

Agreement Number: _____

F.E.I.D. Number: _____

Procurement Number: _____

D.M.S. Catalog Class Number: _____

This Master University Agreement (“Agreement”), entered into this _____ day of _____, _____ (“Effective Date”), between the State of Florida, Department of Transportation (“Department”), and _____, an educational unit as defined in Chapter 120, Florida Statutes (“University”), agree as follows:

1. SERVICE

- A. The Department retains the University to furnish certain services, information and items as described in specific, separate Task Work Orders (“TWO”). The parties agree in advance on these general terms and conditions that will be a part of each TWO issued under this Agreement. The Department and the University agree that except as specifically stated in any TWO, the provisions of this Agreement shall apply to all TWO’s entered into on or after the Effective Date of this Agreement.

2. PERIOD OF PERFORMANCE

- A. This Agreement shall begin upon the Effective Date and shall remain in effect for a period of ten (10) years, unless otherwise amended. Each TWO authorized under this Agreement shall specify a separate period of performance that is specific to the work being conducted. In the event there have been delays which would affect the project completion date contained in a TWO, the University shall submit a written request to the Department which identifies the reason(s) for the delay and the amount of time related to each reason. The Department will review the request and determine whether to grant all, part, or none of the requested extension.
- B. This Agreement may be renewed for a period that may not exceed three (3) years or the term of the original agreement, whichever is longer. Renewals are contingent upon satisfactory performance evaluations by the Department and subject to the availability of funds. This Agreement may be extended for a period not to exceed six (6) months, and only one (1) extension is permitted unless the failure to meet the criteria set forth in this Agreement for completion is due to events beyond the control of the University. Any renewal or extension must be in writing and is subject to the same terms and conditions set forth in this Agreement and any written amendments signed by the parties.

3. SCOPE

- A. The Department will issue specific TWOs that will contain independent Scopes of Service, Deliverables, Periods of Performance, and Methods of Compensation. Each TWO shall be signed by both the Department and the University.
- B. Any alteration to any TWO must be in writing, signed by the Department’s appropriate contracts officer, or designee, and an authorized representative of the University.

4. SUBCONTRACTING

- A. It is agreed that any subcontractor(s) required to carry out the work and tasks to be performed are specified in the TWO, subsequently identified, and subject to the prior written approval of the Department. Inclusion of subcontractor(s) in the TWO shall constitute the Department’s written approval of such subcontractor(s). The University must require that all subcontractors employed under each TWO grant the Department all of the rights and privileges of this Agreement and applicable TWOs, including, but not limited to, the Department’s right to secure materials or services from the subcontractor which might be a part of the subcontractor’s work production. The University is fully responsible for satisfactory completion of all subcontracted work. The University shall not sublet, assign, or transfer any work under the TWO to

any person or entity other than subcontractor(s) specified in the TWO without the prior written consent of the Department.

5. RENTAL OF SPACE, SPECIAL EQUIPMENT OR FACILITIES

- A. The actual cost to the University of renting any additional space, any equipment not identified as an operating capital outlay item under the above section, or facilities not owned by the University, but required to perform the work under a TWO, is approved by the Department to the extent identified in each TWO and shall be included in the compensation paid under the TWO as an expense.

6. COMPENSATION AND PAYMENT

- A. The Department agrees to pay the University compensation as detailed in Exhibit “B” Method of Compensation of each TWO. Each TWO under this Agreement will specify a maximum amount which may be increased or decreased by an amendment to the TWO. The State of Florida’s performance and obligation to pay under this Agreement or any of the TWOs issued under this Agreement are contingent upon an annual appropriation by the Legislature.
- B. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. Deliverable(s) must be received and accepted in writing as specified in the task work order prior to payment. If the Department determines that the performance of the University is unsatisfactory, the Department shall notify the University of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The University shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the University will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the University shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the University resolves the deficiency. If the deficiency is subsequently resolved, the University may bill the Department for the retained amount during the next billing period. If the University is unable to resolve the deficiency, the funds retained may be forfeited at the end of the task work order period.
- C. The TWO shall provide quantifiable, measurable and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The deliverables are set forth in Exhibit “A” Scope of Services of each TWO.
- D. Invoices shall be submitted by the University in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable and verifiable units of deliverables as established in Section 6.C. above and Exhibit “A” of each TWO. Deliverables must be received and accepted in writing by the Department’s Project Manager prior to payments.
- E. If the University utilizes a subcontractor, supporting documentation must establish that the deliverables were received and accepted in writing by the University and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Section 6.C. and Exhibit “A” of each TWO have been met.
- F. Bills for travel expenses specifically authorized in this Agreement shall be submitted on a travel form approved by the Department and will be paid in accordance with Section 112.061, F.S.
- G. Universities providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 5 working days to inspect and approve the goods and services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

- H. If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), F.S., will be due and payable, in addition to the invoice amount, to the University. Interest penalties of less than one (1) dollar will not be enforced unless the University requests payment. Invoices that have to be returned to a University because of University preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
- I. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Universities who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Division of Consumer Services at 1-877-693-5236.
- J. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during normal business hours during the period of this Agreement and for five years after final payment on each TWO is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the University's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- K. In the event the compensation established under any TWO is in excess of \$25,000.00, the following provisions of Section 339.135(6)(a), F.S., are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money shall be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one year."
- L. The University shall not charge more than a 25% indirect cost rate for all direct costs, unless otherwise agreed to in writing by the Department.
- M. Inclusion of the purchase of Tangible Personal Property as defined in Chapter 273.02 F.S., in a TWO shall constitute the Department's written approval of such purchase. The specific property(ies) identified will be subsequently transferred to and controlled by the Department upon completion of services unless otherwise defined in the TWO. Upon receipt of the property, the university shall forward to the Department a copy of the purchase invoice/property description/serial number and date of receipt. The Department will forward inventory control label(s) to be affixed to all property. The University will accommodate physical inventories required by the Department.

7. INTELLECTUAL PROPERTY RIGHTS

- A. The University shall be free to copyright material developed under this Agreement, provided that the Department reserves and the University, by accepting payment for any part of the TWO, grants the Department a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes. The Department's rights under any license in works developed under this Agreement shall also include the right to prepare, or have others prepare on behalf of the Department, derivative works for internal Department use. The Department shall not distribute such derivative works to third parties without the express written consent of the University, which consent shall not be unreasonably withheld.
- B. On all projects the parties agree that if possible inventions should result from any research pursuant to this Agreement, all title to such inventions shall vest in the University. However, the standard patent

rights clause at 37 CFR 401.14, except for 401.14 (g), is hereby incorporated into this Agreement. The University will retain all title to any intellectual property resulting from the research described herein.

Unless otherwise agreed to in the TWO, the University agrees to and grants to the Department and the U.S. Department of Transportation, on federally funded TWOs or to the Department only on State funded TWOs an irrevocable, nonexclusive, nontransferable, royalty-free, perpetual, world-wide license to practice each invention in the manufacture, use and disposition, on any Department or U.S. Department of Transportation projects only, according to law, of any article or material, and in the use of any method that may be developed as part of the work under this Agreement for government purposes. Included in such right shall be the right of any contractor to the Department on any Department project, to make full use of, and to practice any intellectual property, and such royalty-free right shall extend to any such contractors, subcontractors, materialmen, manufacturers, and suppliers on any Department projects only. The University shall include this provision in all subcontracts, regardless of tier, for all experimental, developmental, or research work undertaken in furtherance of this Agreement.

The University shall fully and promptly disclose to the Department all intellectual property conceived, created, or furnished under this Agreement.

The University shall be responsible for obtaining written intellectual property agreements with all persons working on the research described herein. Further, such agreements shall incorporate the license to the Department and U.S. Department of Transportation specified in this Agreement. The University agrees to indemnify the Department to the extent permitted by and within the limits of Section 768.28, F.S.

- C. In construing these provisions, the "University" includes any affiliated entity which the University may use to promote the development of the intellectual property.

8. CHANGES IN STUDY

- A. Any alteration to any TWO or any amendment to the terms of this Agreement must be in writing, signed by the Department's appropriate contracts officer, or designee, and an authorized representative of the University.

9. INSPECTION OF WORK

- A. The Department shall, at all reasonable times, which shall be agreed to by the Department and the University, be afforded proper facilities for review and inspection of the work under each TWO and shall at all reasonable times have access to: the premises where the work is performed; and all books, records, correspondence, instructions, receipt vouchers, and memoranda of every description pertaining to the work to be performed under each TWO. All reviews and inspections by the U.S. Department of Transportation will be arranged through the Department.

10. PERFORMANCE

- A. All work under each TWO shall be performed by the University to the satisfaction of the Department's Chief Engineer, or designee. If there is a dispute concerning satisfactory performance, the Department will obtain input or pertinent information from the University before making a final decision.

11. TERMINATION OF CONTRACT

- A. Either party may terminate this Agreement or any TWO executed under this Agreement by giving the other party thirty (30) days prior written notice. If the Agreement or TWO is terminated under this provision, the Department shall reimburse the University:
 - 1. For work satisfactorily performed and any noncancelable obligations entered into by the University as approved within the TWO Scope of Service, prior to notification to terminate the contract, for which costs can be substantiated
 - 2. For any minimal overhead costs required to close the TWO

- B. A copy of all work in progress shall become property of the Department and promptly shall be turned over to the Department by the University. The Department shall have no liability for any obligations of the University's subcontracts or other agreements entered into in connection with the work under any TWO.

12. COMPLIANCE WITH LAWS

- A. Any and all of the employees of the University engaged in the performance of any work or service required by the Department under any TWO shall be considered employees of the University only and not of the Department, and any and all claims that may or might arise under the employment of said employees, shall be the sole obligation and responsibility of the University. The employees, agents, representatives, contractors, or subcontractors of the University are not employees or agents of the Department. The Department shall not be bound by any unauthorized acts or conduct of said persons.
- B. To the extent permitted by Section 768.28, F.S., the University shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission or negligent act by the University, its agents, subcontractors, or employees, while acting within the scope of their employment by the University and under this Agreement or TWO issued pursuant to this Agreement. Neither the University, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense solely arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents or employees, during the performance of this Agreement.
- C. When the Department receives a notice of claim for damages that may have been caused by the University in the performance of services required under this Agreement, the Department will promptly forward the claim to the University. The University and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options for defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the University in the defense of the claim or to require that the University defend the Department in such claim as described in this section. The Department's failure to promptly notify the University of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the University. The Department and the University will each pay its own costs for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all trial costs.
- D. The University shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., unless exempted by Section 1004.22, F.S., made or received by the University in conjunction with this Agreement. The University shall extend this requirement to any subcontractors furnishing services, materials, or equipment under any TWO. Failure by the University or its contractors to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department. The University will advise the Department when it receives any public records request relating to this Agreement
- E. 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 Section 287.017, F.S. for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- F. The Department shall consider the employment by any university of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the University knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.
- G. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal,

or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply 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.

- H. The University agrees to comply with the Title VI Nondiscrimination Contract Provisions, Appendices A and E, available at <http://www.dot.state.fl.us/procurement/index.shtm>, incorporated herein by reference and made a part of this Agreement.
- I. The University agrees to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.

13. PROFESSIONAL LICENSURE

- A. If the University, or any of its employees, agents or subcontractors, is licensed by the Department of Business and Professional Regulation to perform the services required under any TWO, the provisions of Section 337.162, F.S., apply as follows:
 - 1. If the Department has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules, it shall submit a complaint about the violations to the Department of Business and Professional Regulation.
 - 2. Any person who is employed by the Department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his employment, has knowledge to believe that any person has violated the provisions of state professional licensing laws or rules shall submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to Chapter 455 F.S. and the state licensing law applicable to that licensee.
 - 3. Any complaints submitted to the Department of Business and Professional Regulation pursuant to paragraphs 1 and 2 may be confidential and exempt from Section 119.07(1), F.S., pursuant to Chapter 455, F.S., and applicable state law.

14. SOLICITATION

- A. The University warrants that it has not employed or retained any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the University, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the University, any fee, commission, percentage, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability, or, at its discretion, to deduct from the compensation payable under any TWO or other consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
- B. Pursuant to Section 216.347, F.S., the university may not expend any State funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.

15. RECORDS AND DATA

- A. The University shall maintain accounting records and other evidence pertaining to the costs incurred on each TWO. This data will be made available for inspection by the Department, at the office of the University, at dates and times mutually agreed to by the Department and the University, during the contract period and for five years after the date of the final payment on each TWO. A copy of such records shall be furnished if requested, at the sole cost of the University.

- B. Data collected under this Agreement and each TWO, together with summaries and charts derived therefrom, shall be provided to the Department unless otherwise agreed to in writing by the parties.
- C. Any TWO issued under this Agreement and funded with federal funds shall also be subject to the following provision. Records shall be maintained in accordance with Federal Acquisition Regulations Subpart 31.104 and Office of Management and Budget (OMB) Circulars A-21 and A-110. By this reference, said Subpart of the Federal Acquisition Regulations and OMB circulars are incorporated in and made a part of this Agreement. This data will be made available for inspection by the U.S. Department of Transportation or any authorized representative of the federal government.

16. MISCELLANEOUS

- A. This Agreement and any TWO embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and in any TWO and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties to this Agreement. In the event of a conflict between this Agreement and any TWO, the TWO shall govern and control, but only to the extent of such conflicts or inconsistencies between the TWO and the specific conflicting provision in the Agreement.
- B. It is understood and agreed by the parties that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portion or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.
- C. University:
 - 1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the University during the term of the contract; and
 - 2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- D. Appendix I of this Agreement "Terms of Federal Aid Contract" is applicable if the Appendix I is attached to the TWO.
- E. Appendix II of this Agreement "Information Technology Resources" is applicable if the Appendix II is attached to the TWO.
- F. Appendix III of this Agreement "Terms for Federal Transit Administration" is applicable if the Appendix III is attached to the TWO.
- G. In the event of any inconsistencies or conflicts between this Agreement and any Appendices attached to a TWO, the language of the attached Appendices shall control but only to the extent of such conflicts or inconsistencies between the Appendices and the specific conflicting provision in the Agreement.

17. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

18. PUBLICATION PROVISIONS

- A. If at any time during a TWO the University desires to publish in any form any material developed under the TWO, the University must submit to the TWO Manager a written abstract and notification of intent to publish the material and receive the TWO Manager's concurrence to publish. Such approval to publish

shall not be unreasonably withheld. If the TWO Manager's does not provide a written response within 30 days after receipt, the University may publish. The publication must include the following language:

"The opinions, findings and conclusions expressed in this publication are those of the author(s) and not necessarily those of the Florida Department of Transportation or the U.S. Department of Transportation."

B. Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussion of the study with small technical groups or lectures to employees or students. Lectures that describe the plans but disclose neither data nor results may be given to other groups without advance approval.

C. Upon completion of a TWO, the University may publish in any form any material developed under the TWO, the University is free to publish without concurrence or review by the Department. However, the publication should prominently contain the following statement:

"The opinions, findings and conclusions expressed in this publication are those of the author(s) and not necessarily those of the Florida Department of Transportation or the U.S. Department of Transportation."

D. Upon completion of a TWO:

1. The Department may elect to publish and distribute any material submitted under this agreement, or information and material contained therein.
2. The U.S. Department of Transportation may elect to distribute material submitted under this agreement with the Department's consent, for TWOs funded with federal funds.
3. The University and the Department are free to use the data and results without restrictions. Task Work Orders funded with federal funds will also include the U.S. Department of Transportation in this provision.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
MASTER UNIVERSITY AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement on the day, month and year below.

UNIVERSITY

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Date

Date

----- **For Department Use Only** -----

Legal Review

Procurement Review