



INVITATION FOR BID

IFB-190-24-OT

BANK LOAN

**FOR THE**

**CITY OF HOLLYWOOD, FLORIDA (CITY)**

**IFB Issue Date:** April 1, 2024

**Questions Due Date:** April 29, 2024

**Submittal Due Date:** May 6, 2024, 3:00 pm

City of Hollywood  
IFB-190-24-OT  
Bank Loan

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Attachments:

A - Hollywood Loan Agreement FINAL(692364873.4) DRAFT

B - O-2006-014

C - O-99-029

D - RESO Franchise Fee Resolution R-2019-242

E - Copy of Vehicle Purchased 23.24 revised dek

# 1. SUMMARY

## 1.1. Summary

The City of Hollywood, Florida (City) is seeking bids from qualified and experienced firms, hereinafter referred to as the Contractor or Bidder, for the purpose of for the purpose of financing the acquisition of municipal vehicles (hereinafter referred to as the “Loan”) for the City, in accordance with the terms, conditions, and specifications contained in this solicitation. The Loan is expected to bear interest on a tax-exempt basis.

## 1.2. Background

The City of Hollywood is a beachfront community located in southeastern Broward County midway between Miami and Fort Lauderdale. Founded by Joseph Young in 1925, Hollywood is approximately 30 square miles in size and is Broward’s third-largest municipality with a population of roughly 153,000 residents. Hollywood has an average annual high temperature of 83 degrees and low temperature of 68 degrees.

Hollywood is home to more than 60 parks, seven golf courses, seven miles of pristine beaches, and the one-of-a-kind Hollywood Beach Broadwalk, a promenade that stretches nearly 2.5 miles along the Atlantic Ocean. Named one of America's Best Beach Boardwalks by Travel + Leisure magazine, this brick-paved thoroughfare hosts pedestrians, joggers, bicyclists, rollerbladers, and millions of others every year. Dozens of eateries and inns line the Broadwalk and the promenade also features the Hollywood Beach Theatre, a children’s water playground at Charnow Park, and many other attractions. Hollywood Beach also offers dozens of luxury resort hotels and condominiums such as the Margaritaville Hollywood Beach Resort, Hyde Resort & Residences and Hollywood Beach Marriott. In addition to many independently owned and operated boutique inns and vacation properties.

Hollywood has steadily grown into a dynamic business hub with more than 10,000 companies in the City. Approximately 80 percent of Port Everglades, the world’s second-busiest cruise port, is located in Hollywood and the port is home to Royal Caribbean’s Allure of the Seas and Oasis of the Seas, the largest cruise liners in the world. Hollywood also provides easy access to Fort Lauderdale/Hollywood International Airport and Miami International Airport, a major gateway to Latin America. Hollywood also is home to the Memorial Healthcare System, the nation's fifth-largest healthcare network, its flagship hospital, Memorial Regional, and the Joe DiMaggio Children's Hospital, the largest free-standing children's healthcare facility in Broward County.

## 1.3. Contact Information

### **Otis Thomas**

Interim Chief Procurement Officer

Email: [othomas@hollywoodfl.org](mailto:othomas@hollywoodfl.org)

Phone: [\(954\) 921-3224](tel:(954)921-3224)

### **Department:**

Financial Services

1.4. Timeline

<b>Release Project Date</b>	April 1, 2024
<b>Question Submission Deadline</b>	April 29, 2024, 5:00pm
<b>Proposal Submission Deadline</b>	May 6, 2024, 3:00pm

## 2. INTRODUCTION

### 2.1. Purpose

The City of Hollywood, Florida (City) is seeking bids from qualified and experienced lenders, hereinafter referred to as the Contractor or Bidder, to provide Bank Loan for the City, in accordance with the terms, conditions, and specifications contained in this solicitation. Responses to this solicitation are due by Monday, May 6, 2024, by 3:00 pm.

Submittals shall be received electronically through OpenGov, the City's eProcurement Portal ("Portal").

Submittals shall be considered an offer on the part of the bidder/proposer, which offer shall be deemed accepted upon approval of the City, and in case of default, the City reserves the right to accept or reject any or all bids/proposals, to waive irregularities and technicalities, and request new bids/proposals. The City also reserves the right to award any resulting agreement as it deems will best serve the interests of the city.

**Submission of a bid/proposal shall serve as prima facie evidence that the Bidder/Proposer has examined this solicitation and is fully aware of all conditions affecting the provision of services and the evaluation criteria and scoring methodology as set forth in this solicitation document.**

### 2.2. Pre-bid Conference and/or Site Visit

There will not be a pre-bid conference or site visit for this solicitation.

It will be the sole responsibility of the Bidder to become familiar with the scope of the City's requirements prior to submitting a bid. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the Bidder has familiarized themselves with the nature and extent of the work, equipment, materials, and labor required.

### 2.3. OpenGov ("Portal")

The City of Hollywood uses OpenGov, the e-Procurement Portal ("Portal") (<https://procurement.opengov.com/portal/hollywoodfl>) to administer the competitive solicitation process, including but not limited to soliciting proposals, issuing addenda, posting results and issuing notification of an intended decision.

The City shall not be responsible for a Proposer's inability to submit a proposal by the proposal end date and time for any reason, including issues arising from the use of the Portal.

### 2.4. Point of Contact

For information concerning procedures for responding to this solicitation, contact the Point of Contact within the Office of Procurement Services, Otis Thomas, Interim Chief Procurement Officer at [atothomas@hollywoodfl.org](mailto:atothomas@hollywoodfl.org) or by phone at (954) 921-3224, or Otis Thomas Interim Director, Chief Procurement Officer (CPO) at [othomas@hollywoodfl.org](mailto:othomas@hollywoodfl.org) or by phone at 954-921-3224. Such contact is to be for clarification purposes only. All questions must be submitted in writing via the Portal by May 6, 2024, by 5:00 pm, in order to receive a timely response.

Project Manager: David E. Keller, email: [dkeller@hollywoodfl.org](mailto:dkeller@hollywoodfl.org), or by phone: (954) 921-3231.

For information concerning technical specifications, please utilize the question / answer feature provided by the Portal at <https://procurement.opengov.com/portal/hollywoodfl>. Questions of a material nature must be received prior to the cut-off date specified in the solicitation schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. (See addendum section of Portal). Bidders please note: No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the Bidder has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in the Portal shall become part of any contract that is created from this solicitation.

It is the sole responsibility of the Bidder to ensure that their bid is submitted electronically through the Portal at <https://procurement.opengov.com/portal/hollywoodfl>

## 2.5. Cone of Silence

The City of Hollywood City Commission adopted Ordinance No. O-2007-05, which created Section 30.15(F) imposing a Cone of Silence for certain City purchases of goods and Services.

The Cone of Silence refers to limits on communications held between vendors and vendor's representatives and City elected officials, management and staff during the period in which a Formal Solicitation is open.

The Ordinance does allow potential vendors or vendor's representatives to communicate with designated employees for the limited purpose of seeking clarification or additional information. The names and contact information of those employees that may be contacted for clarification or additional information are included in the solicitation.

The Cone of Silence does not prohibit a vendor or vendor's representative from communicating verbally, or in writing with the City Manager, the City Manager's designee, the City Attorney or the City Attorney's designee on those procurement items to be considered by the City Commission.

The Cone of Silence does not prohibit a vendor or vendor's representative from making public presentations at a duly noticed pre-bid conference or duly noticed evaluation committee meeting or from communicating with the City Commission during a duly noticed public meeting.

The Cone of Silence shall be imposed when a formal competitive solicitation has been issued and shall remain in effect until an award is made, a contract is approved, or the City Commission takes any other action which ends the solicitation.

To view the Cone of Silence, go to the City of Hollywood Code of Ordinance online, and [view Section 30.15F](#)

All communications regarding this bid should be sent in writing to the Procurement Services Division as identified in this bid.

### 3. SPECIAL TERM AND CONDITIONS

#### 3.1. Addenda, Changes, and Interpretations

It is the sole responsibility of each firm to notify the Point of Contact utilizing the question / answer feature provided in the Portal and request modification or clarification of any ambiguity, conflict, discrepancy, omission or other error discovered in this competitive solicitation. Requests for clarification, modification, interpretation, or changes must be received prior to the Question and Answer (Q & A) Deadline. Requests received after this date may not be addressed. Questions and requests for information that would not materially affect the scope of services to be performed or the solicitation process will be answered within the question / answer feature provided in the Portal and shall be for clarification purposes only. Material changes, if any, to the scope of services or the solicitation process will only be transmitted by official written addendum issued by the City and uploaded to OpenGov as a separate addendum to the solicitation. Under no circumstances shall an oral explanation given by any City official, officer, staff, or agent be binding upon the City and should be disregarded. All addenda are a part of the competitive solicitation documents and each firm will be bound by such addenda. It is the responsibility of each to read and comprehend all addenda issued.

#### 3.2. Changes and Alterations

Bidder may change or withdraw a Bid at any time prior to Bid submission deadline; however, no oral modifications will be allowed. Modifications shall not be allowed following the Bid deadline.

#### 3.3. Bidder's Costs

The City shall not be liable for any costs incurred by Bidders in responding to this solicitation.

#### 3.4. No Exclusive Contract

Bidder agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services from another vendor at the City's sole option.

#### 3.5. Responsive

In order to be considered responsive to the solicitation, the firm's bid shall fully conform in all material respects to the solicitation and all of its requirements, including all form and substance.

#### 3.6. Responsible

In order to be considered as a responsible firm, firm shall be fully capable to meet all of the requirements of the solicitation and subsequent contract, must possess the full capability, including financial and technical, to perform as contractually required, and must be able to fully document the ability to provide good faith performance.

#### 3.7. Minimum Qualifications

To be eligible for award of a contract in response to this solicitation, the Bidder must demonstrate that they have successfully completed services, as specified in the #SCOPE OF WORK/SERVICES section of this solicitation, are normally and routinely engaged in performing such services, and are properly and legally licensed (if required) to perform such work. In addition,

the Bidder must have no conflict of interest with regard to any other work performed by the Bidder for the City.

### 3.8. Award of Contract

Award may be in the aggregate, or by line item, or by group, whichever is determined to be in the best interest of the City. Award will be made to the responsive and responsible bidder, quoting the lowest price, for that product/service that will best serve the needs of the City.

The City also reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City.

As applicable, the City shall comply with Section 287.05701, Florida Statutes, in not considering or giving preference for an award based on a vendor's social, political, or ideological interest.

### 3.9. Contract Period

The initial contract term shall commence upon date of award by the City. The City reserves the right to renew the contract for two additional one-year terms, providing all terms, conditions and specifications remain the same, both parties agree to the renewal, and such renewal is approved by the City.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the City as authorized by the awarding authority. The extension period shall not extend for more than 120 days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City.

### 3.10. Rules and Submittals of Bids

The signer of the bid must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the bid is made without collusion with any other person(s), company or parties submitting a bid; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the bid has full authority to bind the principal bidder.

### 3.11. Conflict of Interests Prohibited

Any respondent submitting a response to this solicitation is responsible for being aware of, and complying with [Section 34.02](#) of the City Code of Ordinances. If you have questions concerning whether you may or may not need to comply with the ordinance, please contact the City of Hollywood, Procurement Office at 954-921-3299.

### 3.12. Protest Procedure

Any respondent who is not recommended for award of a contract and who alleges a failure by the City to follow the City's [Procurement Code](#) or any applicable law may protest to the CPO, by delivering a letter of protest to the CPO in accordance with [Section 38.52](#) of the City's [Procurement Code](#) within five days after a notice of intent to award is posted on the City's web



site, OpenGov, City Clerk's Office, Open Government, and/or City's Sunshine Board (<https://www.hollywoodfl.org/Archive.aspx?AMID=140>).

### 3.13. Insurance Requirements, if applicable

Contractor shall maintain, at its sole expense, during the term of this agreement the following insurances:

- A. **Commercial General Liability Insurance naming the City as an additional insured** with not less than the following limits:
  - General Aggregate \$1,000,000
  - Products-Comp/Op Aggregate \$1,000,000
  - Personal and Advertising Injury \$1,000,000
  - Each Occurrence \$1,000,000
  - Fire Damage \$50,000Coverage shall include contractual liability assumed under this agreement, products and completed operations, personal injury, broad form property damage, and premises-operations.
  
- B. **Commercial Automobile Liability Insurance naming the City as an additional insured** with not less than the following limits:
  - Combined Single Limit \$1,000,000Coverage shall include contractual liability assumed under this agreement, owned, hired and non-owned vehicles.
  
- C. **Worker's Compensation Insurance** Prior to the commencement of work governed by this contract, the contractor shall obtain Workers' Compensation Insurance with limits sufficient to respond to the applicable State statutes.
  - Limits of Liability: Statutory-State of Florida
  - Covering the contractor and the contractor's employees with not less than the following limits:
    - Employers Liability:
      - \$500,000, bodily injury by accident
      - \$500,000 bodily injury by disease, each employee
      - \$500,000 bodily injury by disease, policy limit

***The City of Hollywood needs to be the certificate holder as per the following format:City of Hollywood (nothing else on this line)Name of Department  
Department Address  
Department Address***

**Coverage shall be provided by a company or companies authorized to transact business in the state of Florida and the company or companies must maintain a minimum rating of A-VII, as assigned by the A.M. Best Company.**

**Please Note:** The Certificate shall contain a provision that coverage afforded under the policy will not be cancelled until at least thirty (30) days prior written notice has been given to the City. Certificates of insurance, reflecting evidence of the required insurance, shall be provided to the City. In the event the Certificate of Insurance provided indicates that the insurance shall terminate and lapse during the period of this Agreement, the vendor shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed Certificate of Insurance as proof that equal and like coverage for the balance of the period of the Agreement or extension thereunder is in effect.

The insurance policy shall not contain any exceptions that would exclude coverage for risks that can be directly or reasonably related to the scope of goods or services in this bid/proposal. A violation **of this requirement at any time during the term, or any extension thereof shall be grounds for the immediate termination of any contract entered in to pursuant to this bid/proposal. In order to show that this requirement has been met, along with an insurance declaration sheet demonstrating the existence of a valid policy of insurance meeting the requirements of this bid/proposal, the successful proposer must submit a signed statement from insurance agency of record that the full policy contains no such exception. The City reserves the right to require additional insurance in order to meet the full value of the contract.**

The City reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

### 3.14. Uncontrollable Circumstances (Force Majeure)

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, acts of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

- A. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and
- C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a

period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

### 3.15. Supplier Portal (Oracle) Payment Method

The City has implemented software that contains a supplier portal allowing suppliers to submit and update their information via the supplier portal. New suppliers will be required to register; and current suppliers will need to confirm and update their information.

Firms are responsible for ensuring that all contact, payment, and general information is updated at all times, and will not hold the City liable for any inaccurate information.

### 3.16. Debarred or Suspended Bidders or Proposers

Firm(s) certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any federal, state, county or municipal department or agency.

### 3.17. Public Records

#### **A. Public Records/Trade Secrets/Copyright:**

**All responses will become the property of the City. Lender's response to the solicitation is a public record pursuant to Florida law and is subject to disclosure by the City pursuant to Chapter 119.07, Florida Statutes ("Public Records law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this solicitation and the Contract to be executed for this solicitation, subject to the provisions of Chapter 119, Florida Statutes.**

Any language contained in the Consultant's response to the solicitation purporting to require confidentiality of any portion of the Consultant's response to the solicitation, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Consultant submits any documents or other information to the City that the Consultant claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Consultant shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Consultant must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Consultant's response to the solicitation constitutes a Trade Secret. The City's determination of whether an exemption applies shall be final, and the Consultant agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE SOLICITATION AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE SOLICITATION OR ANY PART THEREOF AS COPYRIGHTED.

## B. PUBLIC RECORDS GENERAL

**IF LENDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LENDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS SOLICITATION, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-921-3211, [pcerny@hollywoodfl.org](mailto:pcerny@hollywoodfl.org), City Clerk, 2600 Hollywood Boulevard, Hollywood, FL 33020.**

- Lender shall:
  - Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
  - Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes.
  - Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Consultant does not transfer the records to the City.
  - Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of this Contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of this Contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City. It is solely and exclusively the Contractor's responsibility to familiarize itself with Chapter 119, Florida Statutes, and to ensure compliance with its requirements.

### 3.18. Tie Breaker

In cases where there is a tie for the bid award, the award shall be made by giving preference to the low bidder(s) with the following items (in this order): (1) maintenance of a drug-free workplace in accordance with the requirements of Florida Statutes Section 287.087, (2) local Hollywood vendor preference, (3) closest proximity/location to project site or City Hall, and/or (4) minority-

owned or disadvantaged business status. If a tie still exists after the aforementioned tiebreakers are utilized, the Chief Procurement Officer will make a recommendation for award among the tied bidders.

### 3.19. Local Preference

When the lowest responsive responsible bidder is a non-Hollywood business and a responsive responsible local Hollywood vendor's Bid is within 5% of the Bid submitted by the lowest responsive responsible bidder, the local vendor is allowed to submit a second Bid. The second bid from the local Hollywood bidder must be lower than the bid submitted by the lowest responsive and responsible non-Hollywood bidder by at least 1% in order for the bid to be awarded to the local Hollywood bidder. If more than one responsive and responsible local Hollywood vendor is within 5%, each would be permitted to submit a best and final offer and the local Hollywood vendor submitting the lowest bid will be awarded the contract; provided, however, if none of the local Hollywood vendors bids are lower than the lowest responsive and responsible non-Hollywood bidder by at least 1%, the non- Hollywood bidder will be awarded the contract.

### 3.20. Contracting with Entities of Foreign Countries, if applicable

By responding to this solicitation, your entity certifies and attests under penalty of perjury to not being a "foreign country of concern" as defined under Sections 287.138 and 692.202, Florida Statutes, and compliance with all regulations within the statutes.

### 3.21. Federal Procurement Standards, if applicable

This solicitation shall be subject to Federal procurement standards as defined under Sections 200.317 through 200.327 of the Code of Federal Regulations (CFR) if funded by a Federal award, including all contract provisions/clauses under Section 200.327 of the CFR.

### 3.22. Bid Documents

These Bid documents constitute the complete set of Bid specifications and forms. All forms and documents must be executed, sealed and submitted as provided in Section 4 of this Bid. Bids not submitted on the prescribed Bid forms shall be rejected. By submitting a Bid, the Bidder agrees to be subject to all terms and conditions specified herein. No exception to the terms and conditions shall be allowed. Submittal of a response to this Bid constitutes a binding offer by the Bidder. Bidder's failure to comply with any provisions in this Bid may result in disqualification, at the sole discretion of the CITY. A draft Loan Agreement is attached to this solicitation. The successful bidder will execute a document substantially in the form of the Loan Agreement attached.

### 3.23. Additional Terms and Conditions

These Bid documents constitute the complete set of Bid specifications and forms. All forms and documents must be executed, sealed and submitted as provided in Section 4 of this Bid. Bids not submitted on the prescribed Bid forms shall be rejected. By submitting a Bid, the Bidder agrees to be subject to all terms and conditions specified herein. No exception to the terms and conditions shall be allowed. Submittal of a response to this Bid constitutes a binding offer by the Bidder. Bidder's failure to comply with any provisions in this Bid may result in disqualification, at the sole discretion of the CITY. A draft Loan Agreement is attached to this solicitation. The successful bidder will execute a document substantially in the form of the Loan Agreement attached.

### 3.24. Verbal Assignments

No verbal agreement or conversation with any officer, agent, or employee of the CITY, either before or after execution of the loan documents, shall affect or modify any of the terms or obligations contained in such documents. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the CITY or the LENDER.

### 3.25. Independence

On the form provided in Bid Submission Section of this Bid, the Bidder shall list, and describe any relationships – professional, financial or otherwise – that it may have with the CITY, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to this Bid. Additionally, the Bidder shall give the CITY written notice of any other relationships – professional, financial or otherwise – that it enters into with the CITY, its elected or appointed officials, its employees or agents or any of its agencies or component units during the term of the Loan.

### 3.26. Assignment: Non-Transferability of Bid

Bids shall not be assigned or transferred. A bidder who is, or may be, purchased by or merged with any other corporate entity during any stage of the Bid process, through to and including awarding of and execution of an Agreement, is subject to having its Bid disqualified as a result of such transaction. The Chief Procurement Officer shall determine whether a Bid is to be disqualified in such instances.

If, at any time during the Bid process, filings, notices or like documents are submitted to any regulatory agency concerning the potential acquisition of bidder, or the sale of a controlling interest in the Bidder, or any similar transaction, Bidder shall immediately disclose such information to CITY. Failure to do so may result in the Bid being disqualified, at the CITY'S sole discretion.

### 3.27. Legal Requirements

Bidders are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to this Bid. Lack of knowledge of the Bidder shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

### 3.28. Familiarity with Laws and Ordinances

The submission of response to this Bid shall be considered as a representation that the Bidder is familiar with all applicable federal, state and local laws, ordinances, rules and regulations; and no plea of misunderstanding shall be considered on account of ignorance thereof. If the Bidder discovers any provisions in the Bid documents that are contrary to or inconsistent with any law, ordinance, or regulation, Bidder shall report it to the CITY in writing without delay.

### 3.29. Advertising

In submitting a Bid, Bidder agrees not to use the results therefrom as a part of any Advertising or Bidder sponsored publicity without the express written approval of the City Manager or designee.

### 3.30. Withdrawal or Revision of Bid Prior To and After Opening

A Bidder shall not withdraw, modify or correct a Bid after it has been deposited with the CITY. The withdrawal, modification or correction of a Bid after it has been deposited with the CITY shall constitute a breach by the Bidder. No Bidder may withdraw its Bid, or modify the interest rate offered, within thirty-five (35) calendar days after the Submittal Deadline.

### 3.31. City's Exclusive Rights

The CITY reserves the exclusive rights to:

- A. Waive any deficiency or irregularity in the selection process;
- B. Accept or reject any or all qualifications statements in part or in whole;
- C. Request additional information as appropriate; and,
- D. Reject any or all submittals if found by the City Commission not to be in the best interest of the CITY.

In the event the City receives only one response to this Bid, the CITY reserves the right to reject the sole response.

By submitting a bid for the Loan, all Bidders acknowledge and agree that no enforceable loan arises until the CITY signs the loan documents, that no action shall lie to require the CITY to sign such loan documents at any time, and that each Bidder waives all claims to damages, lost profits, costs, expenses, reasonable attorneys' fees, etc., as a result of the CITY not signing such loan documents.

### 3.32. Review of the Bid Documents

By the submission of a Bid, the Bidder certifies that a careful review of the Bid documents has taken place, and that the Bidder is fully informed and understands the requirements of the Bid documents.

### 3.33. Adjustment/Changes/Deviations

No adjustments, changes or deviations to the Bid shall be accepted unless the conditions or specifications of the Bid expressly so provide.



## 4. SCOPE OF WORK/SERVICES

### 4.1. General Purpose

The City of Hollywood, Florida (the “City”) seeks to borrow funds from a qualified financial institution (the “Lender”) for the purpose of financing the acquisition of municipal vehicles (hereinafter referred to as the “Loan”). The Loan is expected to bear interest on a tax-exempt basis.

### 4.2. Conditions and Limitations

The CITY shall select the bid that is, in its sole opinion, in the best interests of the CITY considering the interest rates, closing costs, general covenants and conditions, and prepayment features of the bid(s) for the loan described below and the acceptability to the CITY of the necessary documentation. The CITY reserves the right to further negotiate the terms and conditions of any bid.

The CITY reserves the right to reject any and all bids, to waive any informalities or irregularities in any bid received, to re-advertise for bids, to request clarification of information or take any other such actions that may be deemed in the best interest of the CITY.

Costs associated with the preparation and submission of any bid shall be the sole responsibility of the bidder and shall not be reimbursed by the City.

### 4.3. Description of Intended Uses

A tax-exempt loan (referred to herein as the “Loan”) in a principal amount of not to exceed \$6,600,000 to fund the purchase of municipal vehicles. This loan will match the useful life of the vehicles and will be for a period of 5 years based on the estimated amortization below.

The Loan will be secured by a lien on and pledge of the City’s private hauler franchise fee collections. The City intends to select the bid containing, in its sole opinion, the best overall terms for the Loan considering, among other things, the interest rate and costs.

### 4.4. The Loan

The principal amount of the Loan will not exceed \$6,600,000. The Loan will be issued as a tax-exempt obligation.

A. The Loan and structure will be divided as follows:

- **The Loan:** Loan to finance the acquisition of vehicles for various departments of the City for municipal use.

B. Security:

The Loan will be secured by a lien on and pledge of the City’s private hauler franchise fee revenues. The City will also have the right to issue additional parity debt after satisfying an additional bonds test requiring at least 1.25x coverage from pledged revenues. Please see the attached draft Loan Agreement.

The private hauler franchise fee is set at 30% of gross receipts for commercial sanitation services. A collection history for the last five years is shown below:



2019	\$3,283,843
2020	\$3,438,631
2021	\$4,153,574
2022	\$5,094,393
2023	\$5,734,950

Additional financial information can be found on the City’s website:

<https://www.hollywoodfl.org/538/Annual-Financial-Pension-Fund-Reports>

C. Interest Rate (applicable to each Loan):

- **Interest Rate.** A fixed interest rate for the term of the Loan must be provided in Form 4, Fee Schedule. **The rate offered in the response must be locked for 40 days. Please note it is acceptable and preferred to lock a formula, such as “X” basis points relative to SOFR. A fixed interest rate or the formula must be specified and locked for 40 days.**
- **Interest Calculation.** Interest is payable quarterly based on a 360-day year consisting of 12, 30-day months for the actual number of days elapsed.

D. Amortization (applicable to the Loan):

Level year amortization amounts based upon the loan structure as denoted in 2.4.1; Draws on the Loan:

The CITY shall draw the total amount of the Loan at closing.

E. Repayment Terms:

Principal and interest on the Loan shall be payable commencing on August 1, 2024 and shall be payable thereafter in quarterly installments of principal and interest on each November 1, February 1, May 1, and August 1. With the first payment on August 1, 2024, last payment of interest and principal shall occur on May 1, 2029. Should any payment date fall on a Saturday, Sunday, or a legal holiday, the payment shall be made on the next business day.

The amortization schedule should be in substantially in the form as shown below, with the fixed interest applicable to the Loan included.

Estimated Loan closing date is June 12, 2024. Date is preliminary and subject to change.

City of Hollywood, FL  
Private Hauler Franchise Fee Revenue Note, Series 2024  
Assumes Bank Loan Rate of 4.5% as of 3/19/24  
\*Preliminary & Subject to Change\*

Dated Date                   06/12/2024  
Delivery Date               06/12/2024

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
08/01/2024	165,000	4.500%	40,425.00	205,425.00	
11/01/2024	306,000	4.500%	72,393.75	378,393.75	
02/01/2025	309,000	4.500%	68,951.25	377,951.25	
05/01/2025	313,000	4.500%	65,475.00	378,475.00	1,340,245.00
08/01/2025	316,000	4.500%	61,953.75	377,953.75	
11/01/2025	320,000	4.500%	58,398.75	378,398.75	
02/01/2026	323,000	4.500%	54,798.75	377,798.75	
05/01/2026	327,000	4.500%	51,165.00	378,165.00	1,512,316.25
08/01/2026	331,000	4.500%	47,486.25	378,486.25	
11/01/2026	334,000	4.500%	43,762.50	377,762.50	
02/01/2027	338,000	4.500%	40,005.00	378,005.00	
05/01/2027	342,000	4.500%	36,202.50	378,202.50	1,512,456.25
08/01/2027	346,000	4.500%	32,355.00	378,355.00	
11/01/2027	350,000	4.500%	28,462.50	378,462.50	
02/01/2028	353,000	4.500%	24,525.00	377,525.00	
05/01/2028	357,000	4.500%	20,553.75	377,553.75	1,511,896.25
08/01/2028	361,000	4.500%	16,537.50	377,537.50	
11/01/2028	365,000	4.500%	12,476.25	377,476.25	
02/01/2029	370,000	4.500%	8,370.00	378,370.00	
05/01/2029	374,000	4.500%	4,207.50	378,207.50	1,511,591.25
	6,600,000		788,505.00	7,388,505.00	7,388,505.00

F. Prepayment (applicable to the Loan):

The CITY prefers the ability to prepay the loan without penalty. Other options may be considered, but preference will be given to proposals that allow for prepayment without penalty.

4.5. Additional Provisions

- A. Identify a fully taxable interest rate for the Loan in the event the Loan becomes fully taxable. Other than the Loan being declared taxable solely as a result of the City’s action or inaction, no additional “gross-up” or “yield maintenance” will be permitted.
- B. Indicate the fees and expenses of the bank to be paid by the CITY, if any, other than interest on the outstanding loan amounts for the Loan. Any and all bank fees should be included including a not to exceed fee for bank counsel. Greenberg Traurig serves as

the City's Bond Counsel. Fees and expenses of Bond Counsel and the City's Municipal Advisor, Hilltop Securities, will be paid by the City.

- C. This solicitation is accompanied by a draft of the Loan Agreement which the City intends to use to document the Loan. The Lender will be required to execute a document substantially in the form of the Loan Agreement attached hereto. The form Loan Agreement contains standard and customary representations, warranties and covenants for borrowings such as the Loan. If a bidder requires any changes to the representations, warranties or covenants contained in the Loan Agreement, or any additional representations, warranties or covenants, or any other provisions not included in the draft Loan Agreement, any such changes or additional provisions must be specified in the bidder's response to this solicitation, with an explanation of why such revised or additional representation, warranty, covenant or provision is necessary.
- D. Acceleration is not permitted as a remedy of an event of default.
- E. The Loan and the Loan Agreement shall be governed by Florida law. The parties submit to the jurisdiction of, and agree to venue in, any Florida State or Federal court located in Broward County, Florida, in any action or proceeding arising out of, or relating to, the Loan. The parties expressly waive all rights to trial by jury for any disputes arising from or in any way connected with the Loan, nor will they be required to submit to any binding arbitration. In the event of any litigation, each party shall pay its own attorneys' fees and costs.
- F. The CITY shall not be required to indemnify the LENDER for any loss, claims or expenses incurred by the LENDER arising from or relating to the Loan, the CITY's actual use of the proceeds of the Loan, any commitment of the LENDER to loan or any matter relating to the documentation of the Loan, including but not limited to, reasonable legal fees.
- G. No debt service reserve will be required or provided.
- H. The additional bonds test – any additional debt on parity with the Loan shall be permitted, provided that the City evidences an additional bond test coverage of not less than 1.25x. Please see the attached draft Loan Agreement.
- I. The Loan is meant to be a loan and not a direct placement/security. The successful bidder will be required to complete and submit the Lender's Certificate.
- J. The CITY will not accept any form of covenant that would require it to maintain any depository balances with the Lender.
- K. The CITY will not accept any form of covenant that would grant to the Lender "most favored nation" status with respect to loan terms that the CITY might negotiate in the future with a different lender.

#### 4.6. [Questions](#)

Any questions concerning this solicitation shall be submitted in OpenGov by no later than 5:00 pm EST on April 29, 2024, and responses and/or an Addendum will be issued in response thereto.

#### 4.7. [Conditions and Limitations](#)

The CITY shall select the bid that is, in its sole opinion, in the best interests of the CITY considering the interest rates, closing costs, general covenants and conditions, and prepayment features of the bid(s) for the loan described below and the acceptability to the CITY of the necessary documentation. The CITY reserves the right to further negotiate the terms and conditions of any bid.

The CITY reserves the right to reject any and all bids, to waive any informalities or irregularities in any bid received, to re-advertise for bids, to request clarification of information or take any other such actions that may be deemed in the best interest of the CITY.

Costs associated with the preparation and submission of any bid shall be the sole responsibility of the bidder and shall not be reimbursed by the City.

#### 4.8. [Attachments](#)

Draft Loan Agreement

Two ordinances

One resolution related to Private Hauler Franchise

Listings of vehicles

## 5. BID SUBMISSIONS

The responsibility for submitting a bid/proposal on or before the time and date is solely and strictly the responsibility of the bidder/proposer, the City will in no way be responsible for delays caused by technical difficulty or caused by any other occurrence. No part of a bid/proposal can be submitted via FAX or via direct Email to the City. No variation in price or conditions shall be permitted based upon a claim of ignorance.

### 5.1. [Bid Submittal. Please exclude uploading any CONFIDENTIAL / PROPRIETARY information here\\*](#)

Lenders shall upload complete bid responses here according to the solicitation requirements in Section 4, and as summarized below to items contained:

- Section 4.4 - The Loan
- Section 4.5 - Additional Provisions
- Form 1 Acknowledgement and Signature Page Form 2 Hold Harmless and Indemnity Clause
- Form 2 Hold Harmless and Indemnity Form
- Form 3 Affirmation of Closing Date Affidavit
- Form 4 Fee Schedule
- Form 5 Form of Lender Letter of Representations
- Form 6 Independence Affidavit

\*Response required

### 5.2. [Please upload any CONFIDENTIAL / PROPRIETARY information here \(as applicable\).](#)

#### 5.3. [Bid Forms and Acknowledgments](#)

##### 5.3.1. [FORM 1 - ACKNOWLEDGMENT AND SIGNATURE PAGE\\*](#)

Please download the below documents, complete, and upload.

- [FORM 1 - ACKNOWLEDGMENT AND...](#)

\*Response required

##### 5.3.2. [FORM 2 - HOLD HARMLESS AND INDEMNITY CLAUSE\\*](#)

Please download the below documents, complete, and upload.

- [FORM 2 - HOLD HARMLESS AND ...](#)

\*Response required

##### 5.3.3. [FORM 3 - AFFIRMATION OF CLOSING DATE AFFIDAVIT\\*](#)

Please download the below documents, complete, and upload.

- [FORM 3 - AFFIRMATION OF CLO...](#)

\*Response required

#### **5.3.4. FORM 4 - FEE SCHEDULE\***

Please download the below documents, complete, and upload.

- [FORM 4 - FEE SCHEDULE.pdf](#)

\*Response required

#### **5.3.5. FORM 5 - FORM OF LENDER LETTER OF REPRESENTATIONS**

Please download the below documents, complete, and upload.

FORM 5 Winning Bidder will have to provide

- [FORM 5 - FORM OF LENDER LET...](#)

#### **5.3.6. FORM 6 - INDEPENDENCE AFFIDAVIT\***

Please download the below documents, complete, and upload.

- [FORM 6 - INDEPENDENCE AFFID...](#)

\*Response required

#### **5.3.7. VENDOR REFERENCE FORM\***

Please download the below documents, complete, and upload three (3) References.

- [Vendor Reference Form.pdf](#)

\*Response required

#### **5.3.8. HOLD HARMLESS AND INDEMNITY CLAUSE\***

I, an authorized representative, the contractor, shall indemnify, defend and hold harmless the City of Hollywood, its elected and appointed officials, employees and agents for any and all suits, actions, legal or administrative proceedings, claims, damage, liabilities, interest, attorney' s fees, costs of any kind whether arising prior to the start of activities or following the completion or acceptance and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part by reason of any act, error or omission, fault or negligence whether active or passive by the contractor, or anyone acting under its direction, control, or on its behalf in connection with or incident to its performance of the contract.

Please confirm

\*Response required

#### **5.3.9. NON-COLLUSION STATEMENT\***

I , being first duly sworn, depose that:

- A. He/she is an authorized representative of the Company, the Proposer that has submitted the attached Proposal.

- B. He/she has been fully informed regarding the preparation and contents of the attached Proposal and of all pertinent circumstances regarding such Proposal;
- C. Such Proposal is genuine and is not a collusion or sham Proposal;
- D. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Proposer, firm or person to submit a collusive or sham Proposal in connection with the contractor for which the attached Proposal has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer, firm or person to fix the price or prices, profit or cost element of the Proposal price or the Proposal price of any other Proposer, or to secure an advantage against the City of Hollywood or any person interested in the proposed Contract; and
- E. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Please confirm

\*Response required

**5.3.10. CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS\***

The applicant certifies that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- B. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- D. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

Please confirm

\*Response required

**5.3.11. DRUG-FREE WORKPLACE PROGRAM\***

A. IDENTICAL TIE PROPOSALS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie proposals will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employee that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program (if such is available in the employee's community) by, any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of these requirements.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Please confirm

\*Response required

**5.3.12. SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY \***



Florida Statute 112.313 prohibits the solicitation or acceptance of Gifts. “No Public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.” The term “public officer” includes “any person elected or appointed to hold office in any agency, including any person serving on an advisory body.”

The City of Hollywood/Hollywood CRA policy prohibits all public officers, elected or appointed, all employees, and their families from accepting any gifts of any value, either directly or indirectly, from any contractor, vendor, consultant, or business with whom the City/CRA does business.

The State of Florida definition of “gifts” includes the following:

- Real property or its use,
- Tangible or intangible personal property, or its use,
- A preferential rate or terms on a debt, loan, goods, or services,
- Forgiveness of indebtedness,
- Transportation, lodging, or parking,
- Food or beverage,
- Membership dues,
- Entrance fees, admission fees, or tickets to events, performances, or facilities,
- Plants, flowers or floral arrangements
- Services provided by persons pursuant to a professional license or certificate.
- Other personal services for which a fee is normally charged by the person providing the services.
- Any other similar service or thing having an attributable value not already provided for in this section.

Any contractor, vendor, consultant, or business found to have given a gift to a public officer or employee, or his/her family, will be subject to dismissal or revocation of contract.

As the person authorized to sign the statement, I certify that this firm will comply fully with this policy.

Please confirm

\*Response required

### **5.3.13. Certificate of Insurance\***

See requirements in the [#SPECIAL TERM AND CONDITIONS](#) section.

\*Response required

**5.3.14. PROOF OF SUNBIZ REGISTRATION\***

Enter company FEIN to be verified in Sunbiz

\*Response required

**5.4. ACKNOWLEDGMENT AND SIGNATURE PAGE**

**5.4.1. *If Corporation - Date Incorporated/Organized:\****

\*Response required

**5.4.2. *State Incorporated/Organized:\****

\*Response required

**5.4.3. *Remittance Address\****

\*Response required

**5.4.4. *Bidder/Proposer's Authorized Representative's Typed Full Name\****

\*Response required

**5.4.5. *IT IS HEREBY CERTIFIED AND AFFIRMED THAT THE BIDDER/PROPOSER CERTIFIES ACCEPTANCE OF THE TERMS, CONDITIONS, SPECIFICATIONS, ATTACHMENTS AND ANY ADDENDA. THE BIDDER/PROPOSER SHALL ACCEPT ANY AWARDS MADE AS A RESULT OF THIS SOLICITATION. BIDDER/PROPOSER FURTHER AGREES THAT PRICES QUOTED WILL REMAIN FIXED FOR THE PERIOD OF TIME STATED IN THE SOLICITATION.\****

Please confirm

\*Response required

**5.4.6. *THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF BIDDER/PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE BID/PROPOSAL NON-RESPONSIVE. THE CITY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY BID/PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER/PROPOSER TO THE TERMS OF ITS OFFER.\****

Please confirm

\*Response required

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

**5.5.1. *This form statement is submitted to the City of Hollywood by:\****  
(Print individual's name and title) (Print name of entity submitting sworn statement)

\*Response required

**5.5.2. *Sworn Statement Continuation:\****

Enter business address:

\*Response required

**5.5.3. *Sworn Statement Continuation:\****

Enter Federal Employer Identification Number (FEIN) is:

If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement.

\*Response required

**5.5.4. *Sworn Statement Continuation:\****

I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in an 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.

\*Response required

**5.5.5. *Sworn Statement Continuation:\****

I understand that "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 crime in Florida during the preceding 36 months shall be considered an affiliate.

Please confirm

\*Response required

**5.5.6. Sworn Statement Continuation:\***

I understand that "person," as defined in Paragraph 287.133(1)(e), Florida Statutes, 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, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

Please confirm

\*Response required

**5.5.7. Sworn Statement Continuation:\***

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

Division of Administrative Hearings, determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the Final Order).

*Select all that apply*

Neither the entity submitting sworn statement, nor any of its officers, director, 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, or an 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, but the Final Order entered by the Hearing Officer in a subsequent proceeding before a Hearing Officer of the State of the State of Florida,

\*Response required

**5.5.8. Sworn Statement Confirmation\***

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED 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 THAT

PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD

AMOUNT PROVIDED IN SECTION 287.017 FLORIDA STATUTES FOR A CATEGORY TWO OF

ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Please confirm

\*Response required

## 6. PRICING (BID FORM)

The City is seeking bids/proposals from qualified lenders for the items listed below in accordance with the terms, conditions, and specifications contained in this solicitation.

Please download FORM 4 - FEE Schedule, complete and upload with complete bid packet/response.

### FISCAL YEAR 2024 BANK LOAN NUMBER

A fixed interest rate for the term for each Loan must be provided below. The rate offered in the response must be locked for 40 days.

Line Item	Description	Unit of Measure	Percentage
1	Loan: Five Year Term – Tax-exempt Interest Rate	Rate	

## 7. GENERAL TERMS AND CONDITIONS

### 7.1. INTENT

It is the policy of the City to encourage full and open competition among all available qualified vendors. All vendors regularly engaged in the type of Work specified in the Bid Solicitation are encouraged to submit bids. To receive notification and to be eligible to bid vendor should be registered with OpenGov. Vendors may register with the OpenGov (registration is free) to be included on a mailing list for selected categories of goods and Services. In order to be processed for payment, any awarded vendor must register with the City by completing and returning a Vendor Application and all supporting documents. For information and to apply as a vendor, please visit our website at [hollywoodfl.org](http://hollywoodfl.org) to download an application and submit it to Procurement Services Division.

It is the intent of the City of Hollywood, FL (“the City”), through this solicitation and the contract conditions contained herein, to establish to the greatest possible extent complete clarity regarding the requirements of both parties to the agreement resulting from this solicitation.

Before submitting a bid/proposal, the Vendor shall be thoroughly familiarized with all contract conditions referred to in this document and any addenda issued before the bid/proposal submission date. Such addenda shall form a part of the SOLICITATION and shall be made a part of the contract. It shall be the Vendor's responsibility to ascertain that the bid/proposal includes all addenda issued prior to the bid/proposal submission date. Addenda will be posted on the City's internet site along with the SOLICITATION.

The terms of the SOLICITATION and the selected Vendor's bid/proposal and any additional documentation (e.g. questions and answers) provided by the Vendor during the solicitation process will be integrated into the final contract for services entered into between the City and the selected Vendor. The Vendor shall determine, by personal examination and by such other means as may be preferred, the conditions and requirements under which the agreement must be performed.

### 7.2. PROPOSER'S RESPONSIBILITIES

Proposers are required to submit their bids/proposals upon the following express conditions:

- A. Proposers shall thoroughly examine the drawings, specifications, schedules, instructions and all other contract documents.
- B. Proposers shall make all investigations necessary to thoroughly inform themselves regarding delivery of material, equipment or services as required by the SOLICITATION conditions. No plea of ignorance, by the proposer, of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the proposer to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation due the proposer.

- C. Proposers are advised that all City contracts are subject to all legal requirements provided for in the City of Hollywood Charter, Code of Ordinances and applicable County Ordinances, State Statutes and Federal Statutes.

### 7.3. PREPARATION OF BIDS/PROPOSALS

Bids/proposals shall be prepared in accordance with the bid/proposal response format. Bids/proposals not complying with this format may be considered non-responsive and may be removed from consideration on this basis. Each proposer, by making a bid/proposal, represents that this document has been read and is fully understood.

Bids/proposals will be prepared in accordance with the following:

- A. The City's enclosed bid/proposal Forms, in their entirety, are to be used in submitting your bid/proposal. NO OTHER FORM WILL BE ACCEPTED.
- B. All information required by the bid/proposal form shall be furnished. The proposer shall sign each continuation sheet (where indicated) on which an entry is made.
- C. Prices shall be shown and where there is an error in extension of prices, the unit price shall govern.

The City of Hollywood is exempt from payment to its vendors of State of Florida sales tax and, therefore, such taxes should not be figured into the SOLICITATION. However, this exemption does not apply to suppliers to the City in their (supplier) purchases of goods or services, used in work or goods supplied to the City. Proposers are responsible for any taxes, sales or otherwise, levied on their purchases, subcontracts, employment, etc. An exemption certificate will be signed where applicable, upon request. The City will pay no sales tax.

### 7.4. DESCRIPTION OF SUPPLIES

Any manufacturer's names, trade names, brand names, or catalog numbers used in these applications are for the purpose of describing and establishing minimum requirements or level of quality, standards of performance, and design required, and are in no way intended to prohibit the bidding of other manufacturers' items of equal material, unless specifications state "NO SUBSTITUTIONS."

Proposers must indicate any variances to the specifications, terms, and conditions, no matter how slight. If variations are not stated in the bid/proposal, it shall be construed that the bid/proposal fully complies with the Specifications, Terms and Conditions.

Proposers are required to state exactly what they intend to furnish; otherwise they shall be required to furnish the items as specified.

Proposers will submit, with their bid/proposal, necessary data (factory information sheets, specifications, brochures, etc.) to evaluate and determine the quality of the item(s) they are proposing.

The City shall be the sole judge of equality and its decision shall be final.



## 7.5. ADDENDA

The Procurement Services Division may issue an addendum in response to any inquiry received, prior to bid/proposal opening, which changes, adds to or clarifies the terms, provisions or requirements of the solicitation. The Proposer should not rely on any representation, statement or explanation, whether written or verbal, other than those made in this solicitation document or in any addenda issued. Where there appears to be a conflict between this solicitation and any addendum, the last addendum issued shall prevail. It is the proposer's responsibility to ensure receipt of all addenda and any accompanying documents. Proposer(s) shall acknowledge receipt of any formal Addenda electronically via the Portal as part of their bid/proposal. Failure to acknowledge receipt of formal addenda in its bid/proposal shall cause the City to deem the bid/proposal non-responsive provided, however, that the City may waive this requirement in its best interest.

## 7.6. REJECTION OF BIDS/PROPOSALS

To the extent permitted by applicable state and federal laws and regulations, the City reserves the right to reject any and all bids/proposals, to waive any and all informalities, irregularities and technicalities not involving price, time or changes in the commodities and/or services, and the right to disregard all nonconforming, non-responsive, unbalanced or conditional bids/proposals. Bids/proposals will be considered irregular and may be rejected if they show serious omissions, alterations in form, additions not called for, conditions or unauthorized alterations or irregularities of any kind.

The City also reserves the right to waive minor technical defects in a bid/proposal. The City reserves the right to determine, in its sole discretion, whether any aspect of a bid/proposal satisfies the criteria established in this Solicitation.

The City reserves the right to reject, in whole or in part, the bid/proposal of any Proposer if the City believes that it would not be in the best interest of the City to make an award to that Proposer, whether because the bid/proposal is not responsive or the Proposer is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criterion established by City.

The foregoing reasons for rejection of bids/proposals are not intended to be exhaustive.

The City may reject a bid/proposal if:

- A. The Proposer fails to acknowledge receipt of an addendum, or if
- B. The Proposer misstates or conceals any material fact in the bid/proposal, or if
- C. The bid/proposal does not strictly conform to the law or requirements of the SOLICITATION, or if
- D. The City is under a pre- lawsuit claim or current litigation with the proposer.
- E. The Proposer fails to acknowledge receipt of an addendum, or if
- F. The Proposer misstates or conceals any material fact in the bid/proposal, or if
- G. The bid/proposal does not strictly conform to the law or requirements of the SOLICITATION, or if

H. The City is under a pre- lawsuit claim or current litigation with the proposer.

The City may reject all bids/proposals whenever it is deemed in the best interest of the City to do so, and may reject any part of a bid/proposal unless the bid/proposal has been qualified as provided in herein.

### 7.7. WITHDRAWAL OF BIDS/PROPOSALS

- A. may not be withdrawn and shall be deemed enforceable for a period of 180 days after the time set for the SOLICITATION opening.
- B. Bids/proposals may be withdrawn prior to the time set for the SOLICITATION opening. Such request must be in writing.
- C. The City will permanently retain as liquidated damages the bid deposit furnished by any proposer who requests to withdraw a bid/proposal after the SOLICITATION opening.

### 7.8. BIDS/PROPOSALS TO REMAIN OPEN

All bids/proposals shall remain open for 180 calendar days after the day of the bid/proposal opening, but the City may, at its sole discretion, release any bid/proposal and return the bid/proposal Security prior to that date.

Extensions of time when bids/proposals shall remain open beyond the 180 day period may be made only by mutual written agreement between the City, the successful Proposer and the surety, if any, for the successful Proposer.

### 7.9. LATE BIDS/PROPOSALS OR MODIFICATIONS

Only bids/proposals received as of the opening date and time will be considered timely. Bids/proposals and modifications received after the time set for the opening will be returned unopened to the sender and rejected as late.

### 7.10. CONFLICTS WITHIN THE SOLICITATION

Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, the Technical Specifications, the SOLICITATION Submittal Section, or any addendum issued, the order of precedence shall be the last addendum issued, the SOLICITATION Submittal Section, the Technical Specifications, the Special Conditions, and then the General Terms and Conditions.

### 7.11. CLARIFICATION OR OBJECTION TO BID/PROPOSAL SPECIFICATIONS

If any person contemplating submitting a bid/proposal for this contract is in doubt as to the true meaning of the specifications or other SOLICITATION documents or any part thereof, they may submit requests for clarification to the Procurement Services Division on or before the date specified for a request for clarification. All such requests for clarification shall be made in writing electronically via the Portal and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the SOLICITATION, if made, will be made only by Addendum duly issued. A copy of such Addendum will be made available to each person receiving a Solicitation. The City will not be responsible for any other explanation or interpretation of the SOLICITATION

given prior to the award of the contract. Any objection to the specifications and requirements as set forth in this SOLICITATION must be filed in writing via the Portal's Question and Answer (Q&A) tab with the Chief Procurement Officer on or before the date specified for a request for clarification.

### 7.12. COMPETENCY OF PROPOSERS

Pre-award inspection of the Proposer's facility may be made prior to the award of a contract. Bids/proposals will be considered only from firms which are regularly engaged in the business of providing the goods and/or services as described in this SOLICITATION(s); have a record of performance for a reasonable period of time; and have sufficient financial support, equipment and organization to ensure that they can satisfactorily deliver the material and/or services if awarded a Contract under the terms and conditions herein stated. The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well established company in line with the best business practices in the industry and as determined by the proper authorities of the City.

The City may consider any evidence available to it of the financial, technical and other qualifications and abilities of a proposer, including past performance (experience) in making the award in the best interest of the City. In all cases the City of Hollywood shall have no liability to any proposer for any costs or expense incurred in connection with this SOLICITATION or otherwise.

### 7.13. QUALIFICATIONS OF PROPOSERS

No Bid/proposal will be accepted from, nor will any contract be awarded to any person who is in arrears to the City upon any debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is deemed responsible or unreliable by the City.

As part of the bid/proposal evaluation process, City may conduct a background investigation including a record check by the Hollywood Police Department. Proposer's submission of a bid/proposal constitutes acknowledgment of the process and consent to such investigation. City shall be the sole judge in determining a Proposer's qualifications.

### 7.14. CONSIDERATION OF BIDS/PROPOSALS

In cases where an item requested is identified by a manufacturer's name, trade name, catalog number, or reference, it is understood that the Vendor proposes to furnish the item so identified and does not propose to furnish an "equal" unless the proposed "equal" is pre-approved by the City.

References to any of the above are intended to be descriptive but not restrictive and only indicate articles that will be satisfactory. A bid/proposal of an "equal" will be considered, provided that the Vendor states in his bid/proposal exactly what he proposes to furnish, including sample, illustration, or other descriptive matter which will clearly indicate the character of the article covered by such bid/proposal. The designated City representative hereby reserves the right to approve as an "equal", or to reject as not being an "equal", any article proposed which contains major or minor variations from specifications requirements.

## 7.15. AWARD OF CONTRACT

If the Contract is to be awarded, it will be awarded, after evaluation by the City, to the responsible and responsive Proposer whom the City determines will be in the best interests of the City and not necessarily to the lowest cost Proposer. Proposers may be invited to an oral interview before the committee. A short list of finalists will be determined and presented to either the City Manager or his/her designee or to the City Commission, in accordance with the applicable City of Hollywood Code of Ordinances, and will make the final ranking for the purposes of negotiating a contract with the top ranked firm. The successful Proposer shall be required to sign a negotiated contract; the refusal or failure of a successful Proposer to execute a contract which contains the mandatory material terms and conditions contained in the SOLICITATION, shall be grounds for deeming the Proposer and/or the Proposer's bid/proposal non-responsive.

If applicable, the Proposer to whom award is made shall execute a written contract prior to award by the City Commission. If the Proposer to whom the first award is made fails to enter into a contract as herein provided, the Contract may be let to the next highest ranked Proposer who is responsible and responsive in the opinion of the City.

## 7.16. BASIS FOR AWARD, EVALUATION CRITERIA AND QUESTIONS

The qualification of bid/proposal responders on this project will be considered in making the award. The City is not obligated to accept any bid/proposal if deemed not in the best interest of the City to do so. The City shall make award to a qualified proposer based on fees submitted and responses to this SOLICITATION.

Failure to include in the bid/proposal all information outlined herein may be cause for rejection of the bid/proposal.

The City reserves the right to accept or reject any and all bids/proposals, in whole or in part, as determined to be in the best interest of the City in its sole discretion.

The City reserves the right to waive any informalities or irregularities in bids/proposals.

The City reserves the right to negotiate separately the terms and conditions or all or any part of the bids/proposals as deemed to be in the City's best interest in its sole discretion.

Information and/or factors gathered during interviews, negotiations and any reference checks, and any other information or factors deemed relevant by the City, shall be utilized in the final award. The final award of a contract is subject to approval by the City Commission.

## 7.17. AGREEMENT

An agreement shall be sent to the awarded proposer to be signed, witnessed, and returned to the City for execution. The City will provide a copy of the fully executed agreement to the awarded proposer.

## 7.18. NOTICE TO PROCEED

A signed purchase order, blanket purchase order or fully executed agreement will be the Proposer's authorization to proceed and may substitute for a "Notice to Proceed" form.

## 7.19. BID PROTESTS

The City shall provide notice of its intent to award or reject to all Proposers by posting such notice on the City's website.

After a notice of intent to award a contract is posted, any actual or prospective proposer who is aggrieved in connection with the pending award of the contract or any element of the process leading to the award of the contract may protest to the Director of Procurement Services. A protest must be filed within five business days after posting or any right to protest is forfeited. The protest must be in writing, must identify the name and address of the protester, and must include a factual summary of, and the basis for, the protest. Filing shall be considered complete when the protest, including a deposit, is received by the Procurement Services Division. Failure to file a protest within the time-frame specified herein shall constitute a full waiver of all rights to protest the City's decision regarding the award.

The written protest shall state in detail the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all pertinent documents.

A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.

Upon receipt of a formal written protest, the City shall stop award proceedings until resolution of the protest; unless it has been determined that the award of the contract without delay is necessary to protect substantial interests of the City.

Any and all costs incurred by a protesting party in connection with a bid protest shall be the sole responsibility of the protesting party.

Upon receipt of a protest of the pending award of a contract, a copy of the protest shall promptly be forwarded to the City Attorney. The City Attorney shall thereupon review the charge to determine its sufficiency, including whether the protest was timely filed. If upon review the City Attorney determines that the charge is insufficient, the City Attorney may issue a summary dismissal of the protest. If upon review the City Attorney determines that the charge is sufficient, a hearing of the protest committee shall be scheduled.

A protest committee shall have the authority to review, settle and resolve the protest. The committee shall consist of three members appointed by the City Manager. The committee's review shall be informal.

If the protest committee determines that the pending award of a contract or any element of the process leading to the award involved a significant violation of law or applicable rule or regulation, all steps necessary and proper to correct the violation shall be taken. If the committee determines that the protest is without merit,

The Director shall promptly issue a decision in writing stating the reason for the decision and furnish a copy to the protester and any other interested party, and the process leading to the award shall proceed.

## 7.20. REQUIREMENTS FOR SIGNING BIDS/PROPOSALS

Requirements for Signing Bid/Proposal:

- A. The bid/proposal must be signed in ink by an individual authorized to legally bind the person, partnership, company, or corporation submitting the bid/proposal. In cases where the bid/proposal is signed by a deputy or subordinate, the principal's proper written grant of authority to such deputy or subordinate must accompany the bid/proposal.
- B. Bids/proposals by corporations must be executed in the corporate name by the President or other corporate officers accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown below the signature.
- C. Bids/proposals by partnerships must be executed in the partnership name and signed by a general partner whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- D. All manual signatures must have the name typed directly under the line of the signature
- E. The above requirements apply to all SOLICITATION addenda.

## 7.21. EXAMINATION OF BID/PROPOSAL DOCUMENTS

Before submitting a bid/proposal, each Proposer must: examine the bid/proposal Documents thoroughly; consider federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress, performance, or provision of the commodities and/or services; study and carefully correlate Proposer's observations with the bid/proposal Documents, and notify the City's agent of all conflicts, errors and discrepancies in the bid/proposal Documents.

The submission of a bid/proposal will constitute an incontrovertible representation by the Proposer, that the Proposer has complied with every requirement of this SOLICITATION, that without exception, the bid/proposal is premised upon performing the services and/or furnishing the commodities and materials in accordance with such means, methods, techniques, sequences or procedures as may be indicated in or required by the bid/proposal Documents, and that the bid/proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of performance and furnishing of the goods and/or services.

## 7.22. PUBLIC RECORDS LAW

If applicable, for each public agency contract for services, the Proposer is required to comply with F.S. 119.0701, which includes the following:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- B. Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in F.S. Chapter 119 or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- D. Meet all requirements for retaining public records and transfer, at no cost, to the public agency, all public records in possession of the proposer upon termination of the contract



and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

Public records may be inspected and examined by anyone desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. Sealed Bids/proposals become subject to the public records disclosure requirements of FS. Chapter 119, notwithstanding a proposer's request to the contrary, at the time the City provides notice of a decision or intended decision, or 30 days after the bid/proposal opening, whichever is earlier.

Financial statements submitted in response to a request by the City may be confidential and exempt from disclosure.

Data processing software obtained under a licensing agreement which prohibits its disclosure may also exempt.

Proposers are hereby notified and agree that all information submitted as part of, or in support of SOLICITATION submittals will be available for public inspection after opening of SOLICITATION in compliance with Chapter 119 of the Florida Statutes. The proposer shall not, unless required as part of this SOLICITATION, submit any information in response to this invitation which the proposer considers to be a trade secret, proprietary or confidential. The submission, not required as part of this SOLICITATION, of any information to the City in connection with this invitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to the proposer.

### 7.23. INFORMATION

For information concerning procedure for responding to this Solicitation (SOLICITATION), contact the Point of Contact in the Section: [INTRODUCTION](#) - Point of Contact. Such contact shall be for clarification purposes only. **It is preferred that all other questions be submitted in writing via the Portal at least 10 calendar days prior to the bid/proposal due/opening date.**

### 7.24. MODIFICATION AND WITHDRAWAL OF BIDS/PROPOSALS

Bids/proposals must be modified or withdrawn electronically via the Portal at any time prior to the deadline for submitting bids/proposals. Withdrawal of a bid/proposal will not prejudice the rights of a Proposer to submit a new bid/proposal prior to the bid/proposal date and time. Except where provided in the following paragraph no bid/proposal may be withdrawn or modified after expiration of the period for receiving bids/proposals.

If, within twenty-four (24) hours after bids/proposals are opened, any Proposer files a duly signed written notice with the City and within five (5) calendar days thereafter demonstrates to the reasonable satisfaction of the City by clear and convincing evidence that there was a material and substantial mistake in the preparation of its bid/proposal, or that the mistake is clearly evident on the face of the bid/proposal but the intended correct bid/proposal is not similarly evident, then the Proposer may withdraw its bid/proposal and the bid/proposal Security will be returned.

## 7.25. OPEN END CONTRACT

No guarantee is expressed or implied as to the total quantity of commodities/services to be purchased under any open end contract. Estimated quantities will be used for bid/proposal comparison purposes only. The City reserves the right to issue purchase orders as and when required, or a blanket purchase order and release partial quantities as and when required or any combination of the preceding.

ORDERING: The CITY reserves the right to purchase commodities/services specified herein through Contracts established by other governmental agencies or through separate procurement actions due to unique or special needs. If an urgent delivery is required within a period shorter than the delivery time specified in the contract, and if the seller is unable to comply therewith, the City reserves the right to obtain such delivery from others without penalty or prejudice to the City or to the Proposer.

## 7.26. AUDIT RIGHTS

The City reserves the right to audit the records of the successful Proposer for the commodities and/or services provided under the Contract at any time during the performance and term of the Contract and for a period of three (3) years after completion and acceptance by the City. If required by the City, the successful Proposer agrees to submit to an audit by an independent certified public accountant selected by the City. The successful Proposer shall allow the City to inspect, examine and review the records of the successful Proposer in relation to this contract at any and all times during normal business hours during the term of the Contract.

## 7.27. LOCAL, STATE AND FEDERAL COMPLIANCE REQUIREMENTS

The Proposer shall comply with all local, state and federal directives, orders and laws as applicable to this SOLICITATION and subsequent contract(s) including, but not limited to:

- A. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this contract.
- B. All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).
- C. The Immigration and Nationality Act prohibits (i) the employment of an unauthorized alien when the employer knows the individual is an unauthorized alien and (ii) the employment of an individual without complying with the requirements of the federal employment verification system. If a proposer commits either of these violations, such violation shall be cause for unilateral cancellation of the contract.
- D. This Section applies only to any contract for goods or services of \$1 million or more: The Proposer certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List



and that it does not have business operations in Cuba or Syria as provided in section 287.135, Florida Statutes (2011), as may be amended or revised. The City may terminate this Contract at the City's option if the Proposer is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2011), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2011), as may be amended or revised.

### 7.28. FRAUD AND MISREPRESENTATION

Any individual, corporation or other entity that attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement, may be debarred from doing business with the City. The City as further sanction may terminate or cancel any other contracts with such individual, corporation or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

### 7.29. DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS

The proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subproposers are presently debarred or suspended by any Federal department or agency.

### 7.30. COLLUSION

More than one bid/proposal received for the same work from an individual, firm, partnership, corporation or association under the same or different names will not be considered. Reasonable grounds for believing that any Proposer is interested in more than one bid/proposal for the same work will cause the rejection of such bin which the Proposer is interested. If there are reasonable grounds for believing that collusion exists among the Proposers, the bids/proposals of participants in such collusion will not be considered.

### 7.31. COPELAND "ANTI-KICKBACK"

The Proposer and all subproposers will comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

### 7.32. FORCE MAJEURE

The Agreement which is awarded to the successful proposer may provide that the performance of any act by the City or Proposer hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces and in such event the City shall withhold payment due the Proposer for such

period of time. If the condition of force majeure exceeds a period of 14 days the City may, at its option and discretion, cancel or renegotiate this Agreement.

### 7.33. PUBLIC ENTITY CRIMES

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 on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a proposer, supplier, subproposer, 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 Florida Statutes, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

### 7.34. DRUG-FREE WORKPLACE PROGRAM

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids/proposals which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid/proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids/proposals will be followed if none of the tied vendors have a drug-free workplace program.

### 7.35. SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY

Proposer shall sign and submit the attached form indicating understanding and compliance with the City's and State's policies prohibiting solicitation and acceptance of gifts by public officers, employees and candidates. Failure to submit the signed form will result in your bid/proposal being declared non-responsive; provided, however, that a responsible proposer whose bid/proposal would be responsive but for the failure to submit the signed form in its bid/proposal may be given the opportunity to submit the form to the City within five calendar days after notification by the City, if this is determined to be in the best interest of the City.

### 7.36. CONFLICT OF INTEREST

The Proposer represents that:

No officer, director, employee, agent, or other consultant of the City or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

There are no undisclosed persons or entities interested with the Proposer in this Agreement. This Agreement is entered into by the Proposer without any connection with any other entity or person making a bid/proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the City, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or member of the immediate family or household of any of the aforesaid:

- A. Is interested on behalf of or through the Proposer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
- B. Is an employee, agent, advisor, or consultant to the Proposer or to the best of the Proposer's knowledge, any subproposer or supplier to the Proposer.

Neither the Proposer nor any officer, director, employee, agent, parent, subsidiary, or affiliate of the Proposer shall have an interest which is in conflict with the Proposer's faithful performance of its obligations under this Agreement; provided that the City, in its sole discretion, may consent in writing to such a relationship, and provided the Proposer provides the City with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the City's best interest to consent to such relationship.

The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

In the event the Proposer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, the Proposer shall promptly bring such information to the attention of the City's Project Manager. The Proposer shall thereafter cooperate with the City's review and investigation of such information, and comply with the instructions the Proposer receives from the Project Manager in regard to remedying the situation.

### 7.37. DISCRIMINATION

Any entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid/proposal on a contract to provide goods or services to a public entity, may not submit a bid/proposal on a contract with a public entity for construction or repair of a public building or public work, may not submit bids/proposals on leases of real property to a public entity, may not award or perform work as a proposer, supplier, subproposer, or consultant under contract with any public entity, and may not transact business with any public entity.

### 7.38. ADVICE OF OMISSION OR MISSTATEMENT

In the event it is evident to a Vendor responding to this SOLICITATION that the City has omitted or misstated a material requirement to this SOLICITATION and/or the services required by this SOLICITATION, the responding Vendor shall advise the contact identified in the SOLICITATION Clarifications and Questions section above of such omission or misstatement.

### 7.39. CONFIDENTIAL INFORMATION

Information contained in the Vendor's bid/proposal that is company confidential must be clearly identified in the bid/proposal itself. The City will be free to use all information in the Vendor's bid/proposal for the City's purposes, in accordance with State Law. Vendor bids/proposals shall remain confidential for 30 days or until a notice of intent to award is posted, which is sooner. The Vendor understands that any material supplied to the City may be subject to public disclosure under the Public Records Law.

#### 7.40. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. This shall apply notwithstanding such factors which include, but are not limited to, the place where the contract is entered into, the place where the accident occurs and not withstanding application of conflicts of law principles.

#### 7.41. LITIGATION VENUE

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District of Florida.

#### 7.42. SOVEREIGN IMMUNITY

Nothing in this agreement shall be interpreted or construed to mean that the city waives its common law sovereign immunity or the limits of liability set forth in Section 768.28, Florida Statute.

#### 7.43. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Proposer and the City under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

#### 7.44. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

The Contractor shall indemnify and hold harmless the City of Hollywood and its officers, employees, agents and instrumentalities from any and all liability, losses or damages. In addition, the City shall be entitled to attorney's fees and costs of defense, which the City of Hollywood, or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this project by the awarded proposer or its employees, agents, servants, partners, principals or subcontractors. Furthermore, the awarded proposer shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind of nature in the name of the City of Hollywood, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The awarded proposer expressly understands and agrees that any insurance protection required by the resulting agreement or otherwise provided by the awarded proposer shall cover the City of Hollywood, its officers, employees, agents and instrumentalities and shall include claims for damages resulting from and/or caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed by or utilized by the Contractor in the performance of the contract.

## 7.45. PATENT AND COPYRIGHT INDEMNIFICATION

The Proposer warrants that all deliverables furnished hereunder, including but not limited to: services, equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

The Proposer shall be liable and responsible for any and all claims made against the City for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the work, or the City's continued use of the deliverables furnished hereunder. Accordingly, the Proposer, at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the City and defend any action brought against the City with respect to any claim, demand, and cause of action, debt, or liability.

In the event any deliverable or anything provided to the City hereunder, or a portion thereof, is held to constitute an infringement and its use is or may be enjoined, the Proposer shall have the obligation, at the City's option, to (i) modify, or require that the applicable subproposer or supplier modify, the alleged infringing item(s) at the Proposer's expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the City, at the Proposer's expense, the rights provided under this Agreement to use the item(s).

The Proposer shall be solely responsible for determining and informing the City whether a prospective supplier or subproposer is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any deliverable hereunder. The Proposer shall enter into agreements with all suppliers and subproposers at the Proposer's own risk. The City may reject any deliverable that it believes to be the subject of any such litigation or injunction, or if, in the City's judgment, use thereof would delay the work or be unlawful.

The Proposer shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the work.

## 7.46. ADVERTISING

Vendor shall not advertise or publish the fact that the City has placed this order without prior written consent from the City, except as may be necessary to comply with a proper request for information from an authorized representative of a governmental unit or agency.

## 7.47. DISCLAIMER

The Hollywood may, in its sole discretion, accept or reject, in whole or in part, for any reason whatsoever any or all bids/proposals; re-advertise this SOLICITATION, postpone or cancel at any time this SOLICITATION process; or, waive any formalities of or irregularities in the bid/proposal process. Bids/proposals that are not submitted on time and/or do not conform to the City of Hollywood's requirements will not be considered. After all bids/proposals are analyzed, organization(s) submitting bid/proposal that appear, solely in the opinion of the City of Hollywood, to be the most competitive, shall be submitted to the City of Hollywood's City Commission, and the final selection will be made shortly thereafter with a timetable set solely by the City of Hollywood. The selection by the City of Hollywood shall be based on the bid/proposal, which is,

in the sole opinion of the City Commission of the City of Hollywood, in the best interest of the City of Hollywood. The issuance of this SOLICITATION constitutes only an invitation to make a bid/proposal to the City of Hollywood. The City of Hollywood reserves the right to determine, in its sole discretion, whether any aspect of the bid/proposal satisfies the criteria established by the City. In all cases the City of Hollywood shall have no liability to any proposer for any costs or expense incurred in connection with this bid/proposal or otherwise.

#### 7.48. TRADEMARKS

The City warrants that all trademarks the City requests the Vendor to affix to articles purchased are those owned by the City and it is understood that the Vendor shall not acquire or claim any rights, title, or interest therein, or use any of such trademarks on any articles produced for itself or anyone other than the City.

#### 7.49. RIGHT TO REQUEST ADDITIONAL INFORMATION

The City reserves the right to request any additional information that might be deemed necessary during the evaluation process.

#### 7.50. PROPOSAL PREPARATION COSTS

The Vendor is responsible for any and all costs incurred by the Vendor or his/her subproposers in responding to this solicitation.

#### 7.51. DESIGN COSTS

The successful Vendor shall be responsible for all design, information gathering, and required programming to achieve a successful implementation. This cost must be included in the base bid/proposal.

#### 7.52. ADDITIONAL CHARGES

No additional charges, other than those listed on the price breakdown sheets, shall be made. Prices quoted will include verification/coordination of order, all costs for shipping, delivery to all sites, unpacking, setup, installation, operation, testing, cleanup, training and Vendor travel charges.

#### 7.53. RIGHTS TO PERTINENT MATERIALS

All responses, inquires, and correspondence relating to this SOLICITATION and all reports, charts, displays, schedules, exhibits and other documentation produced by the Vendor that are submitted as part of the bid/proposal shall become the property of the City upon receipt, a part of a public record upon opening, and will not be returned.



## 7.54. INSURANCE REQUIREMENTS

See insurance requirements in the main solicitation document.

## 7.55. NATURE OF THE AGREEMENT

The Agreement incorporates and includes all negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in the Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in the Agreement, and that the Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that the Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

The Proposer shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the City in all aspects of the services performed hereunder.

The Proposer acknowledges that the Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all work and services under this Contract. All things not expressly mentioned in the Agreement but necessary to carrying out its intent are required by the Agreement, and the Proposer shall perform the same as though they were specifically mentioned, described and delineated.

The Proposer shall furnish all labor, materials, tools, supplies, and other items required to perform the work and services that are necessary for the completion of this Contract. All work and services shall be accomplished at the direction of and to the satisfaction of the City's Project Manager.

The Proposer acknowledges that the City shall be responsible for making all policy decisions regarding the Scope of Services. The Proposer agrees to provide input on policy issues in the form of recommendations.

The Proposer agrees to implement any and all changes in providing services hereunder as a result of a policy change implemented by the City. The Proposer agrees to act in an expeditious and fiscally sound manner in providing the City with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

## 7.56. AUTHORITY OF THE CITY'S PROJECT MANAGER

The Proposer hereby acknowledges that the City's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Bid/proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

The Proposer shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order

and regardless of whether the Proposer agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

The Proposer must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Project Manager and the Proposer are unable to resolve their difference, the Proposer may initiate a dispute in accordance with the procedures set forth in the section below. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

In the event of such dispute, the parties to this Agreement authorize the City Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the City Manager's purview as set forth above shall be conclusive, final and binding on the parties. Any such dispute shall be brought, if at all, before the City Manager within 10 days of the occurrence, event or act out of which the dispute arises.

The City Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether the Proposer's performance or any deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the City Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Proposer to the City Manager for a decision, together with all pertinent information in regard to such questions, in order that a fair and impartial decision may be made. The parties agree that whenever the City Manager is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be deemed fair and impartial when exercised or taken. The City Manager shall render a decision in writing and deliver a copy of the same to the Proposer. Except as such remedies may be limited or waived elsewhere in the Agreement, the Proposer reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

## 7.57. MUTUAL OBLIGATIONS

This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereof unless acknowledged in writing by the duly authorized representatives of both parties.

Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

In those situations where this Agreement imposes an indemnity or defense obligation on the Proposer, the City may, at its expense, elect to participate in the defense if the City should so



choose. Furthermore, the City may at its own expense defend or settle any such claims if the Proposer fails to diligently defend such claims, and thereafter seek indemnity for costs and attorney's fees from the Proposer.

## 7.58. SUBCONTRACTUAL RELATIONS

If the Proposer will cause any part of this Agreement to be performed by a subproposer, the provisions of this Contract will apply to such subproposer and its officers, agents and employees in all respects as if it and they were employees of the Proposer; and the Proposer will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the subproposer, its officers, agents, and employees, as if they were employees of the Proposer. The services performed by the subproposer will be subject to the provisions hereof as if performed directly by the Proposer.

The Proposer, before making any subcontract for any portion of the services, will state in writing to the City the name of the proposed subproposer, the portion of the services which the subproposer is to do, the place of business of such subproposer, and such other information as the City may require. The City will have the right to require the Proposer not to award any subcontract to a person, firm or corporation disapproved by the City.

Before entering into any subcontract hereunder, the Proposer will inform the subproposer fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the services to be performed. Such services performed by such subproposer will strictly comply with the requirements of this Contract.

In order to qualify as a subproposer satisfactory to the City, in addition to the other requirements herein provided, the subproposer must be prepared to prove to the satisfaction of the City that it has the necessary facilities, skill and experience, and ample financial resources to perform the services in a satisfactory manner. To be considered skilled and experienced, the subproposer must show to the satisfaction of the City that it has satisfactorily performed services of the same general type which are required to be performed under this Agreement.

The City shall have the right to withdraw its consent to a subcontract if it appears to the City that the subcontract will delay, prevent, or otherwise impair the performance of the Proposer's obligations under this Agreement. All subproposers are required to protect the confidentiality of the City and City's proprietary and confidential information. The Proposer shall furnish to the City copies of all subcontracts between the Proposer and subproposers and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the City permitting the City to request completion of performance by the subproposer of its obligations under the subcontract, in the event the City finds the Proposer in breach of its obligations, and the option to pay the subproposer directly for the performance by such subproposer. The foregoing shall neither convey nor imply any obligation or liability on the part of the City to any subproposer hereunder as more fully described herein.

## 7.59. PROMPT PAYMENT: LATE PAYMENTS BY PROPOSER TO SUBPROPOSER AND MATERIAL SUPPLIERS; PENALTY:

When a proposer receives from the City of Hollywood any payment for contractual services, commodities, materials, supplies, or construction contracts, the proposer shall pay such moneys received to each subproposer and material supplier in proportion to the percentage of work

completed by each subproposer and material supplier at the time of receipt. If the proposer receives less than full payment, then the proposer shall be required to disburse only the funds received on a pro rata basis to the subproposers and materials Suppliers, each receiving a prorated portion based on the amount due on the payment. If the proposer without reasonable cause fails to make payments required by this section to subproposers and material suppliers within fifteen (15) working days after the receipt by the proposer of full or partial payment, the proposer shall pay to the subproposers and material suppliers a penalty in the amount of one percent (1%) of the amount due, per month, from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed. Retainage is also subject to the prompt payment requirement and must be returned to the subproposer or material supplier whose work has been completed, even if the prime contract has not been completed. The Proposer shall include the above obligation in each subcontract it signs with a subproposer or material supplier.

#### 7.60. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

The City may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the City through fraud, misrepresentation or material misstatement.

The City may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the City. Such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement may be debarred from City contracting in accordance with the City debarment procedures. The Proposer may be subject to debarment for failure to perform and any other reasons related to the proposer's breach or failure of satisfactory performance.

In addition to cancellation or termination as otherwise provided in this Agreement, the City may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Proposer and in such event:

The Proposer shall, upon receipt of such notice, unless otherwise directed by the City:

- A. Stop work on the date specified in the notice ("the Effective Termination Date");
- B. Take such action as may be necessary for the protection and preservation of the City's materials and property;
- C. Cancel orders;
- D. Assign to the City and deliver to any location designated by the City any non-cancelable orders for deliverables that are not capable of use except in the performance of this Agreement and which have been specifically developed for the sole purpose of this Agreement and not incorporated in the services;

- E. Take no action which will increase the amounts payable by the City under this Agreement.

In the event that the City exercises its right to terminate this Agreement pursuant to this Article, the Proposer will be compensated as stated in the payment articles herein, for the:

- A. Portion of the services completed in accordance with the Agreement up to the Effective Termination Date; and
- B. Non-cancelable deliverables that are not capable of use except in the performance of this Agreement and which have been specifically developed for the sole purpose of this Agreement but not incorporated in the services.
- C. All compensation pursuant to this Article is subject to audit.

### 7.61. EVENT OF DEFAULT

An Event of Default shall mean a breach of this Agreement by the Proposer. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

- A. The Proposer has not delivered deliverables on a timely basis;
- B. The Proposer has refused or failed, except in any case for which an extension of time is provided, to supply enough properly skilled staff personnel;
- C. The Proposer has failed to make prompt payment to subproposers or suppliers for any services;
- D. The Proposer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Proposer's creditors, or the Proposer has taken advantage of any insolvency statute or debtor/creditor law or if the Proposer's affairs have been put in the hands of a receiver;
- E. The Proposer has failed to obtain the approval of the City where required by this Agreement;
- F. The Proposer has failed to provide "adequate assurances" as required under subsection "B" below; and
- G. The Proposer has failed in the representation of any warranties stated herein.

When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Proposer's ability to perform the services or any portion thereof, the City may request that the Proposer, within the time frame set forth in the City's request, provide adequate assurances to the City, in writing, of the Proposer's ability to perform in accordance with terms of this Agreement. Until the City receives such assurances the City may request an adjustment to the compensation received by the Proposer for portions of the services which the Proposer has not performed. In the event that the Proposer fails to provide to the City the requested assurances within the prescribed time frame, the City may:

- A. Treat such failure as a repudiation of this Agreement;
- B. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the services or any part thereof either by itself or through others.

In the event the City shall terminate this Agreement for default, the City or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

## 7.62. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Proposer shall be liable for all damages resulting from the default, including but not limited to:

- A. Lost revenues;
- B. The difference between the cost associated with procuring services hereunder and the amount actually expended by the City for procurement of services, including procurement and administrative costs; and,
- C. Such other damages that the City may suffer.

The Proposer shall also remain liable for any liabilities and claims related to the Proposer's default. The City may also bring any suit or proceeding for specific performance or for an injunction.

## 7.63. BANKRUPTCY

The City reserves the right to terminate this contract if, during the term of any contract the Proposer has with the City, the Proposer becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law.

## 7.64. CANCELLATION FOR UNAPPROPRIATED FUNDS

The obligation of the City for payment to a Proposer is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, **unless otherwise authorized by law.**

## 7.65. VERBAL INSTRUCTIONS PROCEDURE

No negotiations, decisions, or actions shall be initiated or executed by the Proposer as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Proposers, which are signed by a person designated as authorized to bind the Proposer, will be recognized by the City as duly authorized expressions on behalf of the Proposer.

## 7.66. E-VERIFY

Proposer acknowledges that the City may be utilizing the Proposer's services for a project that is funded in whole or in part by State funds pursuant to a contract between the City and a State

agency. The Proposer shall be responsible for complying with the E-Verify requirements in the contract and using the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Proposer during the Agreement term. The Proposer is also responsible for e-verifying its subproposers, if any, pursuant to any agreement between the City and a State Agency, and reporting to the City any required information. The Proposer acknowledges that the terms of this paragraph are material terms, the breach of any of which shall constitute a default under this Agreement.

#### 7.67. BUDGETARY CONSTRAINTS

In the event the City is required to reduce contract costs due to budgetary constraints, all services specified in this document may be subject to a permanent or temporary reduction in budget. In such an event, the total cost for the affected service shall be reduced as required. The Proposer shall also be provided with a minimum 30-day notice prior to any such reduction in budget.

#### 7.68. COST ADJUSTMENTS

The cost for all items as quoted herein shall remain firm for the first term of the contract. Costs for subsequent years and any extension term years shall be subject to an adjustment only if increases occur in the industry. However, unless very unusual and significant changes have occurred in the industry, such increases shall not exceed 3% per year or, whichever is less, the latest yearly percentage increase in the All Urban Consumers Price Index (CPU-U) (National) as published by the Bureau of Labor Statistics, U.S. Dept. of Labor. The yearly increase or decrease in the CPI shall be that latest index published and available ninety (90) days prior to the end of the contract year than in effect compared to the index for the same month one year prior. Any requested cost increase shall be fully documented and submitted to the City at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective upon the anniversary date of the contract. In the event the CPI or industry costs decline, the City shall have the right to receive from the Proposer a reduction in costs that reflects such cost changes in the industry. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the contract can be cancelled by the City upon giving thirty (30) days written notice to the Proposer.

#### 7.69. OSHA STANDARDS

Proposer acknowledges and agrees that as Contractor for the City of Hollywood, Florida, within the limits of the City of Hollywood, Florida, will have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health Act of 1970, and all State and local safety and health regulations, and agrees to defend, indemnify and hold harmless the City of Hollywood, Florida, its officials, employees, service providers, and its agents against any and all legal liability or loss the City of Hollywood, Florida may incur due to the Contractor's failure to comply with such act.