

ITN 2022-06

FLORIDA KEYS MOSQUITO CONTROL DISTRICT

Invitation to Negotiate No. 2022-06

Airbus H125 Factory New Helicopter Retrofit

Submissions must be in an envelope separate from any express mail or courier envelopes, as those will be opened and discarded.

Be sure to include the name of the company submitting the proposal where requested.

Cut along the outer border and affix this label to your sealed envelope to identify it as a "Sealed Proposal".

**SEALED PROPOSAL •
DO NOT OPEN**

SOLICITATION NO.: **ITN 2022-06**

SOLICITATION TITLE:

Airbus H125 Factory New Helicopter Retrofit

SUBMISSION DUE DATE/TIME:

Wednesday, January 18, 2023, 4:00 PM

SUBMITTED BY:

(Name of Company)

DELIVER TO:

Florida Keys Mosquito Control District

503 107th Street Gulf

Marathon, FL 33050

ATTN: Airbus H125 Retrofit

ITN 2022-06

FLORIDA KEYS MOSQUITO CONTROL DISTRICT

INVITATION TO NEGOTIATE

Notice is hereby given that the Board of Commissioners for the Florida Keys Mosquito Control District, at 503 107th Street, Gulf, Marathon, FL 33050, will receive SEALED BIDS for the following:

Airbus H125 Factory New Helicopter Retrofit

INTERESTED PERSONS may obtain specifications by calling the Florida Keys Mosquito Control District Office at (305) 292-7190, email requests to rlmiller@keysmosquito.org or by download from the District website: www.keysmosquito.org.

SEALED BIDS WILL BE RECEIVED up to 4:00 PM on Wednesday, January 18th, 2023 at Florida Keys Mosquito Control District, 503 107th Street, Gulf, Marathon, FL 33050 and OPENED on Thursday, January 19th, 2023 at 10:00 AM at the Marathon Mosquito Control Office, 503 107th Street, Gulf, Marathon, FL 33050. Recommendations will be given to the Board of Commissioners at the Regular Meeting to be held on Tuesday, February 21st, 2023, at the Marathon Mosquito Control Office, 503 107th Street, Gulf, Marathon, FL 33050. Bids must be clearly marked on the face of the envelope "Airbus H125 Retrofit." All Bidders are welcome to be present for the opening and/or the award of the bids.

THE BOARD reserves the right to reject any and all bids and/or to waive any and all irregularities in all bids.

BY ORDER of the Board of Commissioners, Florida Keys Mosquito Control District.

Phillip L. Goodman
Chairman

ATTEST:

Thomas McDonald
Secretary-Treasurer



Publish December 10-11, 2022 Weekend Edition.

CALENDAR OF EVENTS

DATE:	TIME:	EVENT:
December 7, 2022	4:00 PM ET	Release Solicitation
December 19, 2022	4:00 PM ET	Last Day for Submission of Written Questions
December 22, 2022	4:00 PM ET	Answers to Questions
January 18, 2023	4:00 PM ET	Proposals Due
January 19, 2023	10:00 AM ET	Bid Opening (Mosquito Control Marathon Office)
January 20, 2023	5:00 PM ET	Notice of Intent to Negotiate
January 23, 2023 - February 3, 2023	10:00 AM ET	Negotiations (Mosquito Control Marathon Office)
February 10, 2023	5:00 PM ET	Notice of Intent to Award
February 21, 2023	1:00 PM ET	Board Meeting (Mosquito Control Marathon Office)

FLORIDA KEYS MOSQUITO CONTROL DISTRICT

Invitation to Negotiate No. 2022-06

Airbus H125 Factory New Helicopter Retrofit

An ITN is preferred over an ITB in this particular case so we may evaluate the historical experience and references for a company willing and able to customize a H125 helicopter with mosquito control specific modifications to best meet the District's needs, in addition to considering cost.

1. Objective of the Invitation to Negotiate

The Florida Keys Mosquito Control District ("FKMCD") is seeking a properly FAA authorized facility to perform full retrofit on a factory new H125 Helicopter, as per the requirements contained in this Invitation to Negotiate.

2. Scope of Work

The district is obtaining a new Airbus H125 helicopter to add to its fleet of Mosquito Control Aerial Operations, which will need proper retrofitting with Isolair Aerial Spraying equipment used in Mosquito Control Applications. See specifications for complete details.

3. Evaluation & Selection Process

A Selection Committee ("Committee") will be convened to review proposals, negotiate terms with the vendors, hear a vendor's oral presentation, ask questions and receive answers from vendors, and conduct other fact-finding functions. The FKMCD Board of Commissioners ("Board") may select one or more vendors to continue negotiations with, if needed. After negotiations are conducted, the Board will issue its Intent to Award to the responsible and responsive vendor which the Board determines will provide the best value to the FKMCD. Value to the FKMCD may not be based on price alone. Among the factors (in no particular order) to be considered by the Committee in evaluating the proposals are:

- a. Experience
- b. Qualifications
- c. References
- d. Cost

ITN Negotiations: Pursuant to F.S. §286.0113(2)(b)1.-2., the Committee may confer outside of a public meeting. Specifically, the Committee may negotiate with any vendor during the competitive solicitation process. In addition, the vendor may conduct an oral presentation or answer questions as part of the competitive solicitation process, without the need for a public

meeting. The recordings of such meetings shall be made available upon the FKMCD issuing the Intent to Award or 30 days after the opening of the bids, whichever is earlier.

The recommendation of the Committee shall be presented to the Board for final selection, but shall neither eliminate nor rank the other various qualified and negotiated bid proposals from consideration by the Board. The recommendation shall function as advice and merely for informational purposes to be considered by the Board. The final selection shall be awarded by the Board at their regular Meeting on Tuesday, February 21st, 2023 at 1:00 pm, and shall be based on the Value factors described above and not solely on the Committee's recommendation.

The FKMCD reserves the right to reject any or all of the proposals or waive any irregularities.

4. Request for Additional Information or Clarification

Request for additional information or clarification relating to the specifications of this Invitation to Negotiate shall be submitted in writing directly to:

Rochele Miller

18 Aquamarine Drive

Key West, FL 33040

Facsimile 305.292.7199

rmiller@keysmosquito.org

All questions and requests for additional information must be received no later than December 19th, 2022, by 4:00 pm. Any requests received after that date and time will not be answered. All requests for additional information will be answered and posted at keysmosquito.org no later than 4:00 pm, December 22nd, 2022.

5. Content of Submission

The Proposal submitted shall be printed on 8 ½ x 11 white paper and bound. The proposal and related attachments shall also be available electronically upon request, once the initial bids have been opened. The proposal shall include the following:

6. Minimum Qualifications – the Proposer shall:

Must be FAA Certified Repair Station with the following on the Capabilities List:

Airbus H125 Airframe, Safran Arriel 2D Power Plant, Avionics

Ability to perform Major Repairs/Alterations

All work must be performed in accordance with:

Current FAA standards, current FAR's, FAA Acceptable Methods, Technics and Practices AC 43.13-1B & -2B and Airbus current Standards and Practices

Must have previously completed a HI25 Helicopter with a Mosquito Control Package including Isolair Products

Additional Considerations:

Garmin Authorized Facility

In-House Painting Capability

7. Copies of the ITN Documents

Only complete sets of ITN Documents will be issued and shall be used in preparing responses. The District does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets.

Complete sets of ITN Documents may be obtained in the manner and at the locations stated in the Notice of Request for Proposals.

Each Proposer is responsible for obtaining all Addenda for this ITN and for acknowledging receipt of all Addenda on the Response Form.

8. Statement of Proposal Requirements

Vendors are requested to submit a signed original and five (5) complete copies of the Proposal in a sealed envelope, clearly marked on the outside as Airbus HI25 Retrofit, addressed to: Florida Keys Mosquito Control District, 503 107th Street, Gulf, Marathon, FL 33050.

The Proposal must be received on or before **4:00 P.M., January 18th, 2023**. Faxed or emailed proposals will not be accepted. It is the sole responsibility of each Proposer to ensure its proposal is received in a timely fashion.

9. Examination of ITN Documents

Each Proposer shall carefully examine the ITN and other contract documents, and inform himself/herself thoroughly regarding any and all conditions and requirements that may in any manner affect cost, progress, or performance of the work to be performed under the contract. Ignorance on the part of the Proposer shall in no way relieve him/her of the obligations and responsibilities assumed under the contract.

Should a Proposer find discrepancies or ambiguities in, or omissions from the specifications, or should he/she be in doubt as to their meaning, he shall notify the District at once.

10. Governing Laws and Regulations

The Proposer is required to be familiar with and shall be responsible for complying with all federal, state, and local laws, ordinances, rules, professional license requirements and regulations that in any manner affect the work. Knowledge of business tax requirements for Monroe County and municipalities within Monroe County are the responsibility of the Proposer.

11. Responsibility for Response

The Proposer is solely responsible for all costs of preparing and submitting the response, regardless of whether a contract award is made by the District.

12. Receipt and Opening of Responses

The Selection Committee, comprised of FKMCD staff will open the responses publicly, on Thursday, January 19th, 2023 at 10:00 am. The Bid Opening will take place at the Marathon FKMCD Office, 503 107th Street, Gulf, Marathon, FL 33050.

The FKMCD reserves the right to reject any and all responses and to waive technical error and irregularities, as may be deemed best for the interests of the District.

13. Proprietary and Confidential Information

All Proposals received as a result of the ITN are subject to Chapter 119, Florida Statutes and will be made available for inspection by any person in accordance with Florida Statutes. Any Proposer asserting that any portion of its Proposal is confidential or exempt from disclosure under Florida's public records laws must specifically identify the portions of the Proposal asserted to be confidential and must provide specific citations of the Florida Statutes that establish the confidentiality or exemption.

All material that is designated as exempt from Chapter 119 must be submitted in a separate envelope, clearly identified as "Public Records Exempt" with your name and the Proposal Name marked on the outside. If that material is requested through a public records request, the County will notify the Proposer of the request and give the Proposer five (5) calendar days to obtain a court order blocking the production of the material. If court order is not issued during that time to block the production, the material will be produced.

14. Award of Contract

Proposers will be required to enter into a written contract. Final language will be negotiated in the contract negotiation phase. If a contract for delivery of the service or goods is unable to be completed within a reasonable amount of time the FKMCD or the Committee may enter into contract negotiations with a different Proposer. This process may continue until an agreement is reached. The FKMCD reserves the right to award a separate contract for the services for any reason and/or to re-advertise for all or part of the work considered. The FKMCD reserves the right to reject any proposal for any reason.

15. Indemnification

The proposer to whom a contract is awarded shall defend, indemnify and hold harmless the FKMCD as outlined below.

The Vendor covenants and agrees to indemnify, hold harmless and defend Florida Keys Mosquito Control District, its commissioners, officers, employees, agents and servants from any and all claims for bodily injury, including death, personal injury, and property damage, including damage

to property owned by the District, and any other losses, damages, and expenses of any kind, including attorney's fees, court costs and expenses, which arise out of , in connection with, or by reason of services provided by the Proposer or any of its Subcontractors, occasioned by the negligence, errors or other wrongful act or omission of the proposer, its Subcontractors, their officers, employees, servants or agents.

In the event that the service is delayed or suspended as a result of the Proposer/Vendor's failure to purchase or maintain the required insurance, the Vendor shall indemnify the county from any and all increased expenses resulting from such delay.

The first ten dollars (\$10.00) of remuneration paid to the Vendor is consideration for the indemnification provided for above. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

16. Execution of Contract

The FKMCD intends to make an award to a Vendor that best meets the needs of the FKMCD. An agreement resulting from the ITN must be governed by the laws of the State of Florida, and must have venue established in the State of Florida. The various bid proposals will be submitted to the Florida Keys Mosquito Control District Board of Commissioners for a final decision.

**FLORIDA KEYS MOSQUITO CONTROL DISTRICT
PROPOSAL FORM**

**RELEASE OF
PROPOSAL: December 5, 2022**

**PROPOSAL NO.
ITN 2022-06**

**PROPOSAL DUE:
January 18, 2023**

**RETURN THE SIGNED ORIGINAL AND FOUR SIGNED
COPIES OF THE PROPOSAL FORM,**

**RETURN THE SIGNED ORIGINAL AND FIVE SIGNED
COPIES OF THE PROPOSAL FORM,
NO OTHER PROPOSAL FORM WILL BE ACCEPTED**

NAME OF COMPANY

**PLEASE BE SURE THAT THE NAME OF
YOUR COMPANY APPEARS ON EACH
PAGE OF THIS PROPOSAL FORM.**

ADDRESS

PRINT NAME OF AUTHORIZED SIGNATURE

**USE TYPEWRITER OR PRINT PLAINLY.
IF SIGNED BY AN AGENT OF NAMED
COMPANY, WRITTEN EVIDENCE FROM
THE OWNER OF RECORD OF HIS/HER
AUTHORITY MUST ACCOMPANY THIS PROPOSAL.**

AUTHORIZED SIGNATURE

TELEPHONE No.

FAX

EMAIL ADDRESS

Proposal Certification

I hereby certify that: I am submitting the following information as my firm's (proposer) proposal and am authorized by proposer to do so; proposer agrees to complete an unconditional acceptance of the contents of this Invitation to Negotiate, and all appendices and the contents of any Addenda released hereto; proposer agrees to be bound to any and all specifications, terms and conditions contained in the Invitation to Negotiate, and any released Addenda and understands that the following are requirements of this ITN and failure to comply may result in disqualification of proposal submitted; proposer has not divulged, discussed, or compared the proposal with other proposers and has not colluded with any other proposer or party to any other proposal; proposer acknowledges that all information contained herein is part of the public domain as defined by the State of Florida Sunshine and Public Records Laws; all responses, data and information contained in this proposal are true and accurate.

Signature of Proposer's Authorized Representative:

_____ Date _____
(Blue ink preferred on original)

Name of Proposer's Authorized Representative _____

Title of Proposer's Authorized Representative _____

ITN 2022-06

Airbus H125 Factory New Helicopter Retrofit Specifications

<u>AIRCRAFT</u>
Standard H125 Airbus Helicopter Date of Manuf. 2022; S/N: 9345; Purchased
ADDITIONAL AIRFRAME EQUIPMENT
RSG Air Cond. System mounted in R/H cargo Door area STC: SH3509SW
(DART) Full Length protective Carbide Landing Gear Skid Tubes
Donaldson Engine Air Inlet Barrier Filter B3, Dual Hyd. STC SR02560CH
Tail Boom Battery Re-Location STC SR00422NY; utilizing Concorde RG350E Lead Acid Battery
Cable Cutter (WSPS) STC: SR03279NY
R/H Side Dual Cargo Mirrors (STC SR00457NY)
Upper Fwd. Cabin Door Strut Re-Location on both LH/RH doors
Dual Controls w/Twist Grip B3E Only
Engine Wash Kit with Bottle
Rear Maintenance Step LH & RH (ECL) STC SR00916NY
L/H & R/H Access Steps SH967NE
ADDITIONAL MISSION EQUIPMENT
NVG "Certified" Cabin/Cockpit
AgNav Platinum System Pwith OLED Light Bar; P550S GPS; NVIS (K-PLAT-887-P5550-NVIS) **To include all cables and connections plus RAM X-Grip; Ram 1.5in.; Apple Tablet Holder and Ball Mount to include all required cables, connectors, etc.
AGNAV K-GFC-PROX Sensor Switch Kit (1)
ISOLAIR Dry Broadcaster (4500-H125) Complete system
Granular Flow Controller Proximity Sensor Kit
ISOLAIR SWITCH CHANGES to incorporate Annunciators at/on Instrument Panel
ULV Flow Control System included: ULV Motor Pump & Flow Meter & ULV Flow Control Harness
UFC Flow Controller System included: 1.5" Flow Control System / 10-100LPM AG-Flow II V-TY; UFC Flow Controller Harness:
Dual Granular Flow Controller Kit (K-GFC-Dual)Dual Granular System Aluminum Type-2; Includes : Unified Flow Controller Module; Dual Granular UFC Controller Harness-New Style
Isolair 3900 Composite ULV Tank system, Does not include atomizers; Belly Tank mounted system with Poly inner tank; All wiring, cannon plugs, cables, connectors to be included.
2 each Atomizers AU6539 needed for ULV System
Wire Harness Assembly fabrication for Spray Systems

ITN 2022-06

Airbus H125 Factory New Helicopter Retrofit Specifications

ADDITIONAL AVIONICS / ELECTRICAL MODIFICATIONS
Radar Altimeter Garmin GRA5500 to be displayed onto Garmin G500 TXi
Radar Altimeter Indicator / GI-205 / Garmin
GTN HTWAS Enablement GTNx50 (Garmin)
AGNAV Display Unit on R/H Pilot Glareshield. Incl.
Davtron Clock M850-28V-NVG-24
Garmin GFC600H 3 Axis Auto Pilot
Flight Following Spidertracks
Flight Following to be intergrated with Hourmeter & Xmsn Oil Pressure (Incl.)
Dual USB Charging Port; Non-Lit / TA102 / Mid Continent
Re-Locate Pitot-Static System STC SR01289SE
Re-Locate Belly Mounted OAT Probes to Aft. Location
Re-locate Isolair Pump On/Off Switch to Cyclic
EFIS- Flight Display-G500H Video Display Option
AIRCRAFT RE-ASSEMBLY POST COMPLETION; PAINTING; CERTIFICATIONS AND REQUIRED FLIGHT TESTING
Paint Dry System Hoppers to match aircraft colors and paint scheme
Paint DART Full Length landing gear skid tubes
Cabin Floor Rubber Coin Mat
DAR/DER Support for Experimental Airworthiness & 4500 Granular System FADEC testing; All Certification approvals
Liason Engineering/DER Certification / Flight test
Completion Labor
Provide all required Fluid/Oil Drain Hoses for Hydraulic system; MGB, T/R G/B; Engine Oils
Aircraft to be delivered with "Fresh Annual" Type Inspection performed.

287.133 PUBLIC ENTITY CRIME; DENIAL OR REVOCATION OF THE RIGHT TO TRANSACT BUSINESS WITH PUBLIC ENTITIES.

(1) As used in this section:

(a) "Affiliate" means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

(b) "Convicted" or "conviction" means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(c) "Convicted vendor list" means the list required to be kept by the department pursuant to paragraph (3)(d).

(d) "Department" means the Department of Management Services.

(e) "Person" means any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

(f) "Public entity" means the State of Florida, any of its departments or agencies, or any political subdivision. (g)

"Public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

(2)(a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. [287.017](#) for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

(b) A public entity may not accept any bid, proposal, or reply from, award any contract to, or transact any business in excess of the threshold amount provided in s. [287.017](#) for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months following the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with a person at the time of the commission of a public entity crime resulting in that person being placed on the convicted vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

(3)(a) All invitations to bid, requests for proposals, and invitations to negotiate, as defined in s. [287.012](#), and any contract document described by s. [287.058](#) shall contain a statement informing persons of the provisions of paragraph (2)(a).

(b) Any person must notify the department within 30 days after a conviction of a public entity crime applicable to that person or to an affiliate of that person. Any public entity which receives information that a person has been convicted of a public entity crime shall transmit that information to the department in writing within 10 days.

(c) If the department has reason to believe that a person or an affiliate has been convicted of a public entity crime, the department may issue a written demand upon that person or affiliate, concerning any such conviction or affiliation, to appear and be examined under oath, to answer interrogatories under oath, or to produce documents or other tangible evidence for inspection and copying. The department shall conduct any such inquiry in accord with applicable provisions of the Florida Rules of Civil Procedure.

(d) The department shall maintain a list of the names and addresses of those who have been disqualified from the public contracting and purchasing process under this section. The department shall publish an initial list on January 1, 1990, and shall publish an updated version of the list quarterly thereafter. The revised quarterly lists shall be electronically posted. Notwithstanding this paragraph, a person or affiliate disqualified from the public contracting and purchasing process pursuant to this section shall be disqualified as of the date the final order is entered.

(e)1. Upon receiving reasonable information from any source that a person has been convicted, the department shall investigate the information and determine whether good cause exists to place that person or an affiliate of that person on the convicted vendor list. If good cause exists, the department shall notify the person or affiliate in writing of its intent to place the name of that person or affiliate on the convicted vendor list, and of the person's or affiliate's right to a hearing, the procedure that must be followed, and the applicable time requirements. If the person or affiliate does not request a hearing, the department shall enter a final order placing the name of the person or affiliate on the convicted vendor list. No person or affiliate may be placed on the convicted vendor list without receiving an individual notice of intent from the department.

2. Within 21 days of receipt of the notice of intent, the person or affiliate may file a petition for a formal hearing pursuant to ss. [120.569](#) and [120.57\(1\)](#) to determine whether it is in the public interest for that person or affiliate to be placed on the convicted vendor list. A person or affiliate may not file a petition for an informal hearing under s. [120.57\(2\)](#). The procedures of chapter 120 shall apply to any formal hearing under this section except where they are in conflict with the following provisions:

a. The petition shall be filed with the department. The department shall be a party to the proceeding for all purposes.

b. Within 5 days after the filing of the petition, the department shall notify the Division of Administrative Hearings of the request for a formal hearing. The director of the Division of Administrative Hearings shall, within 5 days after receipt of notice from the department, assign an administrative law judge to preside over the proceeding. The administrative law judge, upon request by a party, may consolidate related proceedings.

c. The administrative law judge shall conduct the formal hearing within 30 days after being assigned, unless otherwise stipulated by the parties.

d. Within 30 days after the formal hearing or receipt of the hearing transcript, whichever is later, the administrative law judge shall enter a final order, which shall consist of findings of fact, conclusions of law, interpretation of agency rules, and any other information required by law or rule to be contained in the final order. Such final order shall place or not place the person or affiliate on the convicted vendor list.

e. The final order of the administrative law judge shall be final agency action for purposes of s. [120.68](#).

f. At any time after the filing of the petition, informal disposition may be made pursuant to s. [120.57\(4\)](#). In that event, the administrative law judge shall enter a final order adopting the stipulation, agreed settlement, or consent order.

3. In determining whether it is in the public interest to place a person or affiliate on the convicted vendor list, the administrative law judge shall consider the following factors:

a. Whether the person or affiliate committed a public entity crime.

b. The nature and details of the public entity crime.

c. The degree of culpability of the person or affiliate proposed to be placed on the convicted vendor list.

d. Prompt or voluntary payment of any damages or penalty as a result of the conviction.

e. Cooperation with state or federal investigation or prosecution of any public entity crime, provided that a good faith exercise of any constitutional, statutory, or other right during any portion of the investigation or prosecution of any public entity crime shall not be considered a lack of cooperation.

f. Disassociation from any other persons or affiliates convicted of the public entity crime.

g. Prior or future self-policing by the person or affiliate to prevent public entity crimes.

h. Reinstatement or clemency in any jurisdiction in relation to the public entity crime at issue in the proceeding.

i. Compliance by the person or affiliate with the notification provisions of paragraph (b).

j. The needs of public entities for additional competition in the procurement of goods and services in their respective markets.

k. Mitigation based upon any demonstration of good citizenship by the person or affiliate.

4. In any proceeding under this section, the department shall be required to prove that it is in the public interest for the person to whom it has given notice under this section to be placed on the convicted vendor list. Proof of a conviction of the person or that one is an affiliate of such person shall constitute a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list. Prompt payment of damages or posting of a bond, cooperation with investigation, and termination of the employment or other relationship with the employee or other natural person responsible for the public entity crime shall create a rebuttable presumption that it is not in the public interest to place a person or affiliate on the convicted vendor list. Status as an affiliate must be proven by clear and convincing evidence. If the administrative law judge determines that the person was not convicted or is not an affiliate of such person, that person or affiliate shall not be placed on the convicted vendor list.

5. Any person or affiliate who has been notified by the department of its intent to place his or her name on the convicted vendor list may offer evidence on any relevant issue. An affidavit alone shall not constitute competent substantial evidence that the person has not been convicted or is not an affiliate of a person so convicted. Upon establishment of a prima facie case that it is in the public interest for the person or affiliate to whom the department has given notice to be put on the convicted vendor list, that person or affiliate may prove by a preponderance of the evidence that it would not be in the public interest to put him or her on the convicted vendor list, based upon evidence addressing the factors in subparagraph 3.

(f)1. A person on the convicted vendor list may petition for removal from the list no sooner than 6 months from the date a final order is entered disqualifying that person from the public purchasing and contracting process pursuant to this section, but may petition for removal at any time if the petition is based upon a reversal of the conviction on appellate review or pardon. The petition shall be filed with the department, and the proceeding shall be conducted pursuant to the procedures and requirements of this subsection.

2. A person may be removed from the convicted vendor list subject to such terms and conditions as may be prescribed by the administrative law judge upon a determination that removal is in the public interest. In determining whether removal would be in the public interest, the administrative law judge shall give consideration to any relevant factors, including, but not limited to, the factors identified in subparagraph (e)3. Upon proof that a person's conviction has been reversed on appellate review or that he or she has been pardoned, the administrative law judge shall determine that removal of the person or an affiliate of that person from the convicted vendor list is in the public interest.

3. If a petition for removal is denied, the person or affiliate may not petition for another hearing on removal for a period of 9 months after the date of denial, unless the petition is based upon a reversal of the conviction on appellate review or a pardon. The department may petition for removal prior to the expiration of such period if, in its discretion, it determines that removal would be in the public interest.

(4) The conviction of a person for a public entity crime, or placement on the convicted vendor list, shall not affect any rights or obligations under any contract, franchise, or other binding agreement which predates such conviction or placement on the convicted vendor list. However, the administrative law judge in a proceeding instituted under this section may declare voidable any specific contract, franchise, or other binding agreement entered into after July 1, 1989, by a person placed on the convicted vendor list and a public entity, but only if the administrative law judge finds as fact that the person to be placed on the list has not satisfied the criteria set forth in sub-subparagraphs (3)(e)3.d., f., and g.

(5) The provisions of this section do not apply to any activities regulated by the Florida public Service Commission or to the purchase of goods or services made by any public entity from the Department of Corrections, from the nonprofit corporation organized under chapter 946, or from any accredited nonprofit workshop certified under ss. [413.032-413.037](#).

History.—s. 2, ch. 89-114; s. 1, ch. 90-33; s. 32, ch. 90-268; s. 259, ch. 92-279; s. 55, ch. 92-326; s. 217, ch. 95-148; s. 33, ch. 95-196; s. 4, ch. 95-420; s. 62, ch. 96-410; s. 58, ch. 99-13; s. 29, ch. 2002-207.

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

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to _____
(print name of the public entity)
by _____
(print individual's name and title)
for _____
(print name of entity submitting sworn statement)

whose business address is _____ and (if applicable) its Federal Employer Identification Number (FEIN) is _____. (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in paragraph 287.133 (1) (b), Florida Statutes, means a finding of guilt of a conviction of public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment of information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133 (1) ©, Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, member, and agents who are active in management of an entity.

6. Based on information and belief, that statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, share holders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with any convicted of a public entity crime subsequent to July 1, 1989.

_____The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting the sworn statement on the convicted vendor list. (Attached a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY INDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

(Date)

STATE OF _____

COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

Who, after first sworn by me, affixed his/her signature in the space provided

(name of individual signing)

above on this _____ day of _____, 20_____

NOTARY PUBLIC

My commission expires: