INVITATION TO NEGOTIATE
COVER SHEET

ITN NUMBER: 14R-002
TITLE: GENERAL CONTRACTOR SERVICES
ITN ADVERTISEMENT DATE: NOVEMBER 4, 2013
QUESTION CUT-OFF: WEDNESDAY NOVEMBER 13, 2013 5:00P.M.
REPLY DUE DATE: FRIDAY NOVEMBER 22, 2013 3:00P.M.
OPENING DATE: FRIDAY NOVEMBER 22, 2013 3:30P.M.

Unless otherwise notified, responses will be opened at:

Florida Gulf Coast University
Office of Procurement Services
Modular II
10501 FGCU Boulevard South
Fort Myers, FL 33965-6565

The following Respondent Acknowledgement Form must be completely filled in.
Note: If the form is not completed (including signature) it may be grounds for rejecting your response.
RESPONSE SUBMISSION: All Responses must contain this Respondent Acknowledgement Form with a manual signature (or a facsimile) in the appropriate space above. Responses must be typed except for those areas where the ITN specifically allows hand written entries. If submitted by mail, do not include more than one response in an envelope. The face of the envelope shall contain the above address, the date and time of the ITN opening and the ITN number. Responses not submitted on any attached ITN form or in another specified media may be rejected. Any manual changes made to a proposed price must be initialed. All Responses are subject to the conditions specified herein. Any Response that does not comply with these conditions will be rejected.

1. RESPONSE DELIVERY: Responses must be delivered and available to be publicly displayed at the address, date and time specified above except where the Respondent specifically states otherwise. The date/time stamp clock located in Procurement Services shall be the official timepiece for determining if a Response has been received in a timely manner. Responses, which for any reason are not available at this location at the prescribed time and date, will not be considered. It is the Respondent's responsibility to assure that his Response is delivered on the correct date and time and at the specified location. If the Response specifications specifically allow submission by facsimile, the date and time imprinted on the last page of the Response received will be the official date and time of the ITN's receipt. Delivery of a Response document to the University's Postal or Receiving Department or any other place on the University campus is not acceptable. Timely delivery of the Response itself to the specified location is required. Telephonic confirmation of receipt by telephone is not acceptable under any circumstances.

2. NO RESPONSE SUBMITTED: If not submitting a Response to this invitation, respond by returning only this acknowledgement form with the statement, "NO RESPONSE" written in it and a brief explanation in the space provided above. Failure to respond three (3) times in succession to an Invitation to Negotiate by not returning this acknowledgement form may result in removal of your firm from the University's Respondent list. To qualify as a Respondent, Respondent must submit a "NO RESPONSE" and it must be received no later than the stated ITN opening date and time.

3. ADDENDUMS: Any addendum issued to Respondents prior to the Response opening date shall include an Addenda Acknowledgment Form. Since all addenda become a part of the Response, all Addenda Acknowledgment Forms shall be signed by an authorized Respondent representative and returned with the Response on or before the Response opening date. Failure to sign and return any and all Addenda Acknowledgment Forms shall be grounds for rejection of the Response.

4. TABULATION: Response tabulations will be furnished upon written request with an enclosed, self-addressed stamped envelope. In accordance with Section 119.071, Florida Statutes, public review of responses to a competitive solicitation may be delayed until the notice of a decision is posted or until 20 calendar days after the competitive solicitation opening, whichever occurs first.

5. PRICES, TERMS AND PAYMENT: Prices offered shall be firm for 120 days.

a) TAXES: Florida Gulf Coast University does not pay Federal Excise or Florida Sales tax on direct purchases of tangible personal property. The appropriate exemption number(s) is 85-8012496546C-6. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property or service in the performance of contracts for the improvement of University-owned real property as defined in Chapter 192, Florida Statutes.

b) DISCOUNTS: A cash discount for prompt payment may be offered. However, such discounts shall not be considered in determining the lowest net cost for ITN evaluation purposes. Discounts will be computed from the date of satisfactory delivery at place of acceptance or from receipt of a correct invoice at the office specified, whichever is later. Respondents are encouraged to reflect cash discounts in the unit prices proposed.

c) MISTAKES: Respondents are expected to examine the specifications, delivery schedule and all instructions pertaining to supplies and services. Failure to do so will be at Respondent's risk. In case of mistake in extension the unit price will govern.

d) INVOICING AND PAYMENT: The Vendor shall be paid upon delivery and acceptance of the goods, less deduction, if any, and submission to the University of properly certified invoices at the prices stipulated on the purchase order. Invoices shall contain the purchase order number. An original and one (1) copy of the invoice shall be submitted. Failure to follow these instructions may result in delay in processing invoices for payment. INTEREST PENALTIES: Payment shall be made in accordance with Florida Gulf Coast University Board of Trustees Prompt Payment to Vendor Rule, FGCU PR6.021, unless the Response specifications or the purchase order specifies otherwise. Invoices returned to vendor due to errors will result in payment delay. Interest penalties of less than $1.00 will not be paid unless the vendor requests payment. Invoice payment requirements do not start until a properly completed invoice is provided to the University. A Vendor Ombudsman, whose duties include acting as an advocate of vendors who may be experiencing problems in obtaining timely payment(s) from the University, may be contacted at (239) 590-1100.

e) ANNUAL APPROPRIATIONS: The University's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

6. ADDITIONAL TERMS AND CONDITIONS: No additional terms and conditions included with the Response shall be evaluated or considered and any such additional terms and conditions shall have no force and effect and are inapplicable to this Response. If submitted either purposely through intent or design or inadvertently appearing separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and agreed the general and special conditions in this Response solicitation are the only conditions applicable to this ITN and the Respondent's authorized signature affixed to the Response acknowledgement form attests to this.

7. INTERPRETATIONS/DISPUTES: The University will not give verbal answers to inquiries regarding the specifications, or verbal instructions prior to the award of this solicitation. Any questions concerning conditions and specifications shall be directed in writing to Procurement Services for receipt by the question end date and time indicated on the cover page. Inquiries must reference the date of Response opening and Response number. No interpretation shall be considered binding unless provided in writing by the University in response to requests in full compliance with this provision. The University is not liable for any increased costs resulting from the Respondent accepting verbal direction.
9. CONFLICT OF INTEREST: The award hereunder is subject to the provisions of Chapter 112, Florida Statutes. All Respondents must disclose with their Response the name of any officer or agent who is also an employee of the State of Florida, any of its agencies, departments or political subdivisions. Further, all Respondents must disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Respondent’s firm or any of its branches.

10. AWARDS: As the interests of the University require, the University reserves the right to make award(s) by individual item, group of items, all or none, or a combination thereof; to reject any and all Responses or waive any minor irregularity or technicality in Responses received. When it is determined there is competition to the lowest responsible Respondent, evaluation of other responses is not required. Respondents are cautioned to make no assumptions unless their response has been evaluated as being responsive.

11. DEFAULT: Failure to perform according to this response and/or resulting purchase order/contract shall be cause for the Office of Procurement Services to take such action in default in which event any or all repercussion costs may be charged against your firm. Any violations of these stipulations may also result in Vendor’s name being removed from the University’s Solicitation list.

12. ADVERTISING: In submitting a Response, Respondent agrees not to use the results therefrom as a part of commercial advertisement.

13. LEGAL REQUIREMENTS: Applicable provision of all Federal, State, County and local laws, and of all ordinances, rules, and regulations shall govern development, solicitation and evaluation of all responses received. This solicitation is for the University and through its officers, employees, and authorized representatives, or any other person, natural or otherwise. Lack of knowledge by any Respondent shall not constitute a cogent defense against the legal effect thereof.

14. ASSIGNMENT: In submitting a Response, Respondent agrees not to use the results therefrom as a part of commercial advertisement.

15. LIABILITY: The Vendor shall indemnify and hold harmless the Florida Gulf Coast University Board of Trustees, its officers, agents and employees from any and all judgments, orders, claims, demands, expenses, damages, costs or expenses which may hereafter be sustained by the University, its officers, employees, or agents or third parties resulting from the Vendor’s breach of this Agreement, strict liability or negligence in performing or failing to perform in connection with this Agreement. This provision does not apply to contracts between governmental entities.

16. FACILITIES: The University reserves the right to inspect the Respondent’s facilities during normal business hours with prior notice.

17. POSTING OF RESPONSE TABULATION AND NOTICE OF PROTEST
   a) Protests shall be handled in accordance with the Florida Board of Governors’ Regulation 18.002.
   b) CONTRACTUAL PROVISIONS: The University has the right to terminate or default a contract if, during the term of such contract, a competitive solicitation, contract award, or exceptional purchase by electronic posting. This notice shall contain the following statement: “Failure to file a protest or failure to post the bond or other security as required in this Regulation shall constitute a waiver of protest proceedings.”
   c) NOTICE OF PROTEST: Any qualified bidder or Respondent who is aggrieved in connection with an award of a contract may file a written notice to protest within 72 hours after the university’s electronic posting of award or notice of intent to award, provided the contract has not been fully executed. The notice of protest must be received before the expiration of the 72 hour period. Notices of protest filed after the 72 hour period will be rejected. The notice of protest must be filed with the Director of Procurement Services.
   d) FORMAL WRITTEN PROTEST: The protesting bidder or Respondent must reduce its protest to writing and it shall be filed with the Director of Procurement Services within ten (10) calendar days of the filing of the Notice of Protest. Formal written protest not filed within this 10 day period will be rejected. The formal written protest must state with specificity the grounds upon which the protest is based and also the action requested to be taken. At the filing of the written protest, the protesting bidder/Respondent shall post with the Office of Procurement Services, a security, in the form of a bond or a security, approved by the Director, payable to Florida Gulf Coast University in an amount equal to ten percent (10%) of the price of the bid proposed, or ten thousand dollars ($10,000.00), whichever is less. In lieu of a bond the University may accept an irrevocable letter of credit, cashier’s or certified check or money order in the above-referenced amount (in a form, and with such terms, approved by the Director). If the protest is successful, the post bond security will be refunded in full. If the protest is unsuccessful, the security will be returned, less damages, costs and charges incurred by the University. Noncompliance with this requirement, in whole or in part, shall be deemed to be a waiver by the protestor of their rights under this regulation.
   e) Upon receipt of a timely filed formal written protest, filed in accordance with Regulation FGCU-PR6.008, the Vice President of Administrative Services and Finance or their designee shall delay the execution of the contract which is the subject of the protest by mutual agreement between the parties or by final order of the President. Such delay may be removed if, in consultation with the Vice President over the using department, the President determines that such a delay would have detrimental effect upon the University.

18. PATENTS AND ROYALTIES: The Respondent, without exception, shall indemnify and save harmless Florida Gulf Coast University and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of any agreement resulting from this invitation, including its use by the University. If the Respondent uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the Proposed price shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

19. ACCOUNTING AND AUDIT: Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for proper pre-audit and post-audit reviews. The Vendor agrees to maintain its books and records in accordance with business books, records, accounts and information and materials related to any resulting Agreement or purchase order. The University and the Auditor General of the State of Florida, or any of their authorized representatives, will have the right upon reasonable notice to review and audit such materials during reasonable business hours. Unless the Vendor does not claim a business reason, the audit will be conducted during business hours with prior notice.

20. EQUAL OPPORTUNITY EMPLOYER: The non-discrimination clause contained in Section 202, Executive Order 11246 as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor are incorporated herein.

21. PUBLIC RECORDS: If Respondent believes any of their material(s) are exempt from disclosure, they are requested to identify specifically any information contained in their response which they consider to be exempt from disclosure, citing specifically the applicable exemption law. A general notation that information is “confidential” will not be sufficient. Any material submitted in response to this invitation to negotiate will become a public document pursuant to Section 119.07, Florida Statutes. This includes material that the responding Respondent might consider to be confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening pursuant to Section 119.07, Florida Statutes. If Respondent believes any material is exempt from public record, Respondent must notify University of such exemption, allowable by law.

22. PUBLIC RECORDS CANCELLATION: Any resulting purchase order/contract may be unilaterally canceled for refusal by the Respondent to allow public access to all documents, papers, letters, or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Respondent in conjunction with the contract.

23. PUBLIC ENTITY CRIME: 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 response to an ITN with a public entity for the construction or repair of a public building or public work, may not submit responses on leases of real property to a public entity, may not be awarded or perform work as a Vendor or supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity for a period of 5 years from the date of being placed on the convicted vendor list.

24. UNAUTHORIZED ALIENS: The employment of unauthorized aliens by any Vendor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Respondent knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any purchase order resulting from this Invitation to Negotiate.

25. GOVERNING LAW: Any Agreement or purchase order resulting from this ITN will be governed by and construed under the laws of the State of Florida and any provisions in conflict thereon shall be void and of no effect. The venue for any legal proceeding will be in Lee County, Florida.

26. CANCELLATION: For the protection of both parties all contractual obligations shall prevail for at least 90 days after the effective date of the contract. After that period this contract may be cancelled, whole or in part, by either party by giving thirty (30) days written notice to the other party.

27. TERMINATION FOR NON-COMPLIANCE: In the event that the Vendor violates any terms of the agreement, the University will serve written notice to the Vendor of the University’s intent to terminate the agreement, including reasons for such termination. Unless the Vendor corrects or makes arrangements to correct the violation to the satisfaction of the University within thirty (30) days of the University’s issuance notice, the agreement may be terminated at the sole discretion of the University forty (40) days after the aforesaid written notice to the Vendor.

28. TRAVEL: Any travel related expenses that result from a Response to this ITN shall be the responsibility of the Respondent.

29. LOBBYING: Vendor is prohibited from using funds provided under this contract for the purpose of lobbying the Legislature or any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government.

30. AMERICANS WITH DISABILITIES ACT OF 1990: If special accommodations are required in order to attend the pre-response meeting and/or response opening, contact the Procurement Specialist, no later than two working days prior to the event.

31. SAFETY AND SECURITY: Vendor’s employees shall be subject to and must comply with all applicable University rules, regulations and policies. Vendor shall take reasonable efforts to ensure that the employees and representatives assigned to perform its obligations under this Agreement will not present a safety threat to persons or property on the University’s campus.

32. VENDOR’S EXPENSES: All responses submitted in response to this ITN, conference attendance and visits to the University must be submitted at the sole expense of the Vendor, whether or not any agreement is signed as a result of this response.

NOTE: ANY AND ALL SPECIAL CONDITIONS AND SPECIFICATIONS ATTACHED HERETO WHICH VARY FROM THESE GENERAL CONDITIONS SHALL HAVE PRECEDENCE. WHEN EXECUTED, THIS SHEET AND THE ACCOMPANYING RESPONSE CONSTITUTE AN OFFER FROM THE RESPONDENT.

Revised 2009
1.0 INTRODUCTION

1.1 PURPOSE
This Invitation to Negotiate (ITN) is presented by Florida Gulf Coast University Board of Trustees (University) and seeks to solicit qualified General Contractors with proficiency in all phases of construction as required to perform a variety of projects. The University intends to make one or more awards to respondents for General Contractor services under this ITN. Each awardee will receive a three-year contract to perform projects with a value of each project not greater than $2,000,000. The Contractor(s) will need to have a local presence with the ability to provide these services on the campus of Florida Gulf Coast University, or at one of the University’s off campus facilities. Current off-campus sites include; Buckingham Complex and West Lake Village in Fort Myers, Kapnick and Naples Center in Naples, and Vester Marine Field Station in Bonita Springs, to name a few.

Awarded Contractors may compete with other awarded Contractors for various projects and tasks as may arise. Award of any specific project will be based on the nature of the services required, the qualifications and resources of the Contractor(s) and the quoted price.

1.2 FLORIDA GULF COAST UNIVERSITY BACKGROUND
Florida Gulf Coast University, a public, fully accredited member of the State University System of Florida, is a comprehensive University created to address the educational needs of the rapidly growing Southwest Florida population. FGCU’s main campus is located in Fort Myers, Florida, with centers located in Naples, Bonita Springs, Cape Coral, and Port Charlotte. Additionally, FGCU is structured around four major divisions; Academic Affairs, Administrative Services, University Advancement, and Student Affairs. The Academic Affairs division includes five colleges encompassing 51 undergraduate, 28 graduate, 1 specialist, and 2 doctoral programs. The University is accredited by the Southern Association of Colleges and Schools. The University’s vision is to achieve national prominence in undergraduate education with expanding recognition for selected graduate programs.

- Since 1997, student enrollment has grown rapidly from 2,584 to 13,615 in 2013.
- Faculty and staff counts have increased from 398 in 1997 to 482 faculty and 665 staff in 2013.
- In 2013, there are 4200 residents living on campus in North Lake Village, South Village and West Lake Village.

The campus consists of 760 acres of land, with a central academic core area of approximately 150 acres, bounded by a perimeter road. A lakefront parcel to the northeast of the academic core, called North Lake Village, is devoted to mixed uses, including student housing, athletics and recreation, and specialized academic support facilities. An additional approximately 67 acres of developable upland area exist on campus, including approximately 36 acres within the academic core, and approximately 31 acres in two outparcels located to the south and west of the academic core. These outparcels are called South Village Housing, and the Welcome Center Area in this planning document. All of these areas are surrounded by approximately 400 acres of jurisdictional wetland upland buffers.

The current campus space inventory contains the following academic space:

<table>
<thead>
<tr>
<th>Space Type</th>
<th>Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classroom space</td>
<td>85,150 nasf</td>
</tr>
<tr>
<td>Teaching Lab</td>
<td>82,054 nasf</td>
</tr>
<tr>
<td>Study</td>
<td>61,704 nasf</td>
</tr>
<tr>
<td>Research Lab</td>
<td>24,621 nasf</td>
</tr>
<tr>
<td>Office</td>
<td>197,017 nasf</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>445,546 nasf</strong></td>
</tr>
</tbody>
</table>
1.3 DEFINITIONS

“Contractor” The company, its employees, and officers, engaged by Florida Gulf Coast University to provide General Contractor Services to the University.

“ITN” Invitation to Negotiate, method of formal competitive solicitation.

"Respondent " Any company that responds in full to the requests of this ITN and wishes to be considered as a candidate for the General Contractor Services Agreement as described herein.

"Response " The material submitted by the Respondent in answering this ITN.

“University” Florida Gulf Coast University, its employees, officers, and agents

“University Sole Point Of Contact” The Respondents single point of contact at the University for the purpose of this of ITN.

1.4 PROPOSED CALENDAR OF EVENTS
The dates and times of each activity within this timeline may be subject to change. All changes to the timeline will be made through an addendum to this solicitation and posted within the Florida Gulf Coast University Procurement Services website at: Procurement Services Website. Meeting notices will be posted on the Procurement Services website as well.

A. ITN issued and advertised November 4, 2013

B. Deadline for ITN Respondents to submit written questions to the University November 13, 2013 4:00P.M.

C. ITN Replies due November 22, 2013 3:00P.M.

D. Committee meets to discuss and determine short list of Respondents Week of November 25, 2013

E. Committee will begin interviews and negotiations with the finalist(s) Weeks of December 2 and 9, 2013

F. Best and Final Offers (BAFO) due in University Procurement Services Department Week of December 16, 2013

G. Committee meets to discuss BAFO and determine award recommendation Week of December 16, 2013

H. Intended contract award posting Week of December 16, 2013
2.0 **REPLY FORMAT**

To ensure that all Replies are fairly evaluated, it is requested that one (1) original and six (6) copies of the Reply are submitted in the following format. Replies must be typed and not hand written. The entire Reply must be not greater than 50 single-sided 8.5 x 11 pages (or 25 pages front and back), excluding cover sheets and divider pages (as long as such pages do not include any promotional material, such as proposal language, pictures of past projects, etc.) Number each page consecutively. Failure to follow this requirement may result in the disqualification of your Reply. In addition, the complete Reply to the ITN shall include the following.

2.1 **ACKNOWLEDGEMENT FORM**

The completed and signed Respondent Acknowledgment Form and any other ITN pages that require Respondent to provide a response. The ITN and the Respondent’s Reply will become part of the final agreement between the successful Contractor(s) and University.

The Respondent Acknowledgement Form shall address the legal name of the Respondent and a statement as to whether the Respondent is a sole proprietor, a partnership, a corporation, or any other legal entity. The Respondent shall be registered with the Secretary of State and authorized to do business in the State of Florida. The Reply shall be signed by a person or persons legally authorized to bind the Respondent to a contract.

2.2 **TRANSMITTAL LETTER**

The Reply shall be accompanied by a transmittal letter in the form of a standard business letter, on Respondent letterhead, signed by an authorized agent of the Respondent. The transmittal letter shall include the following statements:

- **2.2.1** A Statement certifying that the Respondent has read, understands, and agrees to all provisions of this ITN.
- **2.2.2** A statement certifying that no attempt has been made or will be made to induce any other person or firm either to submit or not to submit a Reply in response to this ITN.
- **2.2.3** A statement certifying that no attempt has been made or will be made to consult, communicate, or agree with any other Respondent to this ITN as to any matter relating to the Respondent’s Reply.
- **2.2.4** A statement certifying that the fees proposed have been arrived at independently, without consultation, communication, or agreement as to any matter relating to such fees with any other Respondent responding to this ITN and, further, a statement certifying that fees proposed have not been and will not be knowingly disclosed by the Respondent to any other Respondent responding to this ITN prior to the University’s award of a contract.
- **2.2.5** A statement certifying that the person signing the Reply is authorized to represent the Respondent and bind the Respondent relative to all matters contained in the Reply.
- **2.2.6** A statement certifying that the Respondent has not and will not communicate with any officer, agent, or employee of the University, to include but not limited to, any officer, agent, or employee of the Board of Trustees concerning this ITN or any person involved in the ITN, except with the University Sole Point of Contact.
2.2.7 A statement certifying that the Respondent is in compliance with all Federal, State, local and University laws and regulations. The Respondent must provide a copy of their State of Florida Department of Business and Professional Regulation General Contractor’s License as well as other applicable licenses and certifications as part of the Reply.

2.2.8 A statement certifying that the Respondent will comply with Chapter 119 Florida Statutes, Florida’s Public Records Laws.

2.2.9 A statement that a drug free workplace program has been implemented in the Respondent’s organization. In the alternative, a statement that the Respondent has no or is implementing a drug free workplace program. In the event such a program is being implemented, the Respondent must state when such a program will be complete.

2.3 RELATED EXPERIENCE AND REFERENCES

2.3.1 Provide the number of years of experience your firm has provided General Contractor Services.

2.3.2 Provide a list of ten projects in priority order, with the most related project listed first, for which your firm was awarded. In determining which projects are most related, consider the following:

1. Relative size and complexity
2. Relative nature, i.e. higher education, public facility.
3. How many members of the proposed team worked on the listed project?
4. How recently the project was completed.

2.3.3 For the top three of the listed projects above, provide the following information:

1. Provide the project name, the Owner and the Owner’s physical address, the name, email, and telephone number of the Owner's representative or representatives.
2. Relative nature of the construction services provided including the size and complexity of the project.
3. The capacity the Respondent served in the project, be it Construction Management at risk with GMP, Construction Management Agency, Design/Build, General Contractor Low Bid, Negotiated General Contract, or Subcontractor to Prime.
4. Construction cost, including original Guaranteed Maximum Price (GMP) and final construction cost.
5. Estimated completion or completion date of project, whichever may be applicable.

2.3.4 For the top three projects listed in response to Section 2.3.3, describe conflicts or potential conflicts with the owner or with trade contractors, and describe the methods used to prevent and/or resolve those conflicts.

2.3.5 For the top three projects listed in response to Section 2.3.3, Respondent must describe the types of records, reports, monitoring systems, and information management systems that your firm used in the management of those projects.
2.4 PERSONNEL AND ORGANIZATION

2.4.1 Respondent must list total number of personnel resources, specifically with a local presence, by skill group (e.g. Project Manager, Estimator, Project Engineer, Superintendent, etc.)

2.4.2 Respondent must provide the name and office address of all key personnel that will be a part of the management team for this ITN and provide their applicable education, qualifications and licenses. Describe in detail the experience and expertise for each team member.

2.4.3 For each project listed in response to Section 2.3.3, the Respondent must list the members of the proposed team who worked on each listed project and describe their roles in those projects.

2.4.4 Respondent must state if the proposed team, as a whole, provided construction management services for any of the projects listed in response to Section 2.3.3.

2.4.5 Respondent must list its commonly used subcontractors by name, address, contact name and contact information.

2.3.6 If applicable, provide the names of Respondent’s consultants with relevant contact information.

2.5 Respondent must describe cost control methods for pre-construction and construction phases of a project, more explicitly, how do you develop costs estimates and how often are they updated? For the top three projects listed in response to Section 2.3.3, provide examples of how these techniques were used and what degree of accuracy was achieved.

2.6 Respondent must describe the way the firm maintains quality control during the pre-construction, construction, and post-construction phases. For the top three projects listed in response to Section 2.3.3. Provide specific examples of how these techniques were used.

2.7 Respondent must describe the way in which the firm develops and maintains project schedules, to include the frequency of schedule updates. For the top three projects listed in response to Section 2.3.3, provide examples of how these techniques were used. Include specific examples of scheduling challenges, and how the firm helped solve them.

2.8 Respondent must describe the way in which your firm phases renovations/remodeling in an occupied facility.

2.9 Respondent must propose a percentage markup, to include of overhead and profit, for each project dollar category below.

1. Project $500,000 or less ___%
2. Project between $500,001 and $999,999 ___%
3. Project between $1,000,000 and $1,499,999 ___%
4. Project between $1,500,000 and $2,000,000 ___%
The pricing provided shall remain firm for the entire term of the contract, inclusive of renewal periods.

2.10 Respondent must provide, under separate cover, the most recent three years of audited financial statements.

3.0 EVALUATION PROCESS
All initial Replies will be evaluated independently by a committee to determine the most responsive and responsible Replies which best meet the needs of and are most advantageous to the University. The committee will evaluate and provide a consensus opinion of all Replies to determine a short list. Those selected for the short list will continue in the ITN process to include Respondent management team interviews and negotiations.

The committee will meet with the short listed Respondents to discuss their Reply, to include but not be limited to: Respondent capabilities, past experience, qualifications of the Respondents personnel, plans for servicing the University, proposed pricing, record-keeping and administrative abilities, cost and quality control capabilities, and satisfying requirements with respect to General Contractor Continuing Services. After discussions have been completed, the short-listed Respondents will be given a deadline for submission of a Best and Final Offer (BAFO).

The committee will evaluate the BAFO(s) and reach a consensus opinion of those that best meet the needs and are most advantageous to the University. These Respondents will be forwarded to the Vice President of Administrative Services and Finance for final consideration and determination of award.

Some factors that will be considered by the committee in evaluating the Replies, the Best and Final Offers and selecting the successful Respondent(s) are listed below:

3.1 Proven relative experience with multiple projects of various size, scope and complexity.

3.2 The proposed markup percentages.

3.3 Those Respondents with a local presence in the immediate five county areas to the University are to be given a preference. The five county area includes; Lee, Collier, Hendry, Glades, and Charlotte counties.

3.4 The Respondent’s cost estimating and cost control abilities

3.5 The Respondent’s experience as it relates to its proposed projects and affiliated personnel.

3.6 The Respondent’s record keeping ability and administrative capabilities.

3.7 The Respondents availability of resources.

3.8 The Respondents financial standing
4.0 INSTRUCTIONS TO RESPONDENTS

4.1 ATTENTION TO RESPONDENTS
Any intended Respondent is responsible to check the University Procurement Services website at Procurement Services Website seventy-two (72) hours before the closing time of this ITN to verify that they have reviewed any and all addenda that may have been issued for this ITN.

4.2 INQUIRIES
The University will not give verbal answers to inquiries regarding negotiation considerations of verbal instructions prior to or after the selection process of this ITN. A verbal statement regarding same by any person shall be non-binding. Respondents are responsible to insure that the University Sole Point of Contact has their point of contact with all pertinent information including but not limited to name, physical address including city, state, and zip code, phone and facsimile numbers, as well as electronic mail address.

4.3 PRE-ITN MEETING
A Pre ITN conference will not be held. Written questions regarding this ITN must be submitted in writing to the University Sole Point of Contact by no later than November 13, 2013, 4:00p.m. local time. The University will provide answers to all questions in the form of an Addendum, Exhibit A Addenda Acknowledgement Form, and posted on the Procurement Services website.

4.4 UNIVERSITY SOLE POINT OF CONTACT
This ITN is issued by Procurement Services, Florida Gulf Coast University, herein referred to as “University Sole Point of Contact”. The address for all correspondence with regard to this ITN is:

Rick Pence, Associate Director
Procurement Services
Florida Gulf Coast University
Modular II
10501 FGCU Boulevard South
Fort Myers, Florida 33965
Phone: 239.590.1133
Fax: 239.590.1140
Email: rpence@fgcu.edu
Web Address: http://www.fgcu.edu/AS/Purchasing

The Respondent shall not communicate with any officer, agent, or employee of Florida Gulf Coast University, to include but not be limited to, any officer, agent or employee of the Board of Trustees concerning this ITN, except with the Sole Point of Contact identified in this section. If this provision is violated, the University reserves the right to reject Respondents Reply.

4.5 DELIVERY OF ITN RESPONSE
Each Respondent must submit one (1) original, and six (6) hard copies of their Reply.

4.5.1 The original hard copy Reply shall contain an original manual signature of the authorized person signing the Reply. Failure to include an original signed copy may be grounds for rejection of the Reply without further evaluation.
4.5.2 The original hard copy Reply shall be in a separate envelope or box, clearly marked as the “Original.” Copies may be submitted in bulk. The outer carton of the Reply shall include the ITN number (14R-002), name of respondent, and due date.

4.5.3 Questions and requests for information may not be rearranged, regrouped, or divided in any way.

4.5.4 Replies shall not refer the University to any form of electronic media for reference to obtain required information or submittals.

4.5.5 Respondent is responsible for the method and format of delivery and shall bear all risk to the documents until delivered completely.

4.5.6 The Replies shall be addressed to the Sole Point of Contact stated in section 4.4 of this ITN. Responses received at any other location other than the address shown in 4.4 may not be considered.

4.5.7 Replies should be received no later than 3:00pm EST, November 22, 2013. Replies received after the submission date and/or time may not be considered.

4.5.8 Requests for extension of submission date and time will not be granted unless the University determines, at its sole discretion, that the original due date appears impractical. Notice of any extension will be provided in writing to all Respondents in the form of an addendum.

4.6 REPLY WITHDRAWAL
Replies submitted prior to the ITN opening date may be withdrawn by the Respondent upon written request on company letterhead of such a request. Withdrawn Replies may be resubmitted up to the time designated for the receipt of Repl ies, provided that they are then fully in conformance with the requirements of the ITN.

4.7 ERRORS AND OMISSIONS
The Respondent is expected to comply with the true intent of this ITN taken as a whole and shall not avail itself of any errors or omissions to the detriment of the services. Should the Respondent suspect any error, omission, or discrepancy in the specifications or instructions, the Respondent shall immediately notify the University, in writing, and the University shall issue written instructions to be followed. The Respondent is responsible for the contents of its Reply and for satisfying the requirements set forth in the ITN.

4.8 RESPONDENTS RESPONSIBILITY
It is understood and the Respondent hereby agrees that it shall be solely responsible for all services that it proposes, notwithstanding the detail present in the ITN.

4.9 DEVIATIONS TO BE CLEARLY NOTED
Any deviation from the specifications must be clearly noted in the Respondent’s Reply under Section 2.0. All decisions as to the acceptance of deviations are solely within the discretion of the University, and the University may reject any Reply as non-responsive if the University determines the deviation will have an undesired effect on the quality of its General Contractor Continuing Services.
4.10 PROPOSED MATERIAL
The material submitted in response to the ITN becomes the property of the University upon delivery to the Sole Point of Contact and is to be appended to any formal document that would further define or expand the contractual relationship between the University and the Contractor.

4.11 RESERVATION OF RIGHTS
There is no obligation on the part of the University to make an award as a result of this ITN. The University reserves the right to award the contract to the most responsible Respondent submitting a responsive Reply that is most advantageous and in the best interest of the University.

Furthermore, the University reserves the right to:

a) Waive minor informalities and any minor irregularities in any Reply received. A minor irregularity is a variation from the ITN which does not affect the financials of the Reply, or give one Respondent an advantage or benefit not enjoyed by other Respondents, or substantively change the requirements and/or specifications of this ITN, or adversely impact the interest of the University. Waivers, when granted, shall in no way modify the ITN requirements or excuse the Respondent from full compliance with the ITN specifications and other contract requirements if the Respondent is awarded the contract;

b) Reject any or all Replies, or any portion of any Reply;

c) Conduct discussions with, and negotiate the Best and Final Offers obtained from responsible Respondents determined by the University to have a possibility of being selected for award;

d) Determine equipment or other equivalency to FGCU’s specifications in evaluating Replies;

e) Negotiate changes in the scope of work or services to be provided;

f) Award contracts to multiple Respondents;

g) Withhold the award of Contract;

h) Select the Respondent it deems to be most qualified to fulfill the needs of the University. The Respondent with the lowest cost proposed may not necessarily be the one most qualified, since a number of factors other than cost are important in the determination of the most acceptable Reply.

4.12 OPEN COMPETITION
The University encourages free and open competition. Whenever possible, specifications, solicitation invitations and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the University's needs and the accomplishment of a sound economical operation. The Respondent’s signature on its Reply guarantees that the commissions quoted have been established without collusion with other Respondents and without effort to preclude the University from obtaining the lowest possible competitive price. The Respondent certifies that its officers or employees have not bribed or attempted to bribe or influence in any way an officer, employee or agent of the University.

4.13 MEETINGS
Notice of meetings regarding this ITN will be posted electronically on the University’s Procurement Services website at FGCU Procurement Services Website at least seventy-two (72) hours prior to the meeting.

4.13.1 If any individual(s) require special accommodations in order to attend a scheduled meeting as a result of this ITN, they must contact the Sole Point of Contact stated herein no later than three (3) business days prior to the scheduled meeting.
4.14 PARKING
Daily parking passes can be obtained at the Guard Station located at the main entrance to the University, or Parking Services located at the Campus Support Complex for any company and/or individual vehicles that will be parked on campus. Parking rules and regulations must be observed by all drivers. Website for parking services is: http://www.fgcu.edu/parking.

4.15 UTILIZATION OF SMALL AND MINORITY BUSINESS
The University is an equal opportunity institution and promotes procurement participation and contract award with Minority Business Enterprises ("MBEs"), to include but not limited to; small, minority, women owned, and service disabled veteran business enterprises. MBE’s should have a fair and equal opportunity to compete for dollars spent by the University to procure commodities and contractual services. Competition ensures that prices are competitive and that a broad vendor base is available. The University will use good faith efforts to ensure that MBE’s are aware of procurement and contract opportunities. For more information please contact the Rick Pence at (239)590-1133 or rpence@fgcu.edu.

4.16 ENVIRONMENTAL CONSIDERATIONS
The University supports and encourages initiatives to protect and preserve our environment. If applicable, Respondent shall submit as part of any Reply the Respondent's plan to support the procurement of products and materials with recycled content. Respondent shall also provide a plan for reducing and or handling of any hazardous waste generated by Respondents company. In addition, Respondent is encouraged to install and/or use equipment that is considered Energy Star or equivalent relative to conserving energy without compromising the temperature and quality of the product.

5.0 CONTRACT TERMS

5.1 TERMS
For the purpose of General Contractor Continuing Services, the term of this Agreement shall be for three (3) years beginning January 1, 2014 and ending on December 31, 2017. If contemplated by the ITN, this Agreement may be renewed pursuant to the costs and terms to be agreed upon (if not previously addressed) for two (2) additional one (1) year periods, contingent upon the discretion of the University and the Contractor, satisfactory performance evaluation of Contractor by the University and subject to availability of funds by the University.

5.2 PERFORMANCE

A. The University’s Director of Facility Planning, or designee, shall serve as the Contract Administrator for the purpose of this Agreement.

B. Contractor shall perform all Services outlined herein and furnish all labor at their risk, assuming full responsibility for completion of the Services and providing the deliverables required for the amount stated in the Agreement Documents. No compensation will be provided for additional reimbursable expenses.

C. The parties agree that time is of the essence in the performance of the Services required under this Agreement. The Contractor agrees that all Services shall be prosecuted regularly, diligently and uninterruptedly at such a rate of progress as well ensure full completion thereof within the time specified.
D. Contractor will provide personnel, “Personnel” to perform Services. Personnel shall at all times be the employees of Contractor, and Contractor shall be solely responsible for the supervision, daily direction and control of such Personnel. Contractor shall have the right, or the University may request, to remove, reassign, or take any other employment-related action with respect to any of its Personnel furnished pursuant to this Agreement.

In the event of such removal or reassignment, Contractor will furnish a replacement. In addition, Contractor shall be responsible for payment of all compensation, benefits and employer taxes relating to such Personnel (including workers’ compensation and disability). Contractor reserves the right to hire qualified temporary employees or subcontractors, if the circumstances require, in order to accommodate special requests from University.

E. Contractor reserves the right to hire qualified temporary subcontractors (Subcontractors), if the circumstances require Subcontractors. In addition, Contractor shall be responsible for payment of all compensation, taxes and other fees relating to the hiring of such Subcontractors. Any Subcontractors must be approved in writing and in advance by the University, and all Subcontractors must adhere to the terms of this Agreement, including but not limited to the ability to provide proof of registration with the Florida Department of State, as well as a copy of their State of Florida Department of Business and Professional Regulation General Contractor’s License.

In addition, Subcontractors must satisfy the University’s insurance requirements, as specified in Section 5.10 herein. Contractor shall have the right, or the University may request, to remove, reassign, or take any other action with respect to any Subcontractor(s) furnished pursuant to this Agreement. In the event of such removal or reassignment, Contractor may furnish a replacement. The University reserves the right to accept or reject any Subcontractor assigned by the Contractor under this Agreement.

F. The University will provide necessary utilities for performance of Services under this Agreement. The Contractor shall supply all connections to the utilities, i.e. temporary lighting, electrical cords, and temporary service as the Services may require.

G. Contractor shall evaluate job conditions and shall notify the University of any adverse job conditions which may result in unsatisfactory work or danger to workers, students, or the general public. Furthermore, Contractor shall provide adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be taken by the Contractor to give advice and reasonable protection, safety and warnings to persons and vehicular traffic within the University.

H. Services performed under this Agreement shall be conducted in accordance with federal and state laws and regulations, including EPA and OSHA regulations, local fire and safety codes as well as University Regulations, Policies, and Standards. Due diligence shall be afforded to identify and establish applicable protocols and plans to protect facility users from noise, vibrations, dust, access denial, trip and fall protection, falling objects and other hazards. Plans will be coordinated in advance with the Contract Administrator or designee. All work shall be executed with the least impact to the University’s mission and or activities schedule. Contractor shall have active and well documented safety training plans as required by regulatory agencies.
I. The Contractor shall obtain all necessary permits and licenses and abide by all applicable statutes, laws, regulations and ordinances of all federal, state, and local governments in which Services under this Agreement are performed. The Contractor shall pay all sales, use, personal property and other taxes arising out of this Agreement and the transaction(s) contemplated hereunder. Any other taxes levied upon this Agreement, the transaction(s), or the work, equipment or services delivered pursuant hereto shall be the sole and exclusive responsibility of the Contractor.

J. Contractor shall furnish all tools, equipment, and materials required for the performance of this Agreement, to include but not limited to the following:

Items of equipment, materials necessary to perform work as required under this Agreement shall be furnished, maintained and operated by the Contractor and shall be consistent and fully compliant with all Federal, State, County, City, and University laws, ordinances and regulations, ensuring all motor vehicles meet State inspection, registration and insurance requirements.

Materials and supplies as required under this Agreement shall be furnished by the Contractor and shall be consistent and fully compliant with all Federal, State, County, City, and University laws, ordinances and regulations. The Contractor shall not store such materials and supplies, including fuel, on the University premises.

Matters related to safety, and any Contractor’s actions, shall meet all safety requirements as prescribed by Federal, State, Local, and University laws, ordinances, and regulations. The Contractor shall be responsible for being familiarized and kept abreast of all such safety requirements.

K. The Contractor, its employees, agents and invitees are responsible for the proper use and care of any University property. The Contractor will be liable for the replacement cost of any University property, which is damaged, destroyed, or lost.

5.3 SCOPE CHANGES
The University may, upon mutual agreement with the Contractor, require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Agreement. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

5.4 SURETY BOND
Prior to performance of said Services on specific projects for which the total price will be between Two Hundred Thousand Dollars ($200,000) and Two Million Dollars ($2,000,000), the Contractor shall provide to the University a surety bond for the amount of such project, from a surety insurer, registered and authorized to do business in the State of Florida. On such projects for which the total price will be between One Hundred Thousand Dollars ($100,000) and Two Hundred Thousand Dollars ($200,000), the need for such bonding will be at the discretion of the University. For specific projects less than One Hundred Thousand Dollars ($100,000), no surety bond will be required of the Contractor.
5.5 ACCOUNTING
Contractor and University shall keep accurate records as to performance of all Services required pursuant to this Agreement, and of all transactions relating to this Agreement. The University shall have the right to audit Contractor's books, records, and other related materials that are a part of this Agreement.

5.6 PAYMENT
Pursuant to FGCU-PR6.021, FGCU Regulations, University shall mail to Contractor payment within forty (40) days after receipt of an acceptable invoice and receipt, inspection, and approval of the goods and/or services provided in accordance with the terms and conditions of this Agreement. University may make partial payments to the Contractor upon partial delivery of services, upon request by the Contractor and approval by the University, providing fees or other compensation for services or expenses, hourly or daily rates or units of deliverables are clearly identified in the Agreement Documents. Units of deliverables shall include, but not be limited to, reports, findings, and drafts, where applicable, that must be received and accepted in writing by the University prior to payment.

Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for proper pre-audit and post-audit reviews. Failure by the University to make such payment within forty (40) days may result in the University paying interest at a rate of one percent (1%) per month calculated on a daily basis on the unpaid balance. Interest payments shall be mailed within fifteen (15) days after they become due. In the case of an error on the part of Contractor or University, the forty (40) day period shall begin to run upon receipt by University of a corrected invoice or other remedy of the error.

5.6.1 The University’s obligation to pay under this agreement is contingent upon an annual appropriation by the State Legislature.

5.6.2 An approved invoice shall consist of at least the following: (1) Contractor's Name, Remit to Address, Phone and Fax Number; (2) Project Name; (3) Purchase Order Number; (4) Categorically itemized description of Labor and/or Equipment performed for the project with the corresponding cost for such Labor and Equipment; (5) Subtotal of the Labor and Equipment being invoiced; (6) the Contractor’s fee for the project; (7) Total amount being invoiced.

5.7 NONEXCLUSIVE AGREEMENT
This is a non-exclusive agreement. The University reserves the right to obtain additional related Services and to contract for these Services in the future. Nothing herein shall be interpreted to prohibit such future actions or to guarantee renewal of this Agreement. The University reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.

5.8 INDEMNIFICATION
Contractor will indemnify, defend, and hold harmless the Florida Gulf Coast University Board of Trustees, and their officers, employees, agents, and representatives, from and against any and all liability, damages, losses, expenses, claims, demands, suits, actions, judgments, bodily injuries or sicknesses to any person, or damage, destruction, or loss of use of any property arising out of, or related to, the Services provided by the Contractor to the extent caused by the negligent acts or omissions or willful misconduct of the Contractor, its employees, or agents.
5.9 CONTRACTOR WARRANTY OF ABILITY TO PERFORM
Contractor shall warrant that there is no action suit, proceeding, inquiry or governmental agency, public board or body, pending or, to the best of the Contractor's knowledge, threatened, which would in any way prohibit, restrain or enjoin the execution or delivery of the Contractor's obligations or diminish the Contractor's obligations or diminish the Contractor's financial ability to perform the terms of the proposed contract.

5.10 INSURANCE
At all times during the term of this Agreement, the Contractor shall comply with the following insurance requirements:

A. The Contractor shall maintain workers’ compensation insurance for all such party’s employees, including coverage under the applicable law of the jurisdiction where the work will be performed. The Contractor shall also require that all of its subcontractors maintain similar worker’s compensation coverage. For the purpose of this section, self-insurance approved by the appropriate state agency or regulatory body is deemed to satisfy these requirements.

B. The Contractor shall maintain general liability insurance. Limits shall be a minimum of: (i) $1,000,000 per occurrence for bodily injury or property damage; (ii) $1,000,000 per occurrence for products or completed operations; and (iii) $2,000,000 annual aggregate for products or completed operations’ claims. Coverage shall include those perils generally associated with a commercial general liability policy and specifically include contractual liability coverage. Coverage shall contain no exclusions for cross liability between insureds. Contractor shall also require that all of its subcontractors maintain similar general liability insurance.

C. Contractor shall maintain automobile liability insurance. Limits shall be a minimum of: (i) $1,000,000 per accident combined single limit or (ii) $1,000,000 per occurrence for bodily injury and $500,000 per occurrence for property damage. Coverage shall include liability assumed under this Agreement.

D. Contractor shall maintain umbrella liability insurance. Limits shall be a minimum of: (i) $2,000,000 per occurrence; (ii) $2,000,000 general aggregate; and, (iii) $10,000 self insured retention.

E. With regard to the above, Contractor’s insurance shall: (i) be underwritten by a licensed insurer reasonably acceptable to the University; (ii) be primary for the University’s exposure relative to any insurance purchased or maintained by the Contractor; (iii) be evidenced by a certificate of insurance containing a signature by a duly authorized representative of the insurer providing such insurance cannot be canceled, non-renewed or materially altered without thirty (30) days written notice by certified mail to the University. With regard to the general liability insurance and automobile liability insurance, Contractor’s insurance shall be endorsed so the insurer will waive subrogation rights against the University.

F. The certificate of insurance shall name Florida Gulf Coast University Board of Trustees as additional insured.
5.11 DEFAULT
The failure of Contractor to comply with any provisions of this Agreement shall place Contractor in default. Prior to terminating this Agreement, the University shall notify the Contractor in writing, stating the provision or provisions which give rise to the default. The Contractor shall be entitled to a period of thirty (30) days from the receipt of the written Notice of Default to cure the default. In the event said default is not timely cured, the University may immediately terminate this Agreement by written notice. The failure of University to exercise this right shall not be construed as a waiver of such right in the event of further default or non-compliance. The University shall have the right to exercise any and all legal remedies available to them by applicable laws.

5.12 TERMINATION FOR CONVENIENCE
The University reserves the right to terminate this Agreement in whole or part at any time, when in the best interest of the University, without penalty or cause. Upon receipt of the written notice of Termination for Convenience, the Contractor shall immediately stop all work as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the University. In the event of termination under this provision, all documents, data and reports prepared by the Contractor as a result of this Agreement shall become the property of and delivered to the University. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of termination. Such compensation shall be the Contractor’s sole remedy against the University in the event of termination under this provision.

5.13 UNILATERAL CANCELLATION
This Agreement may be unilaterally canceled by University for refusal by Contractor to allow public access to all documents, papers, letters or other materials which may be subject to the provisions of Chapter 119, Florida Statutes, and made or received by Contractor in conjunction with this Agreement.

5.14 GOVERNING LAWS
This Agreement is subject to the relevant laws and regulations of the State of Florida, the Florida Board of Governors and the University. Any provisions herein, in conflict with the relevant laws and regulations shall be void and of no effect. Any disputes hereunder, shall be construed in accordance with the laws of the State of Florida and enforced in the courts of Lee County, Florida.

5.15 GOVERNMENT REGULATIONS
To the extent applicable, Contractor agrees that it will comply with:

A. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color or national origin in programs and activities receiving or benefiting from federal financial assistance.

B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance.

C. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance.
D. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.

E. The Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance.

F. Executive Order 11246 of September 24, 1965 as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor, which prohibit discrimination in government employment on the basis of race, creed, color or national origin.


H. Section 413.036 of the Florida Statutes, which provides for the procurement of services from a qualified nonprofit agency for the blind or for the other severely handicapped.

I. Chapter 760, Florida Statutes, which prohibits discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or marital status.

J. The Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability or perceived disability.

K. All regulations, guidelines, and standards which are now or may be lawfully adopted under the above statutes, as well as any other applicable federal, state, or local rules, regulations, and ordinances.

5.16 INDEPENDENT CONTRACTOR
It is understood and agreed that nothing contained herein is intended or should be construed as in any way making Contractor the agent or representative of University for any purposes in any manner whatsoever. Contractor is, and shall remain, an independent contractor with respect to all Services performed under this Agreement.

5.17
In accordance with Section 112.3185, Florida Statutes, the Contractor endorses that to the best of his knowledge and belief no individual employed by him or subcontracted by him has an immediate relation to any employee of the University who was directly or indirectly involved in the procurement of said services. Violation of this section by Contractor shall be grounds for cancellation of this Agreement by the University.

5.18 FORCE MAJEURE
No default, delay, or failure to perform on the part of Contractor or University shall be considered a default, delay or failure to perform otherwise chargeable hereunder, if such default, delay or failure to perform is due to causes beyond either party’s reasonable control including, but not limited to: strikes, lockouts, or in actions of governmental authorities, epidemics, war, embargoes, fire, earthquake, acts of God, or default of common carrier. In the event of such default, delay or failure to perform, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay or failure to perform.
5.19 SEVERABILITY
In the event any provision of this Agreement shall be held invalid, illegal, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

5.20 ASSIGNMENT
Neither party shall assign (by operation of law, change of control or otherwise) any part of this Agreement without the prior written consent of the other party. Contractor may, however, assign its right to payments (but none of its obligations) for financing purposes.

5.21 CAPTIONS
Captions may be inserted only as a matter of convenience and for reference, and in no way define, limit, nor describe the scope of this Agreement, or the intent or content of any provisions contained herein.

5.22 ENTIRE AGREEMENT
This Agreement, which includes the Agreement Documents, constitute the entire Agreement between the parties, and no addition, modification or amendment hereto shall be effective unless in writing and executed by the parties to this Agreement.

5.23 LOBBYING
Contractor is prohibited from using funds provided under this Agreement for the purpose of lobbying the Legislature or any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government.

5.24 DISCLAIMER
This Agreement is not binding upon the FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES until it has been signed by its President or by a person with a specific delegation of authority to sign this Agreement.

5.25 ADVERTISING
The Contractor shall not use the University's name or other identifying marks or property for advertising purposes unless the contractor receives prior written permission from the University.

5.26 ROYALTIES AND PATENTS
The Contractor shall pay all applicable royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent or copyright and indemnify and save the University harmless from loss, including loss of performance, with a particular process, design, copyright or the product of a particular manufacturer or manufacturers as specified. All rights to proprietary material must be transferable to the University in the event the manufacturer goes out of business. The University shall have the right to disclose the proprietary information or materials to the extent necessary to permit University to continue to use the product for the purposes for which it was provided.
EXHIBIT A
ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION ADDENDUM

Florida Gulf Coast University
Office of Procurement Services
10501 FGCU Boulevard South
Modular II
Fort Myers, Florida 33965-6565
Fax: 239.590.1140

SOLICITATION NUMBER: ITN 14R-002
SOLICITATION TITLE: GENERAL CONTRACTOR CONTINUING SERVICES
ORIGINAL OPENING DATE AND TIME: NOVEMBER 22, 2013 3:15pm
ADDENDUM NUMBER:
DATE:

PLEASE BE ADVISED THAT THE FOLLOWING CHANGES ARE APPLICABLE TO THE ABOVE REFERENCED SOLICITATION:

THIS ADDENDUM NOW BECOMES A PART OF THE ORIGINAL SOLICITATION. THE ADDENDUM ACKNOWLEDGMENT FORM SHALL BE SIGNED BY AN AUTHORIZED COMPANY REPRESENTATIVE, DATED AND RETURNED AS INSTRUCTED WITH THE SOLICITATION REPLY. FAILURE TO DO SO MAY SUBJECT THE REPLY TO DISQUALIFICATION.

PROPOSER NAME

ADDRESS

CITY AND STATE

AUTHORIZED SIGNATURE:

PRINTED NAME

PHONE

DATE
EXHIBIT B
SERVICES AGREEMENT

By and Between:

_________________________  __________________________
and  _______________________

10501 FGCU BOULEVARD SOUTH
FORT MYERS, FL 33965-6565

This Agreement is entered into this 1st day of January, 2014 by and between FLORIDA GULF COAST UNIVERSITY BOARD OF TRUSTEES, a public body corporate of the State of Florida, hereinafter referred to as “University” and __________________, a corporation registered and authorized to do business in the State of Florida, hereinafter referred to as “Contractor”. The Invitation to Negotiate, its attachments and addenda (ITN), the Contractor’s Reply thereto, FGCU’s request for Best and Final Offer and Contractor’s Response thereto (“BAFO”) and the Letter of Intent are attached hereto (“Contract Documents”) as Composite Exhibit “A” and are incorporated herein.

WHEREAS, The University is desirous of establishing an agreement for the provision of General Contractor Services with Contractor; and,

WHEREAS, The Contractor has considerable knowledge and experience providing said services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1.0 TERMS
For the purpose of General Contractor Services, the term of this Agreement shall be for three (3) years beginning January 1, 2014 and ending on December 31, 2017. If contemplated by the ITN, this Agreement may be renewed pursuant to the costs and terms to be agreed upon (if not previously addressed) for two (2) additional one year periods, contingent upon the discretion of the University and the Contractor, satisfactory performance of Contractor as decided by the University and subject to availability of funds by the University.

2.0 SPECIAL CONDITIONS

2.1 PERFORMANCE

A. Contractor shall perform all services outlined herein and furnish all labor at their risk, assuming full responsibility for completion of the services and providing the deliverables required for the amount stated in the Agreement Documents. No compensation will be provided for additional reimbursable expenses.

B. The parties agree that time is of the essence in the performance of the services required under this Agreement. The Contractor agrees that all services shall be prosecuted regularly, diligently and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

C. Contractor will provide personnel (“Personnel”) as listed in the Agreement Documents to perform services. Personnel shall at all times be the employees of Contractor, and Contractor shall be solely responsible for the supervision, daily direction and control of such Personnel. Contractor shall have the right, or the University may request, to remove, reassign, or take any other employment-related action with respect to any of its Personnel furnished pursuant to the Agreement.
In the event of such removal or reassignment, Contractor will furnish a replacement. In addition, Contractor shall be responsible for payment of all compensation, benefits and employer taxes relating to such Personnel (including workers’ compensation and disability). Contractor reserves the right to hire qualified temporary employees or subcontractors, if the circumstances require, in order to accommodate special requests from University.

2.2 SCOPE CHANGES
The University may, upon mutual agreement with the Contractor, require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Agreement. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld.

2.3 PRICE
Information regarding price to the University for said services is detailed in the Agreement Documents. The prices specified herein will remain firm for the term of this Agreement. Consideration of price changes at each renewal period, or as identified in Section 2.2, Scope Changes, will be given provided such changes are reasonable and acceptable to the University.

3.0 GENERAL CONDITIONS

3.1 ACCOUNTING
Contractor and University shall keep accurate records as to performance of all services required pursuant to this Agreement, and of all transactions relating to this Agreement.

3.2 PAYMENT
Pursuant to FGCU-PR6.021, FGCU Regulations, University shall mail to Contractor payment within forty (40) days after receipt of an acceptable invoice and receipt, inspection, and approval of the goods and/or services provided in accordance with the terms and conditions of this Agreement. University may make partial payments to the Contractor upon partial delivery of services, upon request by the Contractor and approval by the University, providing fees or other compensation for services or expenses, hourly or daily rates or units of deliverables are clearly identified in the Agreement Documents. Units of deliverables shall include, but not be limited to, reports, findings, and drafts, where applicable, that must be received and accepted in writing by the University prior to payment. Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for proper pre-audit and post-audit reviews. Failure by the University to make such payment within forty (40) days may result in the University paying interest at a rate of one percent (1%) per month calculated on a daily basis on the unpaid balance. Interest payments shall be mailed within fifteen (15) days after they become due. In the case of an error on the part of Contractor or University, the forty (40) day period shall begin to run upon receipt by University of a corrected invoice or other remedy of the error.

3.2.1 The University’s obligation to pay under this agreement is contingent upon an annual appropriation by the State Legislature.

3.3 NONEXCLUSIVE AGREEMENT
This is a non-exclusive agreement. The University reserves the right to obtain additional Custodial Services and to contract for these services in the future. Nothing herein shall be interpreted to prohibit such future actions nor to guarantee renewal of this Agreement. The University reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.
3.4 **INDEMNIFICATION**

Contractor will indemnify, defend, and hold harmless the Florida Gulf Coast University Board of Trustees, and their officers, employees and representatives, from and against any and all liability, damages, losses, expenses, claims, demands, suits, actions, judgments, bodily injuries or sicknesses to any person, or damage, destruction, or loss of use of any property arising out of, or related to, the services provided by the Contractor to the extent caused by the negligent acts or omissions or willful misconduct of the Contractor, its employees, or agents.

To the extent allowable by law, University will indemnify Contractor for the negligent acts of its officers and employees while acting in the scope of their employment by University. Nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the University or the State of Florida or their agents and agencies to be sued; or (3) a waiver of sovereign immunity of the University or of the State of Florida beyond the waiver provided in section 768.28 Florida Statutes.

Without intending to create any limitation relating to the survival of any other provisions of this Contract, both parties agree that the terms of this paragraph shall survive the expiration or earlier termination of this Contract. Each party shall promptly notify the other in the event of the threat or initiation of any claim, demand, action or proceeding to which the indemnification obligations set forth in this Section may apply. Such notification shall include all notices and legal process it receives in the most expeditious means available to the affected party. Each party agrees that the other may employ attorneys of its own choice to appear and defend the action and that no party shall do anything to compromise the defense of the action or any settlement thereof and shall provide all reasonable assistance which the other may require. The foregoing indemnity shall not apply to settlement of claims made without the consent of both parties.

3.5 **LIMITATIONS**

Except as otherwise expressly set forth herein, Contractor makes no warranties of any kind, express or implied, with respect to any equipment or goods provided under this Agreement, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose.

Except for any liability resulting from the indemnification obligations set forth in section 3.4, the amount of any liability of Contractor to University or any third party, for one or more claims arising from or relating to this Contract, shall not exceed, in the aggregate, the amount paid to Contractor for the performance of services under this Contract during the six-month period preceding the date on which the claim arose.

In no event shall either party be liable to the other party for consequential, incidental, punitive or indirect damages, even if such party has been advised of the possibility of such damages.

3.6 **ORDER OF PRECEDENCE**

1. This Agreement including any Addenda and Amendments hereto;
2. Letter of Intent;
3. Contractor's Best and Final Offer (BAFO);
4. University's ITN; and
5. Contractor's Initial Reply

3.7 **INSURANCE**

At all times during the term of this Agreement, the parties hereto shall comply with the following insurance requirements:

A. Contractor shall maintain workers’ compensation insurance for all such party’s employees, including coverage under the applicable law of the jurisdiction where the work will be performed. Contractor shall also require that all of its subcontractors maintain similar worker's compensation coverage. For the purpose of this section, self-insurance approved by the appropriate state agency or regulatory body is deemed to satisfy these requirements.
B. Contractor shall maintain general liability insurance. Limits shall be a minimum of: (i) $1,000,000 per occurrence for bodily injury or property damage; (ii) $1,000,000 per occurrence for products or completed operations; and (iii) $2,000,000 annual aggregate for products or completed operations’ claims. Coverage shall include those perils generally associated with a commercial general liability policy and specifically include contractual liability coverage. Coverage shall contain no exclusions for cross liability between insured’s. Contractor shall also require that all of its subcontractors maintain similar general liability insurance.

C. Contractor shall maintain automobile liability insurance. Limits shall be a minimum of: (i) $1,000,000 per accident combined single limit or (ii) $1,000,000 per occurrence for bodily injury and $500,000 per occurrence for property damage. Coverage shall include liability assumed under this Agreement.

D. Contractor shall maintain umbrella liability insurance. Limits shall be a minimum of: (i) $2,000,000 per occurrence; (ii) $2,000,000 general aggregate; and, (iii) $10,000 self-insured retention.

E. With regard to the above, Contractor’s insurance shall: (i) be underwritten by a licensed insurer reasonably acceptable to the University; (ii) be primary for the University’s exposure relative to any insurance purchased or maintained by the Contractor; (iii) be evidenced by a certificate of insurance containing a signature by a duly authorized representative of the insurer providing such insurance cannot be canceled, non-renewed or materially altered without thirty (30) days written notice by certified mail to the University. With regard to the general liability insurance and automobile liability insurance, Contractor’s insurance shall be endorsed so the insurer will waive subrogation rights against the University.

F. The certificate of insurance shall be an original and must show endorsement naming Florida Gulf Coast University Board of Trustees as additional insured.

3.8 DEFAULT
The failure of Contractor to this Agreement to comply with any provisions of this Agreement shall place Contractor in default. Prior to terminating this Agreement, the University shall notify the Contractor in writing, stating the provision or provisions which give rise to the default. The Contractor shall be entitled to a period of thirty (30) days from the receipt of the Notice of Default to cure the default. In the event said default is not timely cured, the University may immediately terminate this Agreement by written notice. The failure of University to exercise this right shall not be construed as a waiver of such right in the event of further default or non-compliance. The University shall have the right to exercise any and all legal remedies available to them by applicable laws.

3.9 TERMINATION FOR CONVENIENCE
The University reserves the right to terminate this Agreement in whole or part at any time when in the best interest of the University without penalty or cause. Upon receipt of the written notice of Termination for Convenience, the Contractor shall immediately stop all work as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the University. In the event of termination under this provision, all documents, data and reports prepared by the Contractor as a result of this Agreement shall become the property of and delivered to the University. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of termination. Such compensation shall be the Contractor’s sole remedy against the University in the event of termination under this provision.

3.10 UNILATERAL CANCELLATION
This Agreement may be unilaterally canceled by University for refusal by Contractor to allow public access to all documents, papers, letters or other materials which may be subject to the provisions of Chapter 119, Florida Statutes, and made or received by Contractor in conjunction with this Agreement.
3.11 **GOVERNING LAWS**
This Agreement is subject to the relevant laws and regulations of the State of Florida, the Florida Board of Governors and the University. Any provisions herein, in conflict with the relevant laws and regulations shall be void and of no effect.

3.12 **GOVERNMENT REGULATIONS**
To the extent applicable, Contractor agrees that it will comply with:

A. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color or national origin in programs and activities receiving or benefiting from federal financial assistance.

B. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance.

C. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance.

D. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.

E. The Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance.

F. Executive Order 11246 of September 24, 1965 as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor, which prohibit discrimination in government employment on the basis of race, creed, color or national origin.


H. Section 413.036 of the Florida Statutes, which provides for the procurement of services from a qualified nonprofit agency for the blind or for the other severely handicapped.

I. Chapter 760, Florida Statutes, which prohibits discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or marital status.

J. The Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability or perceived disability

K. All regulations, guidelines, and standards which are now or may be lawfully adopted under the above statutes, as well as any other applicable federal, state, or local rules, regulations, and ordinances.

3.13 **INDEPENDENT CONTRACTOR**
It is understood and agreed that nothing contained herein is intended or should be construed as in any way making Contractor the agent or representative of University for any purposes in any manner whatsoever. Contractor is, and shall remain, an independent contractor with respect to all services performed under this Agreement.
3.14 **FORCE MAJEURE**
No default, delay, or failure to perform on the part of Contractor or University shall be considered a default, delay or failure to perform otherwise chargeable hereunder, if such default, delay or failure to perform is due to causes beyond either party’s reasonable control including, but not limited to: strikes, lockouts, or in actions of governmental authorities, epidemics, war, embargoes, fire, earthquake, acts of God, or default of common carrier. In the event of such default, delay or failure to perform, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay or failure to perform.

3.15 **SEVERABILITY**
In the event any provision of this Agreement shall be held invalid, illegal, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

3.16 **ASSIGNMENT**
Neither party shall assign (by operation of law, change of control or otherwise) any part of this Agreement without the prior written consent of the other party. Contractor may, however, assign its right to payments (but none of its obligations) for financing purposes.

3.17 **VENUE**
This Agreement and any disputes hereunder, shall be construed in accordance with the laws of the State of Florida and enforced in the courts of Lee County, Florida.

3.18 **CAPTIONS**
Captions may be inserted only as a matter of convenience and for reference, and in no way define, limit, nor describe the scope of this Agreement, or the intent or content of any provisions contained herein.

3.19 **ENTIRE AGREEMENT**
This Agreement, which includes the Agreement Documents constitute the entire Agreement between the parties, and no addition, modification or amendment hereto shall be effective unless in writing and executed by the parties to this Agreement.

3.20 **PUBLIC ENTITY CRIME**
A person or vendor who has been placed on the convicted vendor list by the Department of Management Services, State of Florida, may not submit a bid to provide any goods or services, submit a bid for construction or repair of a building, submit a bid for leases of real property or be awarded or perform work as a contractor, supplier, subcontractor or consultant to Florida Gulf Coast University for a period of 36 months from the date of being placed on the convicted vendor list.

3.21 **LOBBYING**
Contractor is prohibited from using funds provided under this Agreement for the purpose of lobbying the Legislature or any official, officer, commission, board, authority, council, committee, or department of the executive branch or the judicial branch of state government.

3.22 **DISCLAIMER**
This Agreement is not binding upon the Board of Trustees, of FLORIDA GULF COAST UNIVERSITY until it has been signed by its President, or by a person with a specific delegation of authority to sign this Agreement.
3.23 **NOTICES**
All notices and all other matters pertaining to this Agreement requiring delivery to a party shall be in writing, shall be hand delivered, or sent by Certified U.S. Mail return receipt required, and shall be deemed to have been duly given when received by the addressees at the following addresses.

If to University:  
Maryan Egan  
Director of Procurement Services  
Florida Gulf Coast University  
10501 FGCU Blvd South  
Fort Myers, Florida 33965-6565

With a copy to:

If to Contractor:

With a copy to:

3.24 **RECEIPT**
Contractor hereby acknowledges receipt of a copy of this Agreement.

This Agreement must be signed by all parties and dated before service begins, or a letter of justification must accompany this Agreement. Contractor hereby certifies that it and its Directors and/or Principal Officers are not employed and/or affiliated with FLORIDA GULF COAST UNIVERSITY or its Board of Trustees.

Executed this ___ day of February, 2010  
____________________________  
[Signature]  
[Printed/Typed Name and Title of Signer]

Executed this ___ day of February, 2010  
____________________________  
[Signature]  
[Printed/Typed Name and Title of Signer]

FLORIDA GULF COAST UNIVERSITY  
BOARD OF TRUSTEES

By

By