion.) The Pipeline Project shall be contracted for and awarded separately from the Developer's private construction projects.

## 2. Preparation of Bid Documents

- A. The Developer shall be responsible for ensuring that all technical specifications and special conditions necessary for the completion of the proposed project are incorporated into the bid document in addition to the County's conditions. If a governmental entity such as a Community Development District (CDD) will be performing the work as the Developer or for the Developer, the bid should reflect whether or not the governmental entity reserves the right to make direct purchases of materials (which may be sales tax exempt) and/or whether the bidders should or should not include sales tax in their pay items for materials in their bid proposals. If the direct purchases election is made, only the actual cost of the bid item absent the sales tax shall be eligible for reimbursement from the County.
- B. The Developer must include a complete list of pay items and quantities for pay items in the bid for completion by the successful contractor.
- C. The Developer must also include pay items and quantities for the County's portion of the work (that portion of work for which a credit will be sought).
  - (1) If County Design Plans are being used, the County will provide pay items and quantities.
  - (2) If the Developer is doing the design, the Developer or the Developer's engineer will be responsible for identifying the items and quantities specific to the County-specified work.
  - (3) At the time of submission of the bid document to the County for its review, the Developer or the Developer's design engineer must certify that the County portion of the pay items does not include any site-related work for the Developer.
- D. Prior to advertisement, the Developer must submit six (6) paper copies of the finalized bid document for review to the County's Engineering Services Department at the following address:

Engineering Services Department  
Program Administrator  
West Pasco Government Center  
8731 Citizens Drive, Suite 320  
New Port Richey, FL 34654

NOTE: This contact information should be used for all deliverables required under these guidelines.

The County will have five (5) business days from receipt of the package to review and approve the pay items for the County's portion of the work and to confirm that the County's standard contract provisions are included. If the County objects to any part of the bid, the Developer shall address the objections to the County's satisfaction before advertising the project. If no objections are received from the County by the end of this time period, the Developer can proceed with advertising the project.

- E. The Developer must coordinate the date and time of the prebid meeting and bid opening with the County's Engineering Services Department.
- F. A complete bid document, including all technical specifications, plans, etc., must be available for prospective bidders on the date of the bid advertisement.

3. Public Advertisement

The Developer must advertise the project at least once in a newspaper of general circulation in Pasco County (such as the Tampa Bay Time or Tampa Tribune) for those projects with a projected cost of \$200,000 or less at least twenty-one (21) days prior to the established bid opening and at least five (5) days prior to any prescheduled pre-bid conference. For those projects projected to cost at least \$500,000 or more, the project must be advertised at least thirty (30) days prior to the established bid opening and at least five (5) days prior to any prescheduled pre-bid conference.

In addition, the Developer also has the discretion to advertise in any other trade publication or trade resource of its choice or to use such other electronic sources or means to reach potential bidders.

4. Contents of Legal Ad

- A. The bid opening date, as well as the date, time, and location of any mandatory or nonmandatory pre-bid meeting, will be determined by the Developer. This information must be included in the legal ad. The Developer is responsible, however, for coordinating the bid opening date with the County's Engineering Services Department prior to posting the advertisements and for providing the County with a copy of the newspaper ad utilized.

- See the sample advertisement form included in the County's standard contract package.

- B. The bidder should be directed to send all sealed bid proposals to a designated location. Upon prior notice to the County, the Developer has the option of having the proposals directed to the County at the following address:

Purchasing Department  
West Pasco Government Complex  
8919 Government Drive  
New Port Richey, FL 34654

5. Developer Responsibilities During Bid Process

- A. The Developer and/or their design engineering firm is responsible for answering any questions received from interested bidders and for ensuring that a copy of the responses provided are circulated to all potential bidders who purchased a set of the bid documents prior to the bid opening date. A copy of any bid addendums or Requests for Information should also be provided to the County at the time such addendums are issued to the Bidders.
- B. The Developer will also be responsible for handling the prebid meeting. The County shall be notified in advance of any pre-bid meeting and reserves the right to have a representative present.

6. Bid Opening and Post Bid Developer Obligations

- A. The Developer shall open the bids at the date, time, and location designated in the legal ad in the presence of a County representative.
- B. The Developer is responsible for reviewing the bids and determining the lowest, responsive, responsible bid. A copy of the ranking (and at the County's request a copy of the proposals) shall be provided to the County prior to the Developer's award of the contract.
- C. The County shall have fifteen (15) business days for review of the proposed final contract and to provide a statement of objection or no objection. The Developer shall also require the proposed contractor to submit the insurance information specified in the County's standard contract provisions to the County's Engineering Services Department for approval by the County at least seven (7) days prior to execution of the construction contract and before a Notice to Proceed (NTP) is issued by the Developer. If the County objects to any part of the contract or insurance, the Developer shall address the objections to the County's satisfaction before awarding the contract.
- D. If the County issues a statement of no objection, the Developer may proceed to award the contract for the project and shall execute a formal, written agreement containing the specific terms and conditions of the construction, as set forth in the approved contract documents and in the format previously accepted by the County.
- E. Prior to the issuance of the NTP and commencement of construction, the Developer shall require the contractor to submit a copy of the fully executed contract and the Performance Bond required for the project to the County's Engineering Services Department to confirm compliance with the provisions in the County's Standard Construction Provisions for Developer Pipeline Projects. The Performance Bond shall, at the minimum, be in an amount equal to one hundred (100) percent of the contract amount. These documents will be circulated to the Engineering Inspections Division and the County Attorney's office for review. The County will have seven (7) business

- days to review the documents. If the County objects to any part of the bonds, the Developer shall address the objections to the County's satisfaction before issuing a NTP to its contractor.
- F. During the course of the project, the Developer shall also be obligated to provide the County with any amendments, supplements to the agreement, or change orders prior to execution by the Developer and its contractor and prior to commencement of the work involved.
  - G. The County reserves their right to access the site and observe and comment on the work during the construction period.
  - H. Upon completion of the project qualifying for reimbursement or credits as defined in a DA, DA Amendment, Master Planned Unit Development (MPUD) Amendment and/or other BCC approved Agreements and prior to final acceptance by the County of the work specified for the project, the Developer shall be required to provide the Warranty/Maintenance Guarantee to the County as required in the project related DA, DA Amendment, MPUD Amendment and/or other BCC approved Agreements or the County's Land Development Code, whichever is stricter.
  - I. As a condition of final acceptance of the project by the County and final reimbursement or issuance of credits to the Developer for the construction portion of the project, the following items must be provided in a format acceptable to the County:
    - (1) All deeds and easements, including, but not limited to, deeds for rights-of-way or ponds, drainage easements, slope easements, ingress/egress easements or any other property interest required for the County to own or control the road, the right-of-way identified in the approved construction plans as well as all structures and features (including, but not limited to, such items as retaining walls, drainage structures, etc.) which serve or support the road and the right-of-way required to be conveyed by the Developer and/or other fee owner. The required conveyances referred to under this section shall also include any other conveyances required by a DA, DA Amendment, MPUD and/or other BCC approved Agreements. The Developer or other fee owner must submit the conveyance documents(s) required to the Real Estate Division for review and submittal to the BCC for acceptance and recording. The County will reduce the amount of reimbursement or credits due by the amount of the recording fees incurred.
    - (2) Evidence that the Southwest Florida Water Management District (SWFWMD) Operation and Maintenance (O&M) permit has been transferred to a CDD or Homeowners' Association. The O&M may be transferred to the County only for projects wherein the SWFWMD Project Area consists exclusively of County-owned right-of-way and County-owned ponds that are not co-mingled with flows from non-County owned property.
    - (3) Evidence that all permit conditions from all applicable permitting regulatory agencies for the project have been satisfied.
    - (4) An Engineer's Certificate of Completion from the Developer's engineer, as-builts, test reports, and any Warranty/Maintenance Guarantee required

for the qualifying project from the Developer under a DA, DA Amendment, MPUD and/or other BCC approved Agreements or the County's Land Development Code, whichever is stricter.

7. Compliance with Florida's Public Records Act, Chapter 119, Florida Statutes (The following requirement shall apply to both the Developer and its contractor in their individual capacities.)

A. The CONTRACTOR shall comply with the requirements of Florida's Public Records Act, Chapter 119, Florida Statutes. To the extent required by Section 119.0701, Florida Statutes, CONTRACTOR shall:

- (1) Keep and maintain public records required by the County to perform the service under the Agreement;
- (2) Upon request from the County's Custodian of public records provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for under Florida's Public Records law;
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the County; and
- (4) Upon completion of the contract, transfer, at no cost to the County, all public records in possession of CONTRACTOR.
  - (a) Upon transfer, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records requirements.
  - (b) All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.
  - (c) All documentation produced as part of this Agreement will become the property of the County.
  - (d) This paragraph shall survive the expiration or termination of this Agreement.

B. If the CONTRACTOR has questions regarding the application of Chapter 119, Florida Statutes, to the CONTRACTOR'S duty to provide public records relating to this contract, contact the Custodian of Public Records at:

Public Records Coordinator  
Pasco County Administration  
8731 Citizens Drive, Suite 340  
New Port Richey, FL 34654  
727-847-2411 Ext. 8316  
dwilliams@pascocountyfl.net

C. Under Florida law, a CONTRACTOR who fails to provide the public records to the County within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes, and such non-compliance will constitute a breach of the Agreement and may serve as grounds for termination of this Agreement.

8. Post Design/Post Construction Invoicing for Credits, Cash Reimbursement, or Other

- A. If the Developer seeks transportation impact or mobility fee credits, cash reimbursement, or other for the design, right-of-way, and/or construction work performed, the Developer shall prepare and submit two (2) complete sets of the following documentation to the County's Engineering Services Department:
- (1) Cover sheet signed by all applicable parties with the amount of the transportation impact fee credits, cash reimbursement, or other requested for disbursement by the County.
  - (2) Summary sheet of all invoices, attached by vendor, with a cumulative total.
  - (3) All backup invoices with proof of payment (copies of all canceled checks, affidavits and/ or check registries) attached to each invoice and any other documentation required as part of the bid and/or contract documents.
  - (4) Copies of vendor agreements for the design, environmental issues, construction engineering and inspection services, construction management, etc., that are the subject of the request for impact fee credits, cash reimbursement, or other.
  - (5) The County reserves the right to request the above information in electronic format.
- B. Upon receipt of all documentation described above, County staff will have up to four (4) weeks to review and contact the Developer with a response. If there are no revisions or supplemental information required by the Developer, the County's Engineering Services Department will obtain the required signatures (the Assistant County Administrator for the Development Services Branch and the Budget Director for the Office of Management and Budget) and transmit the documentation to the Financial Services Department for establishment of the Developer's account and/or payment. If the Developer must prepare revisions to the documentation or provide supplemental information, up to four (4) additional weeks will be required to review this information before obtaining the required signatures and transmittal to the Financial Services Department. Further requests for additional information will require additional time for review by the County's Engineering Services Department.
- C. Five (5) percent of the total of each invoice received from the Developer for cash or credit shall be retained by the County and shall be disbursed or credited as part of the final payment due for the project. Final payment will be specifically conditioned upon the Developer's compliance with all the items specified in Section 6.I.

9. Compliance with Developer Pipeline Bid and Payment Process

A Developer's failure to comply with the provisions as outlined herein may be considered by the County as a breach of the underlying DA, DA Amendment, MPUD and/or other BCC approved Agreements and may impact the eligibility of the work performed for compensation from the County.

## Exhibit A

### SPECIAL CONDITIONS OF CONTRACT

1. **THIRD PARTY BENEFICIARY RIGHTS** - PASCO COUNTY, FLORIDA (the "COUNTY") [and FLORIDA DEPARTMENT OF TRANSPORTATION ("DEPARTMENT") (if applicable)], are/is an intended third party beneficiary(ies) of the Agreement between the CONTRACTOR and the DEVELOPER and as such should be listed as co-obligee with the DEVELOPER on any Payment and/or Performance Bonds required for this Project.
2. **INDEMNIFICATION** - The CONTRACTOR shall indemnify and hold harmless the DEVELOPER and COUNTY, and the employees and agents of the DEVELOPER and COUNTY, from and against all liabilities, claims, suits, demands, damages, losses, and expenses, including, but not limited to, attorneys' fees arising out of or resulting from the performance of the Work, provided that any such liability, claim, suit, demand, damage, loss or any expense: (a) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and (b) is caused in whole or in part by an act or omission of the CONTRACTOR, any SUBCONTRACTOR, SUB-SUB-CONTRACTOR, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them maybe liable.

In any and all claims against the DEVELOPER or COUNTY; or against any of the agents or employees of the DEVELOPER and/or COUNTY, by any employee of the CONTRACTOR, any SUBCONTRACTOR, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under the previous paragraph shall not be limited in any way as to the amount or type or damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts, or other employee benefit acts.

The CONTRACTOR shall indemnify and hold harmless the DEVELOPER and/or COUNTY and anyone directly or indirectly employed by the DEVELOPER and/or COUNTY from and against all claims, suits, demands, damages, losses, and expenses including, but not limited to, attorney's fees, arising out of any infringement of patent rights, copyrights, trademarks, trade dress, or other intellectual property rights held by others, and shall defend all such claims in connection with any alleged infringement of such rights.

3. **INSURANCE** - Prior to the commencement of construction and within ten (10) days after execution of agreement between CONTRACTOR and DEVELOPER, the CONTRACTOR shall provide DEVELOPER a certificate of insurance and a true and exact copy of all insurance policies, including additional insured endorsements. Said insurance coverage, and contracts for insurance other than Worker's Compensation and Employer's Liability Policy, shall name the following as additional insureds:

DEVELOPER  
(Name & Address)

COUNTY

Pasco County, Florida  
Pasco County Government Center  
Attn: Michele Baker, County Administrator  
8731 Citizens Drive, Suite 340  
New Port Richey, FL 34654  
Fax: (727) 847-8084

DEPARTMENT (if applicable)

Florida Department of Transportation  
605 Suwannee Street  
Tallahassee, FL 32399  
Telephone: (850) 414-4100]

LENDER (if applicable)

**General Conditions For All Required Policies:**

All insurance shall be provided by responsible companies authorized to transact business in the State of Florida which have an "A" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current Best's Key Rating Guide.

CONTRACTOR will provide evidence of insurance coverage as follows:

To the DEVELOPER:

- (1) true and exact copies of all required insurance policies, including additional insured endorsements, and
- (1) original, executed Certificate of Insurance on the form provided by the County.

To the COUNTY:

- (1) true and exact copies of all required insurance policies, including additional insured endorsements, and
- (1) original, executed Certificate of Insurance on the form provided by the County.

[To the DEPARTMENT (if applicable):

- (1) true and exact copies of all required insurance policies, including additional insured endorsements, and
- (1) original, executed Certificate of Insurance on the form provided by the County.]

To the Lender (If applicable):

- (1) original, executed Certificate of Insurance on the form provided by the County.

The Certificate should set forth the original signatures of the authorized representative of the insurance company(ies) identified. The Certificate should also reference the Agreement between the DEVELOPER and the CONTRACTOR for the Project.



All policies shall require the insurer to deliver to the DEVELOPER and COUNTY thirty (30) days written notice prior to any cancellation, intent not to renew or reduction in coverage and ten (10) days written notice of any nonpayment of premium. Such notice shall be delivered by U.S. Mail to the above addresses.

The insurance referenced above shall be primary to any insurance or self-insurance program of the DEVELOPER or COUNTY which is applicable to the work provided.

The COUNTY shall have the right to review and approve the provided insurance coverage.

Insurance Certificates and Policies provided by the CONTRACTOR will provide evidence of insurance coverage in amounts as follows:

**(Drafting Note to DEVELOPER:** This section should reflect the following limits or those limits otherwise listed in the DEVELOPER'S agreement with the COUNTY, whichever is higher.)

Workers Compensation: The CONTRACTOR shall maintain coverage for all employees engaged in the Work, in accordance with the laws of the State of Florida. The CONTRACTOR also agrees to waive its right of subrogation against the DEVELOPER and COUNTY as well as their agents and employees.

Employer's Liability:	\$1,000,000 per accident
Commercial General Liability:	\$2,000,000 general aggregate
Product & Complete Operations:	\$2,000,000 general aggregate
Bodily Injury (including death):	\$1,000,000 per person \$2,000,000 per occurrence
Personal Injury & Advertising Injury:	\$500,000 per occurrence
Property Damage:	\$1,000,000 per occurrence
Fire Damage:	\$500,000 per any (1) fire
Hired & Non-Owned Autos or Automobile - Owned Bodily /Personal Injury Property Damage:	\$1,000,000 combined single limit
Excess/Umbrella Liability:	\$3,000,000 per occurrence \$3,000,000 general aggregate
Professional Errors and Omissions Liability:	\$1,000,000 per occurrence

Occurrence from professional liability insurance is preferred, however, in the event the consultant is only able to secure claims made professional liability insurance, the consultant shall be obligated to maintain insurance in effect with no less limits of liability nor any more restrictive terms and/or conditions for a period of five (5) years from the date of the Agreement.

4. **PAYMENT AND PERFORMANCE BOND**

Prior to commencing construction, the CONTRACTOR shall post in favor of the DEVELOPER and COUNTY, Payment and Performance Bonds acceptable to the DEVELOPER and COUNTY to guarantee payment of its subcontractors and materialmen under the contract as required by law and to guarantee CONTRACTOR's performance of its contractual obligations. Such Bonds shall be with a bank, surety, or other financial institution acceptable to the DEVELOPER and the COUNTY, which is authorized to do business in the State of Florida, and which has an "A" policyholders rating and a financial rating of at least Class VII in accordance with the most current Best's Key Rating Guide. The payment and performance bond(s) shall be in the amount of 125% of Construction Contract amount.

5. **WARRANTY/PERFORMANCE GUARANTEE**

Upon completion of the Project and final acceptance by the COUNTY and the DEVELOPER; the CONTRACTOR shall guarantee that all equipment furnished and work performed is free of defects in workmanship or materials for a period of one (1) year after final acceptance, and, if any part of the construction should fail within this period, it shall be repaired, replaced, and/or restored to satisfactory condition and/or operation at no cost to the COUNTY or DEVELOPER. The performance guarantee for the Project may cover this guarantee, if it remains in place for a period of one (1) year after final acceptance in an amount equal to 15% of the applicable construction contract amount or the CONTRACTOR may post a separate maintenance bond acceptable to the COUNTY and the DEVELOPER. The CONTRACTOR is required to advise the DEVELOPER and the COUNTY of the warranty option it has selected prior to the parties' final acceptance of the Project.

6. **COMPLIANCE WITH THE PUBLIC RECORDS LAW**  
**(This provision will apply to projects records held by both the DEVELOPER and the CONTRACTOR, in their individual capacities.)**

The CONTRACTOR shall comply with the requirements of Florida's Public Records Act, Chapter 119, Florida Statutes. To the extent required by Section 119.0701, Florida Statutes, CONTRACTOR shall (a) keep and maintain public records required by the COUNTY to perform the service under the Agreement; (b) upon request from the COUNTY's custodian of public records provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for under Florida's Public Records law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if CONTRACTOR does not transfer the records to the COUNTY; and (d) upon completion of the contract, transfer, at no cost to the COUNTY, all public records in possession of CONTRACTOR. Upon transfer, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential

and exempt from public records requirements. All records stored electronically must be provided to the COUNTY in a format that is compatible with the information technology systems of the COUNTY. All documentation produced as part of this Agreement will become the property of the COUNTY. This paragraph shall survive the expiration or termination of this Agreement.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Public Records Coordinator  
Pasco County Administration  
8731 Citizens Drive, Suite 340  
New Port Richey, FL 34654  
727-847-2411 Ext. 8316  
dwilliams@pascocountyfl.net**

Under Florida law, a Contractor who fails to provide the public records to the COUNTY within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes, and such non-compliance will constitute a breach of the Agreement and may serve as grounds for termination of this Agreement.

7. **EXHIBITS A – D** attached hereto are incorporated herein by reference.

**Drafting Note to DEVELOPER:** *Reference FDOT in appropriate sections, if applicable.*