



**REQUEST FOR PROPOSALS
CONSTRUCTION MANAGEMENT AT RISK SERVICES**

RFP-274-25-WV

**HOLLYWOOD TIDAL FLOODING MITIGATION AND
SHORELINE PROTECTION
FDEP 22FRP13**

FOR THE

**CITY OF HOLLYWOOD, FLORIDA (CITY)
Sites 1,2,6,9,10,13,17,18,19, 20,21 and 22**

**Funded by
US Department of Treasury Federal Funding via Florida Department of
Environmental Protection Grant 22FRP13**

RFP Issue Date: January 9, 2025
Questions Due Date: January 31, 2025
Submittal Due Date: February 7, 2025, at 3p.m. ET

**CITY OF HOLLYWOOD
RFP- 274-25-WV**

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SECTION I – INTRODUCTION

1.1 **Purpose**

The City of Hollywood, Florida (City) is actively seeking qualified, experienced, and/or licensed firm(s) to provide **Construction Management at Risk Services for Hollywood Tidal Flooding Mitigation and Shoreline Protection** as further described in **Section III – Scope of Services**. Responses to this solicitation are due by **February 7, 2025, at 3:00 PM EST**, and will be opened in a virtual public setting on **February 7, 2025, at 3:00PM EST** at **Opengov.com**.

This project is partially funded by a Florida Department of Environmental Protection (FDEP) Grant, agreement number 22FRP13. The FDEP funding is Federal Funding under Federal Award Identification Number: SLFRPO125. Please see Section 2.27 for Federal Procurement Standards.

Due to Federal Funding Contact requirements the Construction Manager at Risk is not allowed to submit a bid to self-perform any of the portions of the Work.

Those firms who are interested in submitting their proposal (also referred to as Statement of Qualifications or SOQ) in response to this Request for Proposals (RFP) shall comply with all requirements of this solicitation.

Submittals shall only be received electronically through OpenGov.

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.

1.2 **Pre-Proposal Conference and/or Site Visit Non-Mandatory**

There will be a non-mandatory pre-proposal conference and/or site visit scheduled for this solicitation. It is strongly suggested that all Contractors attend the pre-proposal conference and/or site visit to receive information that may be critical to their understanding of this solicitation.

The Pre Proposal conference will take place on January 16, 2025, 10:00am, at the Dowdy Armory Park , 906 North Dixie Hwy, Hollywood, FL 33020.

Please keep in mind that site visits at other times might not be available. It is the sole responsibility of the Contractor to become familiar with the scope of the City's requirements prior to submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the Proposer has familiarized themselves with the nature and extent of the work, equipment, materials, and labor required.

Tentative Project Evaluation -Tentative Award Schedule

The selection committee will meet on February 20, 2025, at 9:00 am, at the Dowdy Armory Park, 906 North Dixie Hwy for the initial evaluation and ranking.

If required the oral presentation for the respondents selected by the selection committee will take place on February 27, 2025, at 9:00am, at the Dowdy Armory Park, 906 North Dixie Hwy.

City Commission consider approval of ranking and authorization to execute pre-construction services agreement anticipated on April 2, 2025.

City Commission consider approval of Construction Services GMP for sites 2,22,9,10,17 and 19, anticipated June 4, 2025.

1.3 OpenGov

The City of Hollywood uses OPENGOV (<https://procurement.opengov.com/portal/hollywoodfl>) to administer the competitive solicitation process, including but not limited to soliciting responses, issuing addenda, posting results and issuing notification of an intended decision. There is no charge to register and download the solicitation from OPENGOV. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available in OPENGOV well in advance of their intention of submitting a response to ensure familiarity with the use of OPENGOV. The City shall not be responsible for an Offeror's inability to submit a response by the end date and time for any reason, including issues arising from the use of OPENGOV.

1.4 Point of Contact

For information concerning procedures for responding to this solicitation, contact the Point of Contact within the Office of Procurement Services, William Varandas, Senior Purchasing Agent at wvarandas@hollywoodfl.org or by phone at (954) 921-3345, or Otis Thomas , Chief Procurement Officer (CPO), at othomas@hollywoodfl.org or by phone at 954-921-3299. Such contact is to be for clarification purposes only. All questions must be submitted in writing via OpenGov by **January 31, 2025, by 3:00 PM EST**, in order to receive a timely response.

For information concerning procedures for responding to this solicitation, technical specifications, etc., utilize the question / answer feature provided by OpenGov. Such contact shall be for clarification purposes only. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum (See addendum section of OpenGov Site). No variation in scope or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal or SOQ will be considered evidence that the proposer has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required.

1.5 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-proposal 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 solicitation should be sent in writing to the Procurement Services Division as identified in this solicitation.

END OF SECTION

SECTION II - SPECIAL TERMS AND CONDITIONS

2.1 Addenda, Changes, and Interpretations

It is the sole responsibility of each firm (also referred to as contractor, respondent, consultant or Construction Manager at Risk (CMAR)) to notify the City utilizing the question / answer feature provided by OPENGOV 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 will be answered within the question / answer feature provided by OPENGOV 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. 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 firm to read and comprehend all addenda issued.

2.1.1 The proposed contracts, if any, shall be subject to availability of funds and in accordance with Florida Statute 287.055, "Consultant's Competitive Negotiation Act." The award of a contract does not guarantee the Respondent that work will be assigned or awarded.

2.1.2 Before the award of a contract, each respondent may be required to demonstrate their capacity, ability, and financial resources, to provide the services as specified herein in a quality manner and may also be required to show past history and references that will enable the City to articulate their qualifications. Failure to qualify according to the requirements in the solicitation overall may result in disqualification of your submittal (Statement of Qualifications).

2.2 Changes and Alterations

The Construction Manager at Risk may change or withdraw a Statement of Qualifications (SOQ) at any time prior to the due date of this solicitation; however, no oral modifications will be allowed. Modifications shall not be allowed following the due date of this solicitation.

2.3 Construction Manager at Risks' Costs

The City shall not be liable for any costs incurred by Construction Managers At Risk in responding to this solicitation, including costs incurred in connection with evaluation and award proceedings.

2.4 Mistakes, Discrepancies, Errors and Omissions

The Construction Manager at Risk shall examine this solicitation carefully. The submission of a SOQ shall be prima facie evidence that the Construction Manager at Risk has full knowledge of the scope, nature, and quality of the work to be performed; the detailed requirements of the specifications; and the conditions under which the work is to be performed. Ignorance of the requirements will not relieve the Construction Manager at Risk from liability and obligations under the Contract. Any discrepancies, errors, or ambiguities in the solicitation or addenda (if any) should be reported in writing to the City's Procurement Services Division. Should it be necessary, a written addendum will be incorporated into the solicitation. The City will not be responsible for any oral instructions, clarifications, or other communications.

2.4.1 The Construction Manager at Risk shall, at all times, indemnify, hold harmless, and defend the City, its agents, servants, and employees from and against any claim, demand, judgment, decree, or cause of action of any kind or nature which may

arise out of any error, omission, or activity of the Construction Manager at Risk, its agents, servants, or employees.

2.4.2 The Construction Manager at Risk shall pay all costs, attorney's fees, expenses, and liabilities incurred in the investigation and defense of any claim, demand, judgment, decree, or cause of action of any kind or nature which may arise out of any error, omission, or activity of the Construction Manager at Risk, its agents, servants, or employees. The provisions of this Section shall survive the expiration or earlier termination of the Contract.

2.4.3. Nothing in the solicitation shall be deemed to affect the rights, privileges, or immunities of the City under the doctrine of sovereign immunity or as set forth in Section 768.28 of the Florida Statutes.

2.5 Acceptance of Responses / Minor Irregularities

2.5.1 The City reserves the right to accept or reject any or all responses, part of responses, and to waive minor irregularities or variances to specifications contained in responses which do not make the response conditional in nature, and minor irregularities in the solicitation process. A minor irregularity shall be a variation from the solicitation that does not affect the price of the contract or does not give a respondent an advantage or benefit not enjoyed by other respondents, does not adversely impact the interests of other firms or, does not affect the fundamental fairness of the solicitation process. The City also reserves the right to reissue this solicitation.

2.5.2 The City reserves the right to disqualify any Construction Manager at Risk during any phase of the competitive solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud or other illegal practices on the part of the Construction Manager at Risk.

2.6 Responsiveness

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

2.7 Responsibility

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.

2.8 Minimum Qualifications

Firms shall be in the business of providing general contracting and construction management at risk services for installation of heavy infrastructure improvements including, but not limited to concrete and sheet pile seawalls, shoreline revetments, shoreline stabilization. Must possess sufficient licenses, certifications, financial support, equipment, and organization to ensure that it can satisfactorily perform the services if awarded a Construction Contract. Construction Manager at Risk firms must submit proof of experience per the requirements in **Section IV–Submittal Requirements, 4.2.**

2.8.1 Firm or principals shall have no record of judgments, pending lawsuits against the City or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the City Commission.

- 2.8.2** Neither Firm nor any principal, officer, or stockholder shall be in arrears or in default of any debt or contract involving the City, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the City.
- 2.8.3** The Respondent and each qualifying member of its firm who will be working on the project must have a valid General Contractor's License in the State of Florida and be registered with the Florida Department of Business and Professional Regulation as a General Contractor, or Marine Specialty Contractor.
- 2.8.4** Following the opening of the Statements of Qualifications packages, firms that do not meet the Minimum Qualification Requirements as set forth in this RFP will not be considered further. The firm awarded the Contract will be required to maintain the Minimum Qualification Requirements during the term of the Contract and any contract renewals.

Firms meeting the Minimum Qualification Requirements criteria will have their Statements of Qualifications evaluated and scored according to the selection process set forth in this RFP.

An Evaluation Committee will select no fewer than three of the highest ranked proposers for oral interviews/presentations.

Oral presentations are to support what has been provided in the Statements of Qualifications by each firm, exhibit or otherwise demonstrate the information contained therein for clarification purposes. No new information or material not already provided in the firm's Statements of Qualifications is to be presented during oral presentations.

2.9 Contract Period

The initial contract term shall commence upon final execution of the contract by the City, and shall expire upon the completion of the Project, as defined in the Notice to Proceed and Contract Documents. The City reserves the right to extend the contract for an additional period, providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City. The City reserves the right to award the contract in any combination of years it deems to be in the best interest of the City.

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

2.10 Lobbyist Ordinance

Any Construction Manager at Risk 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, City Clerk's Office at 954-921-3211.

2.11 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, City Procurement Office at 954-921-3299.

2.12 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 Chief Procurement Officer ("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>).

2.13 Sub-Consultants

2.13.1 A Sub-Consultant is an individual or firm contracted by the Construction Manager at Risk or Construction Manager at Risk's firm to assist in the performance of services required under this solicitation. A Sub-Consultant shall be paid through Construction Manager at Risk or Construction Manager at Risk's firm and not paid directly by the City. Sub-Consultant are permitted by the City in the performance of the services pursuant to the Contract. Construction Manager at Risk must clearly reflect in its SOQ the major Sub-Consultants(s) to be utilized in the performance of required services. The City retains the right to accept or reject any Sub-Consultant proposed in the response of Successful Construction Manager at Risk(s) or prior to contract execution. Any and all liabilities regarding the use of a Sub-Consultant shall be borne solely by the successful Construction Manager at Risk and insurance for each Sub-Consultant must be maintained in good standing and approved by the City throughout the duration of the Contract. Neither successful Construction Manager at Risk nor any of its Sub-Consultant are considered to be employees or agents of the City. Failure to list all Sub-Consultant and provide the required information may disqualify any proposed Sub-Consultant from performing work under this solicitation.

2.13.2 The Construction Managers at Risk shall include in their responses the requested Sub-Consultant information and include all relevant information required of the Construction Manager at Risk.

2.14 Insurance Requirements

2.14.1 The Construction Manager at Risk will be required and shall require all of its Sub-Consultants and Sub-Contractors to provide, pay for, and maintain in force at all times during the term of the Contract, such insurance, including Professional Liability Insurance, Workers' Compensation Insurance, Comprehensive General or Commercial Liability Insurance, Business Automobile Liability Insurance, and Employer's Liability Insurance, along with required endorsements, as stated below.

2.14.2 Companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida shall issue such policy or policies. The Construction Manager at Risk shall specifically protect City and the City Commission by naming the City and the City Commission as additional insureds under the Comprehensive Liability Insurance policy hereinafter described.

- a. Workers' Compensation Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws, for the benefit of the Construction Manager at Risk's employees.
- b. Sub-Consultants not eligible for Professional Liability Coverage, by virtue of their trade, shall provide Commercial General Liability coverage acceptable to the Contract

Administrator and City's Risk Manager. Sub-Consultants and sub-contractors eligible for professional liability coverage shall be required to provide professional liability coverage acceptable to the contract administrator and City's Risk Manager on a task order by task order basis.

- c. The Construction Manager at Risk shall provide the Risk Manager of the City an original certificate of insurance and required endorsements for policies required by Article 2.13. All certificates shall state that the City shall be given thirty (30) days prior to cancellation or modification of any stipulated coverage. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the Construction Manager at Risk to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Procurement Services Division. Such policies shall: (1) name the insurance company or companies affording coverage acceptable to the City, (2) state the effective and expiration dates of the policies, and (3) include special endorsements where necessary. Such policies provided under Article 2.13.2.d. shall not be affected by any other policy of insurance that the City may carry in its own name.
- d. Construction Manager at Risk shall as a condition precedent of the Contract furnish to the City of Hollywood, c/o Office of Procurement Services, 2600 Hollywood Blvd, Room 303, Hollywood, FL 33020, certificate(s) of insurance and endorsements upon execution of the Contract indicating that insurance coverage has been obtained that meets the requirements as outlined below understanding the City reserves the right to lower limits:

Commercial General Liability

LIMITS AND OTHER INFORMATION TO BE PROVIDED BY RISK MANAGEMENT

i. Limits of Liability:

Bodily Injury and Property Damage Liability	
Combined Single Limit	
Each Occurrence	\$2,000,000
General Aggregate Limit	\$5,000,000
Personal Injury	\$2,000,000
Products/Completed Operations	\$2,000,000

ii. Endorsements Required:

City of Hollywood included as an Additional Insured
 Employees included as insured
 Broad Form Contractual Liability
 Waiver of Subrogation
 Premises/Operations
 Products/Completed Operations
 Independent Contractors
 Sub-Contractor as insured
 Primary and Non-Contributory

Automobile business

i. Limits of Liability:

Bodily Injury and Property Damage Liability
 Combined Single Limit \$1,000,000
 Any Auto

Including Hired, Borrowed or Non-Owned Autos

ii. Endorsements Required:

Waiver of Subrogation

City Named as Additional Insured on all Contracts and Subcontracts

Workers' Compensation

i Limits of Liability:

Statutory-State of Florida

\$1,000,000 Bodily Injury by Accident

\$1,000,000 Bodily Injury by Disease, policy limits

\$1,000,000 Bodily Injury by Disease, each employee

ii. Endorsements Required:

Waiver of Subrogation

Professional Liability/Errors and Omissions Coverage (NA)

i Limits of Liability:

~~Each Claim \$2,000,000~~

~~General Aggregate Limit \$3,000,000~~

~~Deductible not to exceed \$100,000~~

~~Must be in effect for at least 10 years after Project completion~~

Pollution Liability

i Limits of Liability:

Each Occurrence \$1,000,000

Including Non Owned Disposal Sites

Cyber Liability

i Limits of Liability:

Each Occurrence \$1,000,000

Property Coverage

i Limits of Liability:

Limit of Total Construction Cost plus Soft Costs on all the Builders Risk Policy

Deductible not to exceed \$100,000 City to be named as Loss Payee.

2.14.3 The above insurance requirements are only required to be carried by the Construction Manager at Risk during the term of the assigned Project and provided upon award of the task order, except for Professional Liability/Errors and Omissions insurance which must be in effect for at least ten years after Project completion. **The City reserves the right to request additional insurance based on a specific project scope under the agreement.**

2.14.4 The City is required to be named as additional insured under the Commercial General Liability insurance policy. BINDERS ARE UNACCEPTABLE. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Construction Manager at Risk. Any

exclusions or provisions in the insurance maintained by the Construction Manager at Risk that precludes coverage for the work contemplated in a contract shall be deemed unacceptable and shall be considered a breach of contract.

2.14.5 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida and must maintain a minimum financial strength rating of "A-", and no less than "Class X" as to financial size, by the latest edition of A.M. Best's Key Rating Insurance Guide which holds a valid Florida Certificate of Authority issued by the State of Florida, Department of Insurance, and are members of the Florida Guarantee Fund. Compliance with the foregoing requirements shall not relieve the Construction Manager at Risk of its liability and obligation under this section or under any other section of the Contract.

Note: The City reserves the right to require any other insurance it deems necessary depending on the exposure. The City contract number must appear on each certificate.

2.14.6 The Construction Manager at Risk shall be responsible for assuring that the insurance certificates required in conjunction with this section remain in force for the duration of the Project. If insurance certificates are scheduled to expire during the contractual period, the Construction Manager at Risk shall be responsible for submitting new or renewed insurance certificates to the City at a minimum of 30 calendar days in advance of such expiration.

2.15 Contract

Any subsequent contract will be subject to the Contract included as an attachment (if any) and made a part of this solicitation.

2.16 Award of Contracts

A Contract may be awarded by the City Commission. The City reserves the right to execute or not execute, as applicable, a contract with the Construction Manager(s) at Risk that is determined to be in the City's best interests. The City reserves the right to award a contract to more than one Construction Manager at Risk as is in the City's best interest.

The City, in all solicitations or advertisements for purchasing of goods, supplies, materials, equipment and services, will receive consideration from qualified businesses without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

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.

2.17 Scrutinized Companies

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor 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 or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2020), as may be amended or revised. The City may terminate the Contract at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2020), 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 the Scrutinized Companies that Boycott

Israel List created pursuant to Section 215.4725, Florida Statutes (2020), or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2020), as may be amended or revised.

2.18 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 all contact, payment, and general information is updated at all times, and will not hold the City liable for any inaccurate information.

2.19 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.

2.20 Public Records

a. Public Records/Trade Secrets/Copyright:

All responses will become the property of the City. The Consultant'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 THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (954-921-3211), pcerny@hollywoodfl.org, CITY CLERK'S OFFICE, 2600 HOLLYWOOD BLVD, HOLLYWOOD, FLORIDA 33020)

Consultant shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
2. 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.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Consultant does not transfer the records to the City.
4. 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.

2.21 Unauthorized Work

The Successful Construction Manager at Risk(s) shall not begin work until a Contract has been awarded by the City Commission and the contract has been executed. Construction Manager at Risk agrees and understands that the issuance of a Notice to Proceed shall be issued and provided to the Construction Manager at Risk following execution of a contract.

2.22 Prohibition Against Contingent Fees

The Construction Manager at Risk warrants that they have not and will not employ or retain any company or person, other than a bona fide employee working solely for the Construction Manager at Risk to solicit or secure a contract pursuant to this competitive solicitation, and that they have not and will not pay or agree to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Construction Manager at Risk (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from an award or making of a contract pursuant to this competitive solicitation.

For breach or violation of this warranty, the City shall have the right to annul the Contract without liability, or at its discretion to deduct the full amount of such fee, commission, percentage, gift or

contingent fee from any fees due the Construction Manager at Risk firm. This solicitation and prohibitions against contingent fees are issued in accordance with Florida Statutes 287.055.

2.23 Indemnity/Hold Harmless Agreement

The Construction Manager at Risk agrees to protect, defend, indemnify, and hold harmless the City of Hollywood and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney's fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Construction Manager at Risk under the terms of any contract that may arise due from this solicitation and the bidding process.

Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

2.24 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) minority-owned or disadvantaged business status. (3) closest proximity/location to project site or City Hall, and/or 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.

2.25 Local Preference (NA)

2.26 Contracting with Entities of Foreign Countries

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.

2.27 Federal Procurement Standards

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), including all contract provisions/clauses under Section 200.327 of the CFR.

Due to Federal Funding Contact requirements the Construction Manager at Risk is not allowed to submit a bid to self-perform or self- perform any of the portions of the Work.

Davis Bacon Wage rates and Build America Buy America acts and rules apply to this project.

END OF SECTION

SECTION III - SCOPE OF WORK/SERVICES

3.1 Purpose

The Design and Construction Management (DCM) Department is currently in the design phase for shoreline tidal protection improvements in approximately 22 locations along the intercoastal waterway and North/South Lakes. The work to be accomplished under the contract includes Pre-Construction Services (Phase I) and Construction Services (Phase II) for Hollywood Tidal Flooding Mitigation and Shoreline Protection Project. Construction Manager at Risk will be responsible for providing preconstruction and construction management services for the scopes of services described below under one contract. The City of Hollywood may have contracted separately for Sites 3,4,5,7,8,11,12,14,15 and 16, or may decide to award these sites to the Construction Manager at Risk.

3.2 Scope of Services

The scope of work defining Pre-Construction Services (Phase I) and Construction Services (Phase II), if awarded, to be provided by the Construction Manager at Risk for this project, are as follows:

The selected Construction Manager at Risk will furnish all work, necessary permits, and construction supervision to fully complete the construction of the scope of work covered under this solicitation. The scope for sites 1,2,6,9,10,13,17,18,19, 20, 21 and 22 includes approximately 7200 LF of steel sheet pile, 8000 LF of concrete pile caps, 2000 LF of roadway/path reconstruction or raising, associated earthwork, mangrove trimming, landscape, etc. as required by plans and permits.

The estimated cost of the work is \$31,000,000.00 the City reserves the right to reduce the scope of the project as needed, award any portion of the project as required to meet the intent of the project, grant conditions, coordination with other work and/or funding availability.

3.2.1 GENERAL (PART OF PRE-CONSTRUCTION SERVICES: PHASE I)

- a. The Construction Manager at Risk shall develop a Detailed Project Schedule, utilizing Critical Path Method (CPM) logic sequencing, reflecting the design (remaining portion thereof) and construction of the overall project.
- b. The Construction Manager at Risk shall utilize the completed Detailed Project Schedule, to develop a Project Control Schedule, which shall be presented in a bar graph format. The purpose of the Project Control Schedule is to summarize the information contained in the CPM schedule in order to provide the project team with a management tool and an overall project visual aid to easily determine the schedule and status of the total project. The information derived from these two schedules are to become part of the Construction Manager at Risk's management plan developed by the Construction Manager at Risk.
- c. Construction Manager at Risk shall periodically update on a monthly basis both the Detailed Project Schedule and the Project Control Schedule throughout the term of the preconstruction and construction phases of the project as part of the Construction Manager at Risk's management activity.

- d. The Construction Manager at Risk shall review project requirements, educational specifications, on and off-site development, survey requirements, preliminary budget, and make value engineering and constructability recommendations for revisions to the City and Consultant in the form of a written report prior to final payment for this phase
- e. The Construction Manager at Risk shall, subject to City's approval and compliance with existing City completion schedule, establish a preliminary master project schedule identifying all phases, Critical Path elements, responsibilities of the City, Consultant, outside agencies, third parties and any other impacts which would affect project schedule and progress and update them monthly throughout the duration of the contract.
- f. Where the project includes renovation or expansion of an existing Facility, the Construction Manager at Risk will assist the Construction Team in preparing an analysis package outlining the condition of the existing Facility, existing structure, existing finishes, and existing equipment, code deficiencies, energy use, and life expectancy of other building systems by providing constructability, value engineering and cost estimates recommendations. The package should contain the Construction Manager at Risk's recommendations, cost estimates and preliminary schedules. Such information shall be provided to the City and Consultant in the form of a written report prior to final payment for this phase.
- g. The Construction Manager at Risk shall provide project delivery options for the design, bid, and bid packaging of the project for efficient scheduling, cost control and financial resource management. Such information shall be provided to the City and Consultant in the form of a written report prior to final payment for this phase.
- h. The Construction Manager at Risk shall utilize information and reporting systems to provide the City with monthly reports containing accurate and current cost controls, work status, including but not limited to Work narrative, Work completed/anticipated, short term and long term schedules estimated expenditures, and project accounting systems of the project at all times. Such information shall be provided to the City and Consultant in the form of a written report, prior to final payment for this phase.
- i. The Construction Manager at Risk shall prepare a report with the Project Team's participation which shall describe, as a minimum, the Work plan, job responsibilities, and written procedures for reports, meetings, inspections, changes to the project, building systems and delivery analysis and other relevant matters. Such information shall be provided to the City and Consultant prior to final payment for this phase.
- j. The Construction Manager at Risk shall provide market analysis and motivation for subcontractor interest and recommendations for minority business participation. This shall include analysis of the Construction Manager at Risk's historical data for subcontracting, communication with contractor and trade organizations requesting participation, review of the City's M/WBE data, advertising, outreach programs, mailings to all prospective bidders identified by these actions, and reporting of all of the foregoing to the CITY, Such information shall be provided to the City and Consultant in the form of a written report prior to final payment for this phase.
- k. The Construction Manager at Risk's personnel to be assigned during this phase and their duties and responsibilities to this project and the duration of their assignments are shown in the Project Agreement. All required reports and documentation shall be submitted and approved by the City as pre-requisite to progress payments to the Construction Manager at Risk by the City during this phase.

3.2.2 DESIGN PHASE (PART OF PRE-CONSTRUCTION SERVICES: PHASE I)

- a. The Construction Manager at Risk shall review and evaluate all design documents (if applicable) for clarity, consistency, completeness, and ease of construction in order to achieve the overall objective of the project. The Construction Manager at Risk also will periodically review all Contract Documents for constructability, at a minimum at each design phase submittal, and to help ensure compliance with all applicable laws, rules, codes, design standards, and ordinances. Construction Manager at Risk shall immediately notify City of any non-compliant Contract Document. Such information shall be provided to the City and Consultant in the form of a written report in format as noted herein prior to final payment for this phase.

The Construction Manager at Risk will be required to attend all project related meetings and include a summary of each meeting in its monthly report to the City.

- b. Construction Manager at Risk's review of the design documents shall include the following activities:
 - i. Preparing a Master Checklist to be used as a guide for reviewing each technical discipline.
 - ii. Conducting reviews by preparing a "mark-up" set of documents and a list of comments corresponding to the "mark-up."
 - iii. Preparing and presenting a written report of constructability problems and concerns, including:
 - (a) Recommendations
 - (b) Checklist and comments
 - iv. Attending workshop meetings with the Consultant and the Project Manager to review proposed changes and recommending the changes, which are to be implemented for the project.
 - v. Verifying and conducting final review of changes to the construction Documents.
- c. The Construction Manager at Risk's services shall be rendered compatibly and in cooperation with the Consultant's services under the City's Agreement with the Consultant. The Construction Manager at Risk will be required to maintain a working relationship with and coordinate their activities with the Consultant and any additional Consultant.
- d. The Construction Manager at Risk shall prepare detailed cost estimates and recommendations to City and Consultant at Concept Design, S.D., (Schematic Design), D.D (Design Development) C.D. (60% and 90% Construction Documents) phases of the project. Such information shall be provided to the CITY and Consultant in the form of a written report prior to final payment for each phase.
- e. The Construction Manager at Risk shall review all Contract Documents for the new and existing Buildings and/or building sites and provide value engineering recommendations to minimize the City's capital outlay and maximize the City's operational resources. Such information shall be provided to the City and Consultant in

the form of a written report prior to final payment for this phase. All such recommendations shall be acknowledged and reviewed for incorporation into the construction documents by the Consultant once authorized by the City in writing.

- f. The Construction Manager at Risk will review all Contract Documents, all new and existing buildings' conditions and the building site to ensure proper coordination, constructability, clarity and completeness, and to minimize conflict, errors, omissions and unforeseen conditions. The Construction Manager at Risk shall coordinate with the Consultant to eliminate change orders due to errors, omissions and unforeseen conditions. The Construction Manager at Risk agrees specifically that no Change Orders shall be requested by the Construction Manager at Risk or considered by the City for reasons that were or should have reasonably been known by to the Construction Manager at Risk involving unforeseen conditions, conflicts or questions of clarity in the Contract Documents, or between the Contract Documents and the existing conditions, utilities, and unforeseen underground conditions.
- g. The Construction Manager at Risk shall periodically update the master project schedule and make recommendations for recovery of lost time. Such information shall be provided to the City and Consultant in the form of a written report prior to final payment for this phase.
- h. The Construction Manager at Risk will coordinate with the Consultant and provide to the Project Construction Team permitting applications and requirements for the projects. The Construction Manager at Risk will periodically update cost estimates and make recommendations to keep the project within the target budget.
- i. At completion of the Construction Manager at Risk's review of the plans and specifications, except only as to specific matters as may be identified by appropriate written comments pursuant to this section, the Construction Manager at Risk, without assuming the Consultant's responsibilities, shall notify City in writing that the plans and specifications are consistent, practical, feasible and constructible and that the work described in the plans and specifications for the various bidding packages is constructible within the scheduled construction time.
 - i. DISCLAIMER OF WARRANTY: THE CITY DISCLAIMS ANY WARRANTY THAT THE PLANS AND SPECIFICATIONS FOR THE PROJECT ARE ACCURATE, PRACTICAL, CONSISTENT, CONSTRUCTIBLE OR WITHOUT DEFECT.
- j. The City may select certain projects for expediting using fast-track construction. When this option is exercised, in writing, by the City, it shall be implemented if it is identified as necessary in a plan prepared by the CMAR and agreed to by the City and Consultant.
- k. The Construction Manager at Risk shall be responsible for preparing four (4) Construction Cost Estimates in addition to preparing the GMP. The Project Manager shall have the option of reducing the number of estimates depending on the percentage of the construction documents that is complete by the time this contract is executed.
- l. The Construction Manager at Risk shall prepare the first Construction Cost Estimate as a Conceptual Estimate based on the Schematic Design. The purpose of the Conceptual Construction Cost Estimate is to verify the owner's ability to complete the project within the established construction budget, and to make adjustments to the concept plan if needed to

ensure that the project can be constructed within the established budget. The cost information derived from this estimate shall directly relate to the Construction Manager at Risk's recommendations in the Constructability and Value Engineering Report relative to ways to reduce and/or control costs.

- m. The Construction Manager at Risk shall prepare the second Construction Cost Estimate based on Design Development documents and shall estimate the cost of the major elements and subcomponents of the project. The purpose of the second Construction Cost Estimate is to verify the owner's ability to complete the project within the established construction budget. The cost information derived from this estimate shall directly relate to the Construction Manager at Risk's recommendations in the Constructability and Value Engineering Report relative to ways to reduce and/or control costs.
- n. The third Construction Cost Estimate shall be done on or before the sixty percent (60%) construction document stage. Based on the results of this estimate the CONSTRUCTION MANAGER AT RISK should be prepared to offer recommendations on whether or not the scope of the project need to be changed to be able to complete the project within the established budget.
- o. The fourth Construction Cost Estimate shall be based on ninety percent (90%) complete construction documents and shall be "permit ready" with sufficient detail to permit issuance of a building permit and to obtain all required approval of all governmental authorities having jurisdiction over the project.
- p. The Construction Manager at Risk will prepare the GMP based on 100% complete construction documents.
- q. As a result of the Construction Manager at Risk's Constructability Review or Construction Cost Estimates and in order to reduce or control costs, the Construction Manager at Risk shall analyze the building's structural, architectural, mechanical, electrical and plumbing systems and elements, and make cost/performance recommendations for the Project Manager's and Consultant's consideration. The Construction Manager at Risk shall prepare its recommendation in the form of a written report to be presented to the project team at each phase submittal review.

3.2.3 BIDDING AND AWARD PHASE (PART OF PRECONSTRUCTION SERVICES: PHASE I)

- a. Upon obtaining all necessary approvals of the Construction Documents, including a Building Permit as required by the FBC and City approval of the latest Statement of Probable Construction Cost, the Construction Manager at Risk shall obtain bids and commence awarding construction contracts.
- b. The Construction Manager at Risk shall review the City's records of pre-qualified contractors, including Minority/Women Business Enterprises (M/WBEs), and prepare a list of those recommended for work pursuant to this contract. The City reserves the right to reject any or all subcontractors recommended for approval. The Construction Manager at Risk shall maintain a list of all potential bidders, including M/WBEs and those who are approved as pre-qualified. The Construction Manager at Risk shall conduct a community outreach program to identify potential local subcontractors who may be selected to participate in the project.

- c. The Construction Manager at Risk shall evaluate potential participants to establish their qualifications (based on past work experience, similar projects, the building quality of those past projects, and other similar factors) for presentation to the City. The Construction Manager at Risk shall present its evaluation to the City in the form of a written report utilizing the attached Forms as necessary, the subcontractors being considered, the scope of work recommended for that subcontractor, the subcontractor's qualifications and past work history, and the Construction Manager at Risk's recommendation concerning the use of the listed subcontractors.
- d. The Construction Manager at Risk shall provide the necessary services to reach out to local and MBE/SBE firms.
- e. The Construction Manager at Risk shall prepare and issue the bid packages to cover the scope of the Work for this contract.
- f. The Construction Manager at Risk, in coordination with the City, shall schedule pre-bid conferences as required and issue a written summary of the conference(s).
- g. The Construction Manager at Risk and City shall jointly open, at a mutually agreed location, and evaluate at least three bids, if possible, for each portion of the Work solicited. The Construction Manager at Risk shall also make recommendations to the City for award to the lowest, responsive, and responsible bidder. A recommendation for award to other than the lowest bidder shall be justified in writing. Construction Manager at Risk will disclose any related party relationship in a bidding subcontractor in writing prior to the award of contracts. For the purposes of this agreement, a related party relationship shall constitute any instance of common ownership, common management, or an ownership stake in the bidding subcontractor. The Construction Manager at Risk is required to present the bid tabulation summary and all supporting bid day documentation to the City after the bid opening. The referenced documentation as well as the awarding of any subcontracts is subject to the written approval of the City. The Construction Manager at Risk is not authorized to enter into any subcontract agreements without first obtaining written approval for each subcontractor.
- h. Guaranteed Maximum Price (GMP): Upon completion of the design phase [construction documents 100% complete] and bidding, the Construction Manager at Risk shall present to the City the GMP for the City's review and approval in accordance with the Project Agreements.
- i. At the time of the submission of the documents referenced in the Project Agreements, the Construction Manager at Risk is required to submit, in writing, a buyout reconciliation of all subcontracts that have been awarded as a product of the initial bid opening date. The result of this reconciliation is to be presented in association with a modified schedule of values reflecting the net buyout adjustment in the City Savings / Buyout line on the schedule of values. Any un-awarded values remaining in the GMP shall continue to be carried at their estimated amounts until a subcontract is awarded and adjusted in accordance with the Project Agreement.
- j. **Due to Federal Funding Contact requirements the Construction Manager at Risk is not allowed to submit a bid to self-perform any of the portions of the Work.**

3.2.4 CONSTRUCTION PHASE (PART OF CONSTRUCTION SERVICES: PHASE II)

- a. The Construction Manager at Risk shall fully comply with the provision of the City's Project

Manual, including but not limited to Division 0 and 1, and the attached General Conditions. In the event of a conflict between this Agreement and such documents the agreement shall control.

- b. The Construction Manager at Risk shall provide the minimum staffing level as set forth in the Project Agreement for this project.
- c. The Construction Manager at Risk shall maintain and prepare monthly updates for all project schedules, including Critical Path elements, provide written progress reports, describe problems and corrective action plan(s) and conduct briefings as required by the City. Such information shall be provided to the City and Consultant in the form of a written report with progress payments requests.
- d. Subject to the Project Agreement the Construction Manager at Risk may self-perform certain construction work when it benefits the City, results in cost and time savings, and is pre-approved by the City in writing.
- e. The Construction Manager at Risk shall coordinate project close-out, operation, and transition to occupancy.
- f. The Construction Manager at Risk shall coordinate with the Consultant to provide complete project records including project manual, and electronic Computer Assisted Drafting (CAD) drawings corrected to show all construction changes, additions, and deletions. (Construction Manager at Risk shall note all changes on the as-builts for the Consultant to reflect on the drawings and CAD disc.)
- g. The Construction Manager at Risk shall coordinate with the City's staff to prepare the Certificate of Final Inspection.
- h. The Construction Manager at Risk shall obtain and review all warranties, operations and maintenance manuals and other such documents, for completeness, have them corrected if necessary and submit them to the City.
- i. The Construction Manager at Risk shall complete all punch list items generated by the Building Code Inspector (BCI), the City, the Consultant and any others having jurisdiction over the project, during its inspections.
- j. If at any time during the course of the Project, the City determines that the performance of any Subcontractor, member of the Project Team or other member of Construction Manager at Risk's staff working on the Project is unsatisfactory, City can require Construction Manager at Risk to remove such person or entity from the Project immediately and replace such person or entity. Replacements of members of the Project Team or Construction Manager at Risk's staff shall be at no cost or penalty to City for delays or inefficiencies the change may cause. Construction Manager at Risk shall be entitled to request a Change Order for costs and time associated with the replacement of Subcontractors required by City.
- k. Construction Manager at Risk shall exert every reasonable and diligent effort to assure that all labor employed by Construction Manager at Risk and its Subcontractors on the Project shall work in harmony, and be compatible, with all other labor being used on the Project and representatives of City. Construction Manager at Risk shall include this provision in all contracts with its Subcontractors, and all Subcontractors shall include such provision in their contracts with sub- subcontractors; provided, however, that this provision shall not be

interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work guaranteed by Article I, Section 6 of the Florida Constitution.

- I. No Contractual Relationship. Nothing contained in this Agreement shall create a contractual relationship between City and any other person or entity other than Construction Manager at Risk.
- m. Good Order. The Construction Manager at Risk shall enforce strict discipline and good order among the Construction Manager at Risk's employees and other persons carrying out Construction Manager at Risk's obligations under the Contract Documents. The Construction Manager at Risk shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- n. Liability. Construction Manager at Risk shall be responsible to City for acts and omissions of Construction Manager at Risk's employees, contractors and their subcontractors, agents and employees, and other persons, including, design professionals, performing any portion of Construction Manager at Risk's obligations under the Contract Documents.

3.2.5 WARRANTY PHASE (PART OF CONSTRUCTION SERVICES: PHASE II)

- a. The Construction Manager at Risk shall provide a minimum one (1) year warranty and shall coordinate and supervise the completion of warranty Work during the warranty period. Construction Manager at Risk shall participate with the City in conducting of warranty inspections held on the sixth (6th) and eleventh (11th) months after occupancy. Construction Manager at Risk shall deliver all as-built drawings, warranties and guaranties to the City.
- b. Where any Work is performed by the Construction Manager at Risk's own forces or by subcontractors under contract with the Construction Manager at Risk, the Construction Manager at Risk shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be free from improper workmanship and defective materials and in conformance with the Drawings and specifications. With respect to the same Work, the Construction Manager at Risk further agrees to correct all work found by the City to be defective in material and workmanship or not in conformance with the Drawings and Specifications for a period of one year from the Date of City Occupancy of the Project or a designated portion thereof or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications or by Florida Law. The Construction Manager at Risk shall collect and deliver to The City any specific written warranties given by others as required by the Contract Documents.
- c. The Construction Manager at Risk shall provide a Warranty Summary Report at the end of the 6- month warranty period and 11-month warranty period. This report shall provide at a minimum;
 - i. Description of each warranty item during the period.
 - ii. Date item reported to Construction Manager at Risk.
 - iii. Date item corrected. If more than one trip required, document each.

- iv. Description of action taken to cure warranty item.
 - v. Obtain signature of Project Manager or designee acknowledging warranty items have been completed.
 - vi. Other pertinent information, if applicable.
- d. Refusal of the Construction Manager at Risk to provide any work required in the Warranty Phase of the project shall be basis for non-payment of any and all Warranty Phase Fee unpaid at the time of refusal.

END OF SECTION

SECTION IV – SUBMITTAL REQUIREMENTS

4.1 Instructions

4.1.1 Submittals shall only be received electronically through OpenGov.

The proposer understands that the information contained in the Statement of Qualifications is to be relied upon by the City in awarding the proposed Contract, and such information is warranted by the proposer to be true. The proposer agrees to furnish such additional information, prior to acceptance of any Statement of Qualifications, relating to the qualifications of the Proposer as may be required by the City.

A representative who is authorized to contractually bind the firm shall sign the STATEMENT OF QUALIFICATION CERTIFICATION or ACKNOWLEDGEMENT FORM. Omission of a signature on that page may result in rejection of your Statement of Qualifications.

The City of Hollywood uses OPENGGOV (<https://procurement.opengov.com/portal/hollywoodfl>) to administer the competitive solicitation process, including but not limited to soliciting responses, issuing addenda, responding to questions / requests for information. There is no charge to register and download the solicitation from OPENGGOV. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available in OPENGGOV well in advance of their intention of submitting a response to ensure familiarity with the use of OPENGGOV. The City shall not be responsible for a proposer's inability to submit a response by the end date and time for any reason, including issues arising from the use of OPENGGOV.

4.1.2 Careful attention must be given to all requested items contained in this solicitation. Construction Managers at Risk are invited to submit responses in accordance with the requirements of this solicitation. Please read the entire solicitation before submitting an SOQ. Consultant must provide a response to each requirement of the solicitation. Responses should be prepared in a concise manner, with an emphasis on completeness and clarity. Consultant's notes, exceptions, and comments may be rendered on an attachment, provided the same format of this solicitation text is followed. All Responses shall be submitted in a sealed envelope or package with the solicitation number and opening date clearly noted on the outside of the envelope.

4.1.3 All information submitted by Proposer shall be typewritten or provided as otherwise instructed in the solicitation. Proposers shall use and submit any applicable or required forms provided by the City and attach such to their response. Failure to use the forms may cause the response to be rejected and deemed non-responsive.

4.1.4 Responses shall be submitted by an authorized representative of the firm. Responses must be submitted in the business entities name by the President, Partner, Officer or Representative authorized to contractually bind the business entity. Responses shall include an attachment evidencing that the individual submitting the response, does in fact have the required authority stated herein.

4.1.5 All responses will become the property of the City. The Proposer's response to the solicitation is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("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 119.07 of the Florida Statutes. Any language contained in the Proposer's response to the solicitation purporting to require confidentiality of any portion of the Proposer'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 Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer 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 Proposer's response to the solicitation constitutes a Trade Secret. The City's determination of whether an exemption applies shall be final, and the proposer 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.

4.2 Contents of the Statement of Qualifications

The following information and documents are required to be provided with SOQ responses to this solicitation. Failure to do so may deem your SOQ non-responsive.

The City deems certain documentation and information important in the determination of responsiveness and for the purpose of evaluating responses. Responses should seek to avoid information in excess of that requested, must be concise, and must specifically address the issues of this solicitation.

PROPOSALS must have a front cover page that contains the following information:

Company Name
Solicitation number and Title of the Solicitation
Submittal Due Date

All firms responding to this solicitation, in order to be considered, must demonstrate and submit as part of the solicitation submittal the following requirements stated within this section. The responses shall be organized and divided into the sections indicated herein. These are not inclusive of all the information that may be necessary to properly evaluate the response and meet the requirements of the Scope of Services and/or specifications. Additional documents and information should be provided as deemed appropriate by the Consultant in response to specific requirements stated herein or through the solicitation.

Proposals or Statements of Qualifications should be organized using the following sections format:

Tab A: Table of Contents
Tab B: Executive Summary
Tab C: Firm Qualifications and Experience
Tab D: Organizational Profile and Project Team Qualifications
Tab E: Approach to Scope of Work
Tab F: Knowledge of the Site and Local Conditions
Tab G: References – Vendor Reference Form
Tab H: Sub Consultant Information
Tab I: Financial Resources

Tab J: Legal Proceedings and Performance
Tab K: Required Forms

4.2.1 Tab A: Table of Contents

The table of contents should outline in sequential order the major areas of the submittal, including enclosures. All pages should be consecutively numbered and correspond to the Table of Contents.

4.2.2 Tab B: Executive Summary

Each Offeror must submit an executive summary that identifies the business entity, its background, main office(s), and office location that will service the Contract. Identify the officers, principals, supervisory staff and key individuals who will be directly involved with the work and their office locations. The executive summary should also summarize the key elements of the SOQ. Statement of Qualifications Tab Information should include:

1. Basic company information.
 - a. Company name
 - b. Address with zip code
 - c. Telephone and Fax number
 - d. Email address
 - e. Name of primary contact
2. Years in Business: Provide documentation showing your firm has a minimum of (8) years in business as a General Construction Company performing Construction Management at Risk Services.
3. Licenses: Firm is licensed under Florida Statutes 489 and provide proof with submission.
4. Professional Licenses and Certifications

An affirmative statement and submission of evidence must be included with the firm's response indicating that firm and all assigned key professional staff possess all licenses and certifications required to undertake and complete the project. General Contractor must be licensed by the State of Florida and maintain certification and be in good standing with the Florida Department of Business and Professional Regulation.
5. State whether your organization is national, regional or local.
6. Describe the firm, including the size, range of activities, and other pertinent information.
7. Years your organization has been in business as a provider of the products and services you are proposing to offer under this solicitation.
8. If your organization is a corporation, answer the following:
 - a. Date of incorporation
 - b. State of incorporation
 - c. President's name

9. If your organization is a partnership, answer the following:
 - a. Date of organization
 - b. Type of partnership (if applicable)
 - c. Name(s) of general partner(s)
10. If your organization is individually owned, answer the following:
 - a. Date of organization
 - b. Name of owner
11. If your organization is a limited liability company, answer the following:
 - a. Date of organization
 - b. State of organization
 - c. Name(s) of member(s)

4.2.3 Tab C: Firm Qualifications and Experience

Respondents are to submit complete information and documentation that demonstrates their ability to satisfy all minimum qualifications and scope of service requirements. Indicate the firm's number of years of experience in providing the services as it relates to the work and services contemplated in this solicitation. Provide details of past projects for agencies of similar size and scope, including information on your firm's ability to meet time and budget requirements. Indicate business structure, i.e., Corporation, Partnership, or LLC.

Firm must be registered as a legal entity in the State of Florida, and shall include the firm's address, phone number, fax number, email address, web site, contact person(s), etc. Relative size of the firm, including management, technical and support staff; licenses and any other pertinent information shall be submitted.

Statement of Qualifications Tab Information should include:

Featured projects shall be similar in size, type, complexity, where CMAR Firm was the **prime** contractor in the execution of Construction as described in Section III Scope of Services. The CMAR Firm shall provide and/or satisfy capability in providing the following services and documentation of their experience:

1. Must provide a list of completed projects within the last five (5) years for similar project scopes as listed in **Section 3.2 – Scope of Services**.
2. Resumes of individuals performing the work must be provided, superintended is mandatory. The proposer must also state their proposed project manager by name and provide a minimum of **three (3) similar projects** managed by him/her with references, along with his/her resume. Each project must be under a different contract. Only proposer including their project manager and Superintendent, with the capabilities and experience on similar projects, will be considered qualified for consideration. Judgment of 'similar projects' is at the sole discretion of the City and Engineer. The successful proposer cannot replace their project manager without providing a suitable replacement, which is determined under the sole discretion of the City performed within the last five (5) years. Resumes of individuals (especially Superintendent) performing the work must be provided.

3. The projects must be similar in nature and size. A similar project is one which included the following successful and operational construction:
 - a. Over 7,000 feet of bulkheads, seawalls, varying in size, materials and locations .
 - b. The bulkheads, or seawalls must have been constructed in conjunction with a pile cap, constructed from the water and also the adjacent roadway.
 - c. Installation of outfall pipe sleeves, extensions.
 - d. Construction work adjacent to waterways and natural resources..
 - e. Construction of seawalls and roadwork within an active recreational facility.
 - f. Must demonstrate extensive experience in public outreach and excellent customer service.
 - g. Experience with Maintenance of Traffic Plans in residential areas.
 - h. Restoration of private property areas impacted by the demolition of the existing facilities upon final completion.
4. Experience in the planning and coordination of installation activities of marine construction, familiar with Broward County, Florida Department of Environmental Protection, and Army Corps of Engineers Permit Conditions and Coordination.
5. Describe what unique and extraordinary skills or qualifications your firm brings to this Project, including industry "Best Practices". How would the selection of your firm add value to the Project?
6. Describe your firm's experience and understanding regarding local subcontractors and bidding conditions. Explain how your firm stays current with the construction costs and bidding conditions in Southeast Florida.
7. Provide a list and description of heavy civil, marine projects satisfactorily performed within the past five years that have been completed under a Construction Management at Risk Services delivery method. Please provide photo documentation for the referenced projects.
 - a. Name and location of the Project. Provide a description of the scope of work.
 - b. Role on the project:
 - For Prime CMAR Contractor, their Role on the reference projects **must** be Construction Management at Risk.
 - For any subcontractors, include the role their company provided on the reference projects: Construction Management At Risk and/or General Contractor and/or other. The project delivery method for subcontractor's reference projects is not required to be CMAR, but CMAR projects are preferred.
 - c. Date project was completed or is anticipated to be completed.
 - d. Size and project cost
 - e. Original Owner Budget vs. Final GMP.
 - f. Saving achieved through Value Engineering or other approaches.
 - g. The percentage of the GMP for General Conditions, Profit and an Overhead.
 - h. The total amount of approved Change Orders added to the Original GMP.
 - i. The dollar amount of fees for Pre-Construction Services.
 - j. Present status of the project

8. Provide your firm's experience in Construction Management at Risk project delivery methodology and provide a list of projects of similar scope and complexity completed within the last five years.

4.2.4 Tab D: Organizational Profile and Project Team Qualifications

This section shall include a detailed profile of the organization and identify the project team. This section shall also include resumes of the project team. Lastly include details of how each project team member will contribute to the project, in what capacity, and the level of involvement including their expertise. Provide a comprehensive summary of the experience and qualifications of the individual(s) who will be selected to serve as the project manager(s) for the City.

1. Provide organizational chart of personnel proposed key personnel to manage this project.
2. Performance, experience and qualifications, exemplary cost containment, minimization of change orders and proven history of project completion within initial budget.

3. Sub Consultants/Sub Contractors

Indicate what portion of the work, if any, will be subcontracted to any third party. No subconsultant or subcontractor shall be replaced unless the replacement subconsultant or subcontractor has been approved by the City.

4. Provide brief resumes of persons to be assigned to the project and their respective responsibilities, including, but not limited to:
 - a. Name and title.
 - b. Job assignment performed for other projects.
 - c. Percentage of time to be assigned full time to this Project.
 - d. How many years with your firm.
 - e. How many years with other firms
 - f. Provide a complete description of the experience and qualifications of the individuals who are proposed to be assigned to the Project, including: Project Manager, Project Engineer(s), Cost Estimator(s), and Superintendent(s). Staff to be assigned to the Project must have a minimum of five years' experience in their designated professional specialization.
 - g. Experience of the project manager and superintendent working together on past projects.
5. Describe the capabilities and Project level responsibilities of the staff to be assigned in each of the following:
 - a. Overall project management and coordination with the City, and subcontractors
 - b. Design review and options analysis of plans and specifications

- c. Constructability analysis
- d. Cost estimating
- e. Value engineering
- f. Life cycle cost analysis
- g. Project scheduling
- h. Quality Control (design and construction)
- i. Bidding and subcontractor relationships
- j. Cost controls and change order management
- k. Preparation/review of shop drawings
- l. Project mobilization
- m. Project punch list management and close-out
- n. Inspections
- o. Assigned team's experience with projects of similar size and type
- p. Assigned team's experience with effective budget control
- q. Assigned team's experience with effective schedule control
- r. Assigned team's experience with LEED certified projects

Identify the individuals who, from project start to finish, will be the project construction team and the principal point of contact between your firm and the City. Assigned project team shall be committed to the project for the duration of the construction activities, unless authorized by the City.

4.2.5 Tab E: Approach to Scope of Work

Provide in concise narrative form, your understanding of the City's needs, goals and objectives as they relate to the project as described in the scope of services, and your overall approach to accomplishing the project. Give an overview on your proposed vision, ideas and methodology. Describe your proposed approach to the project. As part of the project approach, the firm shall address the following;

1. Describe your approach to performing the work. This should include the following points: Your plan for this project outlining major tasks and responsibilities, project time schedule and staff assigned.
2. Provide information on your firm's current workload and how this project will fit into your workload.
3. Describe firm's demonstrated ability to solve complex project issues.
4. Describe available facilities, technological capabilities and other available resources you offer for the project
5. Proposed scheduling methodology (timeline) for effectively managing and executing the work in the optimum time
6. Please describe your firms approach to team scalability to support various projects simultaneously under this contract.
7. Describe your Company's public engagement plan and program. CMAR firm shall

engage in extensive public outreach during the duration of the project, to maintain the residents and business owners informed of major activities on the site.

8. Describe your CMAR firm's means and methods to minimally impact the residents, City operations and business owners' operations along this site. The CMAR firm may self-perform construction activities either in whole or in part.
9. Describe the CMAR firm's plans to store all of its equipment and materials to minimally impact business' operations, residents and the public at large.
10. Describe your company's resources and capabilities with respect to scheduling (specific computer programs), cost control and reporting quality control, shop drawing management, Request for Information (RFI) control and routing, on site safety, value engineering, and coordination with the A/E and the City. Describe any Software your company uses to facilitate control and management operations.
11. Describe your firm's historical experience in meeting project goals with respect to cost control and time of delivery.
12. Describe your firm's experience with Construction Management at Risk for LEED Certified projects.
13. Describe firm's cost management plan during design and construction.
14. Describe firm's approach for competitively administering and evaluating bid packages.
15. Describe firm's quality assurance program and plan.
16. Describe firm's close-out plan.
17. Provide an overview of your understanding of the City's vulnerability to the effects of climate change and sea level rise and your goal to address resiliency through projects assigned to your firm.

4.2.6 Tab F: Knowledge of Site and Local Conditions

Demonstrate knowledge of the site, State, County, and City requirements, codes, and ordinances.

1. Construction Manager at Risk must demonstrate experience working in local areas affected by low elevation lines, points and as well as areas prone to hurricanes wind forces.
2. Knowledge of local subcontractors and suppliers, capable of supplying quality workmanship and materials.
3. Knowledge of local permitting agencies, procedures, testing protocols.
4. Experience working in project with complex logistical challenges including occupied facilities, public safety and other safety considerations.

4.2.7 Tab G: References

Each responding firm should provide a minimum of (3) three client references, preferably government agencies, for projects or contracts of this solicitation. They must be verifiable references for projects of similar size, scope and complexity that have been completed by your firm within the last five years which demonstrate the experience of the firm and the team that will be assigned to provide services as required and as outlined in this solicitation. The City will conduct reference checks as a component of the due diligence to determine the capability of firms to be able to perform the requirements of the project.

Note: Do not include City of Hollywood work or staff as references to demonstrate your capabilities. The Evaluation Committee is interested in work experience and references other than the City of Hollywood.

Statement of Qualifications Tab Information should include:

1. For each reference respondents must complete “**Vendor Reference Form**” (Form 4) in the required forms section VI, and each firm responding to this solicitation must provide the following information for each of the references provided and ensure that the contact information you are providing is up to date.

4.2.8 Tab H: Sub Consultants Information

Consultant must clearly identify any sub-Consultants that may be utilized for the Work in accordance with the Contract.

4.2.9 Tab I: Financial Resources

Statement of Qualifications Tab Information should include:

1. Each Proposer shall provide a financial summary statement in writing, signed by a duly authorized representative, stating the present financial condition of the Proposer, and disclosing information as to Proposer's involvement in any prior or current bankruptcy proceedings.
2. Bonding Capacity: Provide documentation of your firm's total and single project bonding capacity and the name and current financial rating (A.M. Best) of the surety company utilized by your firm. Proposers shall have a single project bonding capability of at least Twenty Million Dollars (\$20,000,000.00) with a surety company with an A.M. Best rating of AA or better.

4.2.10 Tab J: Legal Proceedings and Performance

Statement of Qualifications Tab Information should include:

Provide a letter on your firm's letterhead indicating if your firm has paid liquidated damages and/or if your firm has been terminated for default. Provide details of these occurrences and the associated projects. If your firm has not paid liquidated damages or been terminated for default include this on a letter with your firm's letterhead.

Provide a list of legal proceedings against your firm in the last five years. This shall include legal proceedings for the entire company.

1. Arbitrations; List all construction arbitration demands filed by or against your firm in the last five years, and identify the nature of the claim, the amount in dispute, the parties, and the ultimate resolution of the proceeding.
2. Lawsuits: List all construction related lawsuits (other than labor or personal injury litigation) filed by or against your firm in the last five years, and identify the nature of the claim, the amount in dispute, the parties, and the ultimate resolution of the lawsuit.
3. Other Proceedings: Identify any lawsuits, administrative proceedings, or hearings initiated by the National Labor Relations Board or similar state agency in the past five years concerning any labor practices by your firm. Identify the nature of any proceeding and its ultimate resolution. Identify any lawsuits, administrative proceedings, or hearings initiated by the Occupational Safety and Health Administration concerning the project safety practices of your company in the last five years. Identify the nature of any proceeding and its ultimate resolution.
4. Bankruptcies: Has your firm or its parents or any subsidiaries ever had a Bankruptcy Petition filed in its name, voluntarily or involuntarily? (If yes, specify date, circumstances, and resolution).
5. Has a contract to which you were a party even been terminated by the other party?
6. Have you ever had to use bonding moneys to complete a project or to pay a subconsultant or supplier?

4.2.11 Tab K: Construction Manager Fee Proposal

Construction Manager shall provide in the form of a fee percentage that covers the CM's home office overhead, profit. On site overhead will be reimbursed at CM's cost to include the CM's full-time on-site management staff, the cost of an on-site office and office equipment, utilities and communications.

CM Fee: Construction Manager will be required to submit an anticipated lump-sum preconstruction service fee, percent general conditions cost, percent general Construction Manager's fee, percent change order fee, percent General Liability Insurance, percent bond rate and a builder's risk quote. The fees will be based on an estimated construction cost of \$31,000,000.00 and schedule (12 months completion for Sites 2,22,19,9,10 and 17). Proposers must complete **Form 13** and submit as part of the response.

4.2.12 Tab L: Required Forms

Statement of Qualifications Tab Information should include:

Include all of the following required forms:

- **Form 2 – Acknowledgement and Signature Page**
- **Form 4 – Vendor Reference Form**
- **Form 5 – Hold Harmless and Indemnity Clause**

- **Form 6 – Non-Collusion Affidavit**
- **Form 7 – Sworn Statement Pursuant to Section 287.133(3)(a)**
- **Form 8 – Certifications Regarding Debarments, Suspensions and Other Responsibility Matters**
- **Form 9 – Drug-Free Workplace Program**
- **Form 10 – Solicitation, Giving and Acceptance of Gifts Policy**
- **Form 11 – W-9 (Request for Taxpayer Identification)**
- **Form 12 – Trench Safety Form**
- **Form 13 - Construction Managers Fee Proposal**
- **Form 15 - Certification of Disclosure of ... Projects**
- **Form 16 – Certification of Current Capacity**
- **Form 17 - Common Carrier or Contracted Carrier..**
- **Form 18- Contractor's Build America, Davis Bacon Acknowledgement**

- 4.3** By submitting an SOQ each firm is confirming that the firm has not been placed on the convicted vendors list as described in Section §287.133 (2) (a), Florida Statutes.
- 4.4** Before awarding a contract, the City reserves the right to require that a firm submit such evidence of their qualifications as the City may deem necessary. Further, the City may consider any evidence of the financial, technical, and other qualifications and abilities of a firm or principals, including previous experiences of same with the City and performance evaluation for services, in making an award in the best interest of the City.

SECTION V – EVALUATION

5.1 Evaluation Procedure

- 5.1.1** Evaluation of the submittals will be conducted by an Evaluation Committee, consisting of a minimum of three members of City staff, or other persons selected by the City Manager or designee. All committee members must be present at scheduled evaluation meetings. Submittals shall be evaluated based upon the information and references contained in the response as submitted. Any firm(s) involved in a joint venture in its response will be evaluated individually, as each firm of the joint venture would have to stand on its own merits.
- 5.1.2** The committee shall short list no less than three submittals, assuming that three submittals have been received, that it deems best satisfy the weighted criteria set forth herein and attempt to select the best qualified firm(s). The committee shall review and evaluate the PROPOSALS, and will determine if interviews, and/or oral presentations are required with all short-listed firms. If required, the committee shall then rank the short-listed firms based upon the information provided in interviews and/or presentations, the materials presented, the firm's responses to the RFP, and deliberations of the Evaluation Committee at publicly advertised Evaluation Committee Meetings. The City may request and the firms shall provide additional information deemed necessary by the Evaluation Committee to conduct evaluations.
- 5.1.3** The ranking and the Evaluation Committee's recommendation shall be reported to the City Commission through and with the concurrence of the City Manager, who shall request the City Commission approve the final ranking and authorize staff to negotiate and execute a contract with the top ranked firm. If the City is unable to reach an agreement with the top ranked firm, negotiations will be cancelled at the sole discretion of the City. City staff will then begin negotiations with the next ranked firm and so forth until an agreement is reached and a contract is awarded.

5.2 Weighted Evaluation Selection Criteria

Each evaluation committee will first evaluate the Proposals for each of the category items included in Section 5.2. Following their review, each selection committee member will score each firm by providing their score for each of the evaluation criteria items by using the maximum points established for each. Once all the selection committee scores are finalized, the gross total score for each firm will be calculated by adding all categories per each selection committee member. Then, all gross total scores from all the selection committee members per firm will be added and averaged by the number of selection committee members. The final average score will be used to determine the firm's ranking.

Each firm qualifications will be evaluated based on the following criteria:

Category Title	Category Description	Reference Tabs	Maximum Points
PART A - Company Qualifications and Experience			
Firm Qualifications and Experience	Experience with projects of similar size and complexity. Experience shall include heavy civil and marine construction, restrained sites within residential areas, active parks.	Tab C	10
Organizational Profile and Project Team Qualifications	Performance, experience and qualifications in related construction experience, exemplary cost containment, minimization of change orders and proven history of project completion within initial budget.	Tab D and Tab H	10
Approach to Scope of Work	Execution and Management of the Project and Approach to performing the work. Outline major tasks and responsibilities, project time schedule and staff assigned. Ability to solve complex problems, management software, timely execution of projects. Ability to work on a busy corridor while maintain safety and comfort to existing municipal uses, business, residents and visitors.	Tab E	10
Knowledge of site and local conditions	Knowledge of the site and local conditions, familiarity with the area. Demonstrated experience working in areas affected by hurricanes wind forces, local permitting and construction market.	Tab F	5
References	Past Performance: Provide three verifiable references for projects of similar size, scope and complexity that have been completed by your firm within the last five years.	Tab G	5
Financial Resources	An indication of the resources and the necessary working capital available and how it will relate to the Firm's financial stability through the completion of the projects.	Tab I	5
PART B - Construction Manager Fee Proposal			
Construction Manager Fee Proposal	Complete Form 13 with breakdown of proposed CM services fees for Preconstruction and Construction phases.	Tab K	55

5.3 **Evaluation Criteria**

5.3.1 The project will be awarded to the firm with the highest combined score of each of selection factors in the RFP. In determining total scores and ranking procedures the following factors will be evaluated;

- A) Company Qualifications and Experience- Total 45 maximum points
- B) CM Fee Proposal – Total 55 maximum points

The total combined score of Parts A and B for the final ranking will have a maximum amount of 100 points for each firm. The following process will be followed for the score calculations, final rankings and award recommendation;

Part A Scoring - Company Qualifications and Experience

During the scoring of the company qualifications and experience, each evaluation committee member will first evaluate the Statement of Qualifications for each of the category items included in Section 5.2. Following their review, each selection committee member will score each firm by providing their score for each of the evaluation criteria items by using the maximum points established for each. The maximum amount of points will be reflected on the selection committee's blank score card.

Once the selection committee total score is finalized, a gross total score for each firm will be calculated by adding the total score of all selection committee members. Then, the gross total score per firm will be averaged by the number of selection committee members. The final average score will be used to determine the Company's Qualifications and Experience total score for each firm.

Part A: Sample Scoring Calculation – the following table has been provided as an example to demonstrate the scoring calculation method and approach to be used for Part A, Company Qualifications and Experience total score.

Sample Scoring Calculation

Part A - Company Qualifications and Experience (45 points Max)

Total Scores from Selection Committee Score Card

Committee Score Card	Committee Member 1	Committee Member 2	Committee Member 3	Gross Score
Firm 1	45	40	39	124
Firm 2	43	40	43	126
Firm 3	35	30	35	100

Part A Score Calculation

Firm Name	Gross Score	Firm Average Score
Firm 1	124	41.33
Firm 2	126	42.00
Firm 3	100	33.33

Part B: CM Fee Proposal Scoring Calculation – Each firm's proposed construction manager fee proposal score will be calculated using a comparison to the lowest

percent/sum approach. The following table shows the score calculation formula and points allocation process.

**Sample Scoring Calculation
Construction Management Fee Proposal (55 Points Max)**

Proposer	Total CM Services Percent Fee	Total Points
Firm 1	10%	55
Firm 2	12%	45.83
Firm 3	14%	39.28

Total points Calculation

$$\frac{\text{Lowest CM Services Proposed fee \%}}{\text{Firm's CM Services Proposed Fee}} = \text{Total X 55 points} = \text{Total Score}$$

Once the Part B scores are finalized, the total combined scores and final ranking will be established. The scores from Part A (Company Qualifications and Experience) and Part B (CM Fee Proposal) added for each firm to calculate the total combined score. Using these scores, each firm will then be ranked as 1, 2, 3, etc. The highest score will receive the highest ranking. Once the initial selection criteria rankings are completed, the selection committee will make a recommendation of award.

Sample Final Ranking Calculation Table – the following table has been provided to as an example to demonstrate the final ranking scoring calculation method.

Final Ranking Calculation

Firm Name	Part A	Part B	Total Combined Score	Final Ranking
Firm 1	41.33	55	96.33	1
Firm 2	42.00	45.83	87.83	2
Firm 3	33.33	39.28	72.61	3

5.4 Oral Presentation

If required, short-listed firms shall present an oral overview of their approach to perform work on this particular project and their ability to meet the City's required project needs. The short-listed firms will also answer any additional questions that the Committee may have. The oral presentation will be limited to 30 minutes after which a question-and-answer period not exceeding 15 minutes will commence.

Short-listed firms will be scored on an ordinal basis (i.e., 1, 2, 3, etc.). A score of 1 will be given to the firm considered most qualified to provide the required services to the City, followed by a score of 2 being given to the next firm considered most qualified, and so on and so forth. The firm with the fewest total points will be ranked number 1.

SECTION VI – GENERAL TERMS AND CONDITIONS

1.1 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 Solicitation are encouraged to submit proposals. 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 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.

1.2 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.

1.3 PREPARATION OF BIDS/PROPOSALS

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.

1.4 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.

1.5 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 by signing the addendum and including it with their bid/proposal. Failure to include signed 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.

1.6 REJECTION OF BIDS/PROPOSALS

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.

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.

1.7 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.

1.8 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.

1.9 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 un-opened to the sender and rejected as late.

1.10 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.

1.11 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 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 with the Chief Procurement Officer on or before the date specified for a request for clarification.

1.12 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.

1.13 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.

1.14 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.

1.15 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.

1.16 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.

1.17 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.

1.18 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.

1.19 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.

1.20 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.

Requirements for Signing Bid/Proposal:

- A. Each proposer, by making a bid/proposal, represents that this document has been read and is fully understood.
- B. 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.
- C. All manual signatures must have the name typed directly under the line of the signature.
- D. The above requirements apply to all SOLICITATION addenda.

1.21 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.

1.22 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 F.S. Chapter 119, notwithstanding a proposers' 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 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.

1.23 INFORMATION

For information concerning procedure for responding to this Solicitation (SOLICITATION), contact the Point of Contact in the Section 1.4. Such contact shall be for clarification purposes only. **It is preferred that all other questions be submitted in writing via OpenGov at least 10 calendar days prior to the bid/proposal due/opening date.**

1.24 BIDS/PROPOSALS

The bid/proposal must be signed by one duly authorized to do so and 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.

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.

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.

1.25 MODIFICATION AND WITHDRAWAL OF BIDS/PROPOSALS

Bids/proposals must be modified or withdrawn by an appropriate document duly executed in the manner that a bid/proposal must be executed and delivered to the place where bids/proposals are to be submitted at any time prior to the deadline for submitting bids/proposals. A request for withdrawal or a modification must be in writing and signed by a person duly authorized to do so and, in a case where signed by a deputy or subordinate, the principal's proper written grant of authority to such deputy or subordinate must accompany the request for withdrawal or modification. 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.

1.26 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 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.

1.27 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.

1.28 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.

1.29 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.

1.30 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.

1.31 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.

1.32 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 bid in 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.

1.33 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).

1.34 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.

1.35 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 proposal on a contract to provide any goods or services to a public entity, may not submit a proposal 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.

1.36 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.

1.37 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.

1.38 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:

1. 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

2. 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.

1.39 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.

1.40 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.

1.41 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, whichever is sooner. The Vendor understands that any material supplied to the City may be subject to public disclosure under the Public Records Law.

1.42 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 notwithstanding application of conflicts of law principles.

1.43 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.

1.44 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.

1.45 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.

1.46 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.

1.47 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.

1.48 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.

1.49 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.

1.50 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.

1.51 RIGHT TO REQUEST ADDITIONAL INFORMATION

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

1.52 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.

1.53 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.

1.54 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.

1.55 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.

1.56 INSURANCE REQUIREMENTS

See insurance requirements in the main solicitation document.

1.57 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

1.58 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.

1.59 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.

1.60 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.

1.61 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.

1.62 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:

1. Stop work on the date specified in the notice ("the Effective Termination Date");
2. Take such action as may be necessary for the protection and preservation of the City's materials and property;
3. Cancel orders;
4. 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;
5. 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:

1. Portion of the services completed in accordance with the Agreement up to the Effective Termination Date; and
2. 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.

All compensation pursuant to this Article is subject to audit.

1.63 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:

1. The Proposer has not delivered deliverables on a timely basis;

2. 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;
3. The Proposer has failed to make prompt payment to subproposers or suppliers for any services;
4. 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;
5. The Proposer has failed to obtain the approval of the City where required by this Agreement;
6. The Proposer has failed to provide "adequate assurances" as required under subsection "B" below;
and
7. 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:

1. Treat such failure as a repudiation of this Agreement;
2. 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.

1.64 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.

1.65 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.

1.66 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.**

1.67 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.

1.68 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.

1.69 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.

1.70 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.

1.71 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.

END OF SECTION

Section VII

Required Forms

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