



**CITY OF HALLANDALE BEACH  
COMMUNITY REDEVELOPMENT AGENCY  
(HBCRA)**

**INVITATION TO BID (ITB)  
BID # FY 2015-2016-CRA003  
FLORIDA DIVISION OF EMERGENCY MANAGEMENT  
(FDEM) GRANT  
RESIDENTIAL WIND MITIGATION  
RETROFIT IMPROVEMENTS**

**EXHIBIT II TERMS AND CONDITIONS, FORMS AND  
AGREEMENT**

**PREPARED BY:  
CITY OF HALLANDALE BEACH  
COMMUNITY REDEVELOPMENT AGENCY (HBCRA) AND  
PROCUREMENT DEPARTMENT**

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## **I. SUBMISSION AND RECEIPT OF PROPOSALS**

1. Proposals to receive consideration must be received on or prior to the specified time and date of opening, as designated in the proposal.
2. Unless otherwise specified, firms **MUST** use the proposal form(s) furnished by the City/CRA. Failure to do so may be cause for rejection of proposal. Removal of any part of the proposal forms may invalidate proposal.
3. Proposals having any erasure or corrections **MUST** be initialed by the Proposer in **INK**. Proposals shall be signed in INK; all forms shall be typewritten or printed with pen and ink.

## **II. GENERAL TERMS AND CONDITIONS**

These General Terms and Conditions apply to all responses made to the Hallandale Beach CRA by all prospective Proposers. The Hallandale Beach CRA reserves the right to reject any or all proposals, to waive any informalities or irregularities in any proposals received, to re-advertise for proposals, to enter into contract negotiations with the selected Proposer(s) or take any other actions that may be deemed to be in the best interest of the Hallandale Beach CRA.

### **1. CONE OF SILENCE:**

- (a) Purpose. A cone of silence shall be applicable to all requests for proposal (RFP), invitations to bid (ITB), RFLI, or any other advertised solicitations for the provision of goods and services, professional services, and public works or improvements for amounts greater than fifty thousand (\$50,000) dollars, unless otherwise exempted in this section.
- (b) Definition. The term "cone of silence" means a prohibition on:
  - (1) Any communication regarding a particular RFP, RFQ, ITB, RFLI, or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist or consultant and the City/CRA's staff including, but not limited to, the City Manager/CRA Executive Director and his staff;
  - (2) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between a potential proposer, offeror, respondent,

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- bidder, lobbyist, or consultant and any member of the selection/evaluation committee thereof;
- (3) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and the mayor and commissioners and their respective staff.
- (c) Exemptions. Notwithstanding the foregoing, the cone of silence shall not apply to:
- (1) Communications between a potential proposer, offeror, respondent, bidder, consultant and City purchasing staff, prior to bid opening date or receipt of proposals, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
  - (2) Duly noticed pre-bid/proposal conferences and site inspections;
  - (3) Duly noticed site visits to determine the competency of bidders/proposers regarding a particular solicitation during the time period between the opening of bids/receipt of proposals and the time the City Manager/CRA Executive Director presents his written recommendation to the City Commission/CRA Board of Directors;
  - (4) Emergency procurements;
  - (5) Communications with the City Attorney or CRA Attorney;
  - (6) Sole source procurements;
  - (7) Those purchases that are exempted from competitive requirements in accordance with Code of Ordinances, Section 23-7
  - (8) Bid waivers;
  - (9) Oral presentations before selection/evaluation committees and communications occurring during duly noticed meetings of selection/evaluation committees;
  - (10) Public presentations made to the City Commission/CRA Board of Directors and communications occurring during any duly noticed public meeting;
  - (11) Communications in connection with the collection of industry comments or the performance of market research regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation by the purchasing staff;
  - (12) Contract negotiations that occur after an award; and
  - (13) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between the City Manager/CRA Executive Director and his staff, and the mayor and City Commission/CRA Board of Directors and their staff.

- (d) Procedure.
- (1) Imposition. A cone of silence shall be imposed upon each RFP, RFQ, RFI, ITB or any other advertised solicitation when the solicitation is advertised. At the time of imposition of the cone of silence, the City Manager/CRA Executive Director or her designee shall issue a notice thereof to the affected department, the city clerk, mayor and City Commission/CRA Board of Directors and shall include in any advertised solicitation a statement disclosing that the solicitation is subject to the cone of silence.
  - (2) Termination; City Commission/CRA Board of Directors awarding authority. Except as otherwise provided herein, the cone of silence shall terminate at the date and time of the City Commission/CRA Board of Directors meeting where the award will be made; provided, however, that if the City Commission/CRA Board of Directors defers the matter to a future date, the cone of silence shall be re-imposed until such time as the matter is brought back before the City Commission/CRA Board of Directors for further deliberation. In the event the City Commission/CRA Board of Directors decides to reject all bids, then the cone of silence shall be lifted.
  - (3) City Manager/CRA Executive Director awarding authority. Except as otherwise provided herein, the cone of silence shall terminate at the time the originating department issues a written recommendation to the City Manager/CRA Executive Director; provided, however, that if the City Manager/CRA Executive Director refers the recommendation back for further review, the cone of silence shall be reinstated until such time as the City Manager/CRA Executive Director issues a recommendation for award pending the bid protest period.
- (e) Penalties. Violation of the cone of silence by a particular bidder or proposer shall render the award to said bidder or proposer voidable by the City Commission/CRA Board of Directors. A violation of this section by a particular bidder, proposer, offeror, respondent, lobbyist or consultant shall subject said bidder, proposer, offeror, respondent, lobbyist or consultant to five hundred (\$500.00) dollar fine per violation and debarment.

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## **2. DOMESTIC PARTNER BENEFITS REQUIREMENT**

A requirement for City of Hallandale Beach Contractors to provide equal benefits for domestic partners. Contractors with five (5) or more employees contracting with the City of Hallandale Beach, in an amount valued over \$50,000, provide benefits to employees' spouses and the children of spouses. All firms must complete and provide with their response the Domestic Partnership Certification Form.

### **Equal Benefits Requirements**

As part of the competitive solicitation and procurement process a Contractor seeking a Contract shall certify that upon award of a Contract it will provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses. The certification shall be in writing and signed by an authorized officer of the Contractor. Failure to provide such certification shall result in a Contractor being deemed non-responsive.

### **Contracts**

Every Contract, unless otherwise exempt as per the section below, shall contain language that obligates the Contractor to comply with the applicable provisions of this section. The Contract shall include provisions for the following:

- (i) The Contractor certifies and represents that it will comply with this section during the entire term of the Contract.
- (ii) The failure of the Contractor to comply with this section shall be deemed to be a material breach of the contract, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.
- (iii) The City/CRA may terminate the Contract if the Contractor fails to comply with this section.
- (iv) The City/CRA may retain all monies due or to become due until the Contractor complies with this section.

### **Exception and waiver**

The provision of this section shall not apply where:

- a. The contractor provides benefits neither to employees' spouses nor spouse's dependents.
- b. The contractor is a religious organization, association, society or any non-profit charitable or educational institution or organization operated, supervised or

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controlled by or in conjunction with a religious organization, association or society.

- c. The contractor is a governmental entity.
- d. The contract is for the sale or lease of property.
- e. The covered contract is necessary to respond to an emergency.
- f. The provision of this section would violate grant requirements, the laws, rules or regulations of federal or state law.
- g. The City Commission/CRA Board of Directors waives compliance of this section in the best interests of the city, including but not limited to, the following circumstances:
  - 1. Where only one (1) solicitation response is received.
  - 2. Where more than one (1) solicitation response is received, but the solicitation demonstrates that none of the proposed solicitations can comply with the requirements of this section.

**3. LOBBYIST REGISTRATION:**

Registration. Every lobbyist shall file the registration with the City Clerk's Office on the form provided by the City/CRA. Under no circumstances shall a lobbyist working for the City and lobby the City Commission/CRA Board of Directors.

Annual registration. Commencing January 1, 2005, and annually thereafter, every lobbyist shall submit to the City Clerk's office a signed statement under oath identifying themselves and their respective principals or clients and/or the party they represented on City matters over the past year or in accordance with administrative policy. Such annual disclosure statements shall be submitted on the form provided by the City Clerk's Office. A fee of \$50.00 shall be paid to the City for annual lobbyist registration.

**4. SCRUTINIZED COMPANIES:**

The City, entering into a contract for goods or services of \$1 million or more, entered into or renewed on or after July 1, 2011, can terminate such contract at the option of the City if the firm awarded the contract is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

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**5. PROPOSAL ACCEPTANCE PERIOD:**

Proposer warrants by virtue of submitting a proposal that costs, terms and conditions quoted in the Proposal will remain firm for acceptance by City Commission/CRA Board of Directors until such time as the City Commission/CRA Board of Directors approves award of contract.

**6. PUBLIC RECORDS:**

Sealed bids, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. In the event the City Commission/CRA Board of Directors elects to reject all bids and indicates its intent to reissue the solicitation of bids, the submitted proposals remain exempted from s. 119.07(1) and s. 24(a) Art. I of the State Constitution until the City gives notice of its intent to award the contract under the reissued solicitation.

If the bidder/proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption. City's determination of whether an exemption applies shall be final, and bidder/proposer agrees to hold harmless and releases the City, and to defend, indemnify, by Counsel chosen by the City Attorney or CRA Attorney, the City and City's officers, employees, and agents against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records.

**7. ADDENDA AND MODIFICATIONS:**

All addenda and other modifications to the documents or this RFP made prior to the time and date of proposal opening shall be issued as separate documents identified as changes to the proposal project document. The City shall make reasonable efforts to issue addenda within seven days prior to proposal opening.

If any addenda are issued, the City will attempt to notify known prospective Proposers. Addenda to this solicitation will be posted on the City's webpage <http://fl-hallandalebeach.civicplus.com/index.aspx?nid=417>.

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Firms are solely responsible to check the website or contact the Procurement Department prior to the Proposal submittal deadline to ensure addenda has not been released. All Proposals shall be construed as though all addenda had been received and acknowledged and the submission of his/her Proposal shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her. It is the responsibility of each prospective Proposer to verify that he/she has received all addenda issued before depositing the Proposal with the City.

**8. PERFORMANCE:**

It is the intention of the City/CRA to obtain the products and services as specified herein from a source of supply that will give prompt and convenient service. The awarded Proposer must be able to perform as required under the Scope of Service. Any failure of Contractor to comply with these conditions may be cause for terminating any resulting contract immediately upon notice by the City/CRA. The City/CRA reserves the right to obtain these products and services from other sources, when necessary, should Contractor be unable to perform on a timely basis and such delay may cause harm to the using department or City residents.

**9. DELIVERY:**

Time is of the essence. City/CRA reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made at the time specified on the proposal form.

**10. DEFAULT PROVISION:**

In case of default by the successful firm the City/CRA may procure the products or services from other sources and hold the firm responsible for any excess cost occasioned or incurred thereby.

**11. COPYRIGHTS AND/OR PATENT RIGHTS:**

Proposer warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling the goods, shipped or ordered, as a result of this proposal and the Proposer agrees to hold the City/CRA harmless from any and all liability, loss, or expense occasioned by any such violation.



**12. TAXES:**

The CRA is exempt from any taxes imposed by the State of Florida and/or Federal Government. State Sales Tax Exemption Certificate No.90-0829085; United States Treasury Department. Exemption Certificates provided on request.

**13. FAILURE TO SUBMIT PROPOSAL:**

If your firm does not submit a proposal, PLEASE return the form, "**UNABLE TO SUBMIT A PROPOSAL**", stating thereon and request that your name be retained on the City mailing list, otherwise, your firm's name will be removed from the City's bid mailing list.

**14. SIGNED PROPOSAL CONSIDERED AN OFFER:**

The signed Proposal shall be considered an offer on the part of the Proposer or firm, which offer shall be deemed accepted upon approval by the City Commission/CRA Board of Directors of the City of Hallandale Beach/HBCRA, Florida and in case of default on the part of the successful Proposer or firm, after such acceptance, the City/CRA may take such action as it deems appropriate, including legal action, for damages or specific performance.

**15. LIABILITY, INSURANCE, LICENSES AND PERMITS:**

Where Proposers are required to enter onto City of Hallandale Beach or HBCRA property to deliver materials or perform work or services, as a result of proposal award, the Proposer will assume full duty, obligation and expense of obtaining all necessary licenses, permits, inspections and insurance, as required. The Proposer shall be liable for any damage or loss to the City/CRA occasioned by negligence of the Proposer (or agent) or any person the Proposer has designated in the completion of a contract as a result of the proposal.

**16. RESERVATION FOR REJECTION AND AWARD:**

The City/CRA reserves the right to accept or reject any or all proposals, to waive irregularities and technicalities, and to request re-submission of proposals. The City/CRA also reserves the right to award the contract on such material the City/CRA deems will best serve its interests.

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The City/CRA also reserves the right to waive minor variations to specifications (interpretation of minor variations will be made by applicable City Procurement personnel). In addition, the City/CRA reserves the right to cancel any contract by giving thirty (30) days written notice. **The City/CRA reserves the right to negotiate the type and cost of specific types of services to be purchased. These negotiations may be held with one or more proposers, as is deemed in the best interest of the City/CRA.**

**17. OMISSION OF INFORMATION:**

Any omissions of detailed specifications stated herein, that would render the materials/services not suitable for use as specified, will not relieve the Proposer from responsibility.

**18. INSPECTION OF FACILITIES / SITE VISIT:**

Proposers wishing to inspect facilities where services are to be rendered must make an appointment by calling the City's Procurement Department.

**19. PROPOSER'S COSTS:**

The City/CRA shall not be liable for any costs incurred by proposers in response to the RFP.

**20. NONDISCRIMINATION, EQUAL OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT**

CONTRACTOR shall not discriminate against any person in its operations and activities in its use or expenditure of funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines and standards.

CONTRACTOR's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONTRACTOR shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, gender identity, gender expression, national

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origin, marital status, political affiliation, or physical or mental disability. In addition, CONTRACTOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship, and accessibility).

CONTRACTOR shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff; termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONTRACTOR shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 ½) in performing any services pursuant to this Agreement.

**21. PROTEST PROCEDURES:**

Any party may present a written protest about the award of a contract as a result of an RFP, RFQ or Bid to the Director of Procurement. Emergency procurements, purchases for goods, supplies, equipment, and services, the estimated cost of which does not exceed fifty thousand (\$50,000.00) dollars, are not subject to protests.

(1) Time for Protest

The submission of a protest about the award of a contract, as a result of an RFP, RFQ or Bid, to the Director of Procurement must be made no later than ten (10) calendar days of approval of Notice of Award.

(2) Form and Content of Protest

The protest shall be filed in writing with the Director of Procurement and shall state the contested information about the RFP, RFQ or Bid.

The Procurement Director will provide a copy of the written protest to the City Attorney and/or CRA Attorney and other appropriate City/CRA staff.

(3) Protest Filing Fee

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The written protest must be accompanied by a filing fee in the form of a money order or cashier's check payable to the City of Hallandale Beach in an amount equal to one (1%) percent of the contract value, which resulted from an RFP, RFQ or Bid, but no greater than five thousand (\$5,000.00) dollars. The filing fee shall guarantee the payment of all costs which may be adjudged against the protestor in any administrative or court proceeding. If a protest is upheld by the Director of Procurement, the filing fee shall be refunded to the protestor less any costs assessed under section 4. "Costs" below.

- (4) **Costs**  
All costs accrued from a protest shall be assumed by the protestor.
- (5) **Authority to resolve protests**  
The Procurement Director shall have the authority, subject to the approval of the City Manager/CRA Executive Director Executive Director and the City Attorney / CRA Attorney, to settle and resolve any written protest within thirty (30) days after receipt of the written protest.
- (6) **Special Magistrate**  
In the event the protest is not resolved by the Procurement Director, a hearing shall be scheduled by the City before a special magistrate selected by the City, who shall only determine whether procedural due process has been afforded, whether the essential requirements of law have been observed, and whether the Procurement Director's finding are arbitrary, capricious, or an abuse of discretion. Any hearing shall be limited to two (2) hours per side, unless the special magistrate rules otherwise. This requirement is a jurisdictional prerequisite to the institution of any civil action regarding the same subject matter.

## **22. QUALIFICATIONS OF PROPOSER:**

Proposals shall be considered only from firms normally engaged in performing the type of work specified within the RFP Project Document. The firm proposing must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to the City. In determining a Proposer's responsibility and ability to perform the contract, the City has the right to investigate the financial condition, experience record, personnel, equipment, facilities, and organization of the Proposer. The City has the right to conduct further investigation of the firm's responsibility. The unreasonable failure of Proposer or firm to promptly supply information in connection with an inquiry with respect to

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responsibility may be grounds for determination of non-responsibility with respect to such Proposer or firm.

**23. TAX SAVINGS DIRECT PURCHASES (TSDP):**

The City of Hallandale Beach is recognized by the State of Florida as being exempt from state sales tax and use tax and is therefore, qualified for an exemption from Florida and all other state sales taxes on the purchase of tangible personal property if certain criteria are met. The City may realize savings of sales tax on selected material and equipment needed for use in public works contracts. Public works contracts are projects for public use or enjoyment, financed and owned by the City, in which private firms install tangible property that becomes part of a City facility. See Rule 12A-1.094 and Section 212.08(6) Florida Statutes. The City will implement the TSDP for projects of \$1 million or above and apply it if applicable to this project.

**24. SAMPLE FORM CONTRACT:**

The CRA's Form Contract is attached as part of this solicitation. Submission of an Bid response without identifying variances expressly acknowledges and formally evidences acceptance of all terms and conditions of the form Contract. Any and all variances must be submitted in writing by the Proposer.

**25. OCCUPATIONAL HEALTH AND SAFETY:**

The Contractor and Subcontractors shall comply with the provisions of the Occupational Safety and Health Standards, promulgated by the Secretary of Labor under the "Occupational Safety and Health Act of 1970".

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.

The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. All employees on the work and other persons who may be affected thereby.
2. All the work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks pavements roadways, structures and utilities not designated for removal, relocating or replacement in the course of construction.

The Contractor shall designate a responsible member of his or her organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated in writing by the Contractor to the HBCRA.

Until acceptance of the work by the City/CRA, it shall be under the charge and in care of the Contractor and he shall take every necessary precaution against injury or damage to the work by action of the elements or from the execution or from the non-execution of the work.

The Contractor shall rebuild, restore and make good, at his own expense, all injuries or damages to any portion of the work occasioned by any of the above causes before its completion and acceptance.

**26. RETAINAGE:**

Retainage is applicable to Construction Contracts Only. The Contractor agrees that ten percent (10%) of monies earned by Contractor shall be retained by City/CRA until fifty percent (50%) completion of the project. After 50% completion of the project and prior to Final Payment, City shall retain five percent (5%) of monies earned by Contractor.

The City may retain amounts greater than those set forth above that are the subject of a good faith dispute pursuant to Federal Statute 255.078 (6), the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the City/CRA or Contractor.

**27. AWARD OF CONTRACT:**

The City/CRA exercises the right reserved herein to reject any or all bids. The Contract shall be awarded by the City/CRA to the responsive, responsible Bidder who has submitted either the lowest responsive bid or the lowest responsive bid on the base bid including such alternates as the City/CRA determines to be in its own best interests depending upon whichever is applicable to the particular bid.

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**28. CONTRACT FOR EXECUTION:**

The City/CRA exercises the right reserved herein to reject any or all bids. The Contract shall be awarded by the City/CRA to the responsive, responsible Bidder who has submitted either the lowest responsive bid or the lowest responsive bid on the base bid including such alternates as the City/CRA determines to be in its own best interests depending upon whichever is applicable to the particular bid.

The CRA's Form Contract is attached as part of this solicitation. The Vendor's submission of a Bid response without identifying variances expressly acknowledges and formally evidences the Vendor's acceptance of all terms and conditions of the form Contract. Any and all variances must be submitted in writing by the Vendor.

Contractor must be able to abide by and execute the CRA's Form Agreement, provided as part of this Bid, upon award of the Contract. The legal terms and conditions will bind the awarded Contractor for all of the years under Contract.

**29. CONFLICT OF INTEREST**

If you are an employee, board member, elected official(s) or an immediate family member of any such person, please indicate the relationship in the form provided in the Form's Section, Exhibit II. Pursuant to the City of Hallandale Beach Standards of ethics any potential conflict of interest must be disclosed and if requested, obtain a conflict of interest opinion or waiver from the City Commission/CRA Board of Directors prior to entering into a contract with the City of Hallandale Beach or the HBCRA.

**30. BOYCOTT**

Procurement Code Chapter 23-6(I) prohibits the City from procuring goods and services from, or otherwise contracting with a business which engages in the boycott of a person or entity based on race, color, religion, gender, national origin, or any other legally protected class. By virtue of response to this formal solicitation, Firm agrees it is and shall remain in full compliance with Section 23-6 (I) of the City of Hallandale Beach City Code.

## FORMS

**ALL FIRMS' MUST COMPLETE, SIGN AND RETURN ALL FORMS WITH  
THE FIRM'S SUBMITTAL.**

**ALL FIRMS THAT ARE SUBMITTING A RESPONSE TO THIS BID, EITHER  
THROUGH A JOINT VENTURE, A JOINT COLLABORATIVE PROPOSAL,  
ETC. MUST SIGN  
AND SUBMIT ALL FORMS AS PART OF THE RESPONSE TO THIS BID**



UNABLE TO SUBMIT A RESPONSE? We sincerely hope this is not the case. If your firm cannot submit a proposal at this time, please provide the information requested in the space provided below and return via email to [procurement\\_department@cohb.org](mailto:procurement_department@cohb.org):

**HAVE RECEIVED THE BID**

**(COMPANY NAME)**

**UNABLE TO RESPOND TO THE BID AT THIS TIME DUE TO THE FOLLOWING REASONS:**

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|  |
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**COMPLETE INFORMATION BELOW:**

|                             |           |
|-----------------------------|-----------|
| SIGNATURE:                  |           |
| TITLE:                      |           |
| STREET ADDRESS: (OR)        |           |
| P.O. BOX:                   |           |
| CITY:                       |           |
| STATE:                      | ZIP CODE: |
| TELEPHONE/AREA CODE: (    ) |           |
| EMAIL ADDRESS:              |           |

|   |
|---|
| <b>RETURN THIS UNABLE TO SUBMIT FORM ONLY VIA EMAIL AS STATED ABOVE:</b>                                  |
| <b>CITY OF HALLANDALE BEACH</b>   |
| <b>PROCUREMENT DEPARTMENT</b>   |
| <b>400 SOUTH FEDERAL HIGHWAY, ROOM 242</b>  |
| <b>HALLANDALE BEACH, FL 33009</b>   |
| <b>TITLED: BID # FY 2015-2016-CRA003 FDEM GRANT RESIDENTIAL<br/>WIND MITIGATION RETROFIT IMPROVEMENTS</b> |



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**THIS PROPOSAL SUBMITTED BY:**

|                       |
|-----------------------|
| COMPANY:              |
| ADDRESS:              |
| CITY & STATE:         |
| ZIP CODE:             |
| TELEPHONE:            |
| FACSIMILE NUMBER:     |
| E-MAIL ADDRESS:       |
| FEDERAL ID NUMBER:    |
| NAME & TITLE PRINTED: |
| SIGNED BY:            |

WE (I) the above signed hereby agree to furnish the item(s), service(s) and have read all attachments including specifications, terms and conditions and fully understand what is required.

The Bid, Exhibit I, Exhibit II, Exhibit III. and/or any other pertinent documents forming a part of this Bid and by reference made a part hereof. Signature indicates acceptance of all terms and conditions.

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**PUBLIC ENTITY CRIME FORM**

**SWORN STATEMENT PURSUANT TO SECTION 287.133(2) (a),  
FLORIDA STATUTES,  
PUBLIC ENTITY CRIME INFORMATION**

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signed and Sealed \_\_\_\_\_ day of \_\_\_\_\_, 2016

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**PAYMENT TERMS**

The City of Hallandale Beach requires the acceptance of the following e-payable method for all work/services rendered as a result of the award of this solicitation.

The City has implemented an e-payables payment process utilizing both VISA and MASTERCARD networks. Payments from this contract will be made utilizing the City's e-payable payment process in lieu of a check. Contractor will receive payment from the VISA and/or MASTERCARD in the same manner as other credit card purchases. Accordingly, your firm must presently have the ability to accept these credit cards before the start of the contract term, or contract award by the City. The City reserves the right to revise this program as necessary.

|                                     |
|-------------------------------------|
| NAME OF FIRM:                       |
| NAME OF AUTHORIZED SIGNER PRINTED:  |
| TITLE OF AUTHORIZED SIGNER PRINTED: |
| SIGNATURE:                          |
| DATE:                               |

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|--|
| <b>Domestic Partnership Certification Form</b> |
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**This form must be completed and submitted with your firm's submittal.**

**Equal Benefits Requirements** As part of the competitive solicitation and procurement process a Contractor seeking a Contract shall certify that upon award of a Contract it will provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses. Failure to provide such certification shall result in a Contractor being deemed non-responsive.

**Domestic Partner Benefits Requirement means** a requirement for City Contractors to provide equal benefits for domestic partners. Contractors with five (5) or more employees contracting with City, in an amount valued over \$50,000, provide benefits to employees' spouses and the children of spouses.

The firm providing a response, by virtue of the signature below, certifies that it is aware of the requirements of City of Hallandale Beach Ordinance 2013-03 Domestic Partnership Benefits Requirement, and certifies the following:

**Check only one box below:**

- 1. The Contractor certifies and represents that it will comply during the entire term of the Contract with the conditions of the Ordinance 2013-03, Section 23-3, Domestic Partner Benefits Requirement of the City of Hallandale Beach, or
- 2. The firm does not need to comply with the conditions of Ordinance 2013-03, Section 23-3, Domestic Partner Benefits Requirement of the City of Hallandale Beach, because of allowable exemption: **(Check only one box below):**
  - The firm's price for the contract term awarded is \$50,000 or less.
  - The firm employs less than five (5) employees.
  - The firm does not provide benefits to employees' spouses nor spouse's dependents.
  - The firm is a religious organization, association, society, or non-profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.
  - The firm is a government entity.

- The contract is for the sale or lease of property.
- The covered contract is necessary to respond to an emergency.
- The provision of Ordinance 2013-03, Section 23-3 Definition, of the City of Hallandale Beach, would violate grant requirements, the laws, rules or regulations of federal or state law.

I, \_\_\_\_\_, \_\_\_\_\_  
Name of authorized Officer per Sunbiz Title

of \_\_\_\_\_  
Name of Firm as it appears on Sunbiz

hereby attest that I have the authority to sign this notarized certification and certify that the above referenced information is true, complete and correct.

\_\_\_\_\_  
Signature Print Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_ BY \_\_\_\_\_

TO ME PERSONALLY KNOWN OR PRODUCED IDENTIFICATION:

\_\_\_\_\_  
(type of ID)

\_\_\_\_\_  
Signature of Notary Commission expires

\_\_\_\_\_  
Print Name of Notary Public

Seal Below:

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**CONFLICT OF INTEREST NOTIFICATION REQUIREMENT QUESTIONNAIRE**

If you are an employee, board member, elected official(s) or an immediate family member of any such person, please indicate the relationship below. Pursuant to the City of Hallandale Beach Standards of ethics any potential conflict of interest must be disclosed and if requested, obtain a conflict of interest opinion or waiver from the Board of Directors prior to entering into a contract with the City.

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**1. Name of firm submitting a response to this Bid.**

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**2. Describe each affiliation or business relationship with an employee, board member, elected official(s) or an immediate family member of any such person of the City of Hallandale Beach or Hallandale Beach Community Redevelopment Agency, if none so state.**

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**3. Name of City of Hallandale Beach or Hallandale Beach Community Redevelopment Agency employee, board member, elected official(s) or immediate family member with whom filer/respondent/firm has affiliation or business relationship, if none so state.**

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**4. Describe any other affiliation or business relationship that might cause a conflict of interest, if none so state.**

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**CONFLICT OF INTEREST NOTIFICATION REQUIREMENT QUESTIONNAIRE**

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**5.**

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Signature of person/firm

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Date



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**DRUG FREE WORKPLACE FORM:**

The undersigned vendor in accordance with Florida Statute 287.087

Hereby certified that \_\_\_\_\_ does:  
(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of or plea of guilty or nolo contendere to, any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

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

|       |                     |
|-------|---------------------|
| DATE: | BIDDER'S SIGNATURE: |
|-------|---------------------|

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**HALLANDALE BEACH COMMUNITY REDEVELOPMENT AGENCY  
RESIDENTIAL CONSTRUCTION MITIGATION PROGRAM**

**CONTRACTOR'S AGREEMENT**

**THIS CONTRACTOR'S AGREEMENT** ("Agreement") is made and entered into as of \_\_\_\_\_, 2016 ("Effective Date"), by and among \_\_\_\_\_ having an address at \_\_\_\_\_ (the "Owner"); \_\_\_\_\_ having an address at \_\_\_\_\_ (the "Contractor"); and the HALLANDALE BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, having an address at 400 S. Federal Highway, Hallandale Beach, Florida 33309 (the "CRA").

**RECITALS**

1. Owner desires to engage the services of the Contractor as a general contractor to perform the Work (as defined below) on Owner's single-family residence on the Property (as defined below) pursuant to the Contract Documents (as defined below).
2. Contractor desires to perform the Work as general contractor for the Owner pursuant to the terms of this Agreement.
3. The funds for the Work are being disbursed to the Contractor by the CRA from a grant received by the CRA from the State of Florida (the "Grant") in conjunction with the CRA's Residential Construction Mitigation Program (the "Program") administered by the CRA, subject to the terms and conditions of that certain application by the Owner to the CRA (the "Application").
4. Contractor was selected by the CRA to be the contractor for the Program pursuant to that certain Invitation to Bid (ITB) Bid # FY 2015-2016-CRA003 (the "ITB") in connection with the implementation of the Program as set forth therein.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the Owner and Contractor agree as follows:

**Section 1. DEFINITIONS.** In addition to the terms defined throughout this Agreement, whenever the following terms are used in this Agreement or in the other Contract Documents, they shall have the following meanings:

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1.1 Contract Documents. The Contract Documents consist of this Agreement, Contractor's bid and specifications attached as Exhibit "A" (the "Bid Specifications"), the Scope of Work and Specifications attached as Exhibit "B" (the "Scope of Work"), the ITB, schedules, exhibits and amendments hereto, the Plans and Specifications, all Change Orders and addenda, if any, bidding requirements, advertisements or invitation to bid, instructions to bidders, sample forms or portions of addenda relating to bidding requirements. Without limiting the foregoing, all terms and conditions set forth in the ITB are incorporated into this Agreement as if fully set forth herein.

1.2 Plans and Specifications. If applicable, the plans and specifications for the Work prepared by \_\_\_\_\_ under Job No. \_\_\_\_\_ dated \_\_\_\_\_ consisting of Sheets \_\_, identifying the design, location, dimensions and specifications of the Work, which may include construction plans and specifications, elevations, sections, details, schedules and diagrams.

1.3 Project. The entire construction of the Work and the performance by Contractor of its obligations as provided in the Contract Documents.

1.4 Property. The real property constituting the site for the Project with the following address: \_\_\_\_\_, Hallandale Beach, Florida 33309.

1.5 Subcontractor. An individual or entity (other than the Contractor) having a direct contract with Contractor or with any other subcontractor for the performance of a part of the Work or the provision of materials in connection with the Project.

1.6 Work. Any and all obligations, duties and responsibilities necessary for the successful performance and completion of the work under the Contract Documents including all work set forth in the Plans and Specifications and inferable there from. Without limiting the foregoing the Work generally includes all labor and materials necessary for the performance and completion thereof.

**Section 2. GENERAL.** The parties acknowledge and agree that the Project is being funded by the Grant and performed in conjunction with the Program administered by the CRA. The parties further acknowledge and agree that Project is subject to the terms and conditions of the Program including, but not limited to, the Application, Grant Agreement and Program Guidelines, as well as all applicable laws, statutes, resolutions, rules and regulations applicable to the Program. The CRA will assist with the implementation of the Project pursuant to the Program, which may include, but not limited to, (a) coordinating competitive bidding for the Project, (b) assisting the Owner in the control, supervision and direction of the Work to be performed under this

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Agreement and (c) inspecting the Work during construction to assure that the Work is progressing in a timely manner and that it is being carried out in accordance with this terms and conditions of this Agreement. Owner and Contractor agree to cooperate with the CRA in connection with the foregoing including the CRA and its representatives access to the Property

**Section 3. THE WORK.** The Contractor shall be responsible for the satisfactory and complete execution of the Work described in the Contract Documents. The Contractor represents that it has carefully examined the Plans and Specifications, if applicable, the Property and the Rehabilitation Bid Specifications for the Work to be performed, that it has made investigations essential to a full understanding of any difficulties which it may encounter and that it has the experience and necessary personnel, equipment and material at its disposal to complete the Work as required by the Contract Documents. Contractor shall promptly notify the Owner and CRA of any ambiguity, inconsistency or error, which it may discover upon examination of the Contract Documents or of the Property and local conditions. Execution of this Agreement shall constitute acceptance by the Contractor of existing site conditions as a part of the requirements for this Work. Contractor has specifically examined the existing construction at the Property and affirms that it is fit to receive Contractor's Work, except as to concealed or unknown conditions. Contractor shall maintain As-Built Drawings at the Property marked up to record all changes and modifications to the Work as constructed. These As-Built Drawings shall provide as much accuracy as possible, and submission of same to Owner shall be a condition precedent to Final Payment. Contractor agrees to only perform the Work on the Property as set forth in this Agreement, and the Contractor shall not perform any additional work on the Property at the request of Owner or otherwise.

**Section 4. CHANGES IN THE WORK.** Neither the Owner nor the Contractor shall be permitted to make any changes in the nature of additions, deletions, or modifications to the Plans and Specifications and/or Bid Specifications during construction without the prior written consent of the CRA in each instance, which consent may be withheld by the CRA in its sole discretion. Any such permitted changes shall be described in a written "Change Order," to include any additions or deductions to the Lump Sum (as defined below) and Substantial Completion Date.

**Section 5. DUTIES AND RIGHTS OF CONTRACTOR.**

5.1 The Contractor shall be solely responsible for all Work under this Agreement including, but not limited to, the techniques, sequences, procedures, and means, and for coordination of all Work. Contractor shall supervise and direct the Work to the best of its ability. Contractor hereby represent and warrants to the Owner and the CRA that it possesses (a) the skills necessary to perform the Work as required by this Agreement and (b) all necessary licenses required by law to perform the Work as a general contractor including, but not limited to, a

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General Contractor's License issued by the State of Florida, as well as any licenses required by Broward County and the City of Hallandale Beach. The Contractor's Representative shall be \_\_\_\_\_, who shall not be changed without the Owner's consent.

5.2 The Contractor shall comply with all laws and ordinances, and the rules, regulations, or orders of all public authorities relating to the performance of the Work herein including, but not limited to, the Florida Building Code.

5.3 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work.

5.4 The Contractor shall pay when due all sales, consumer, use, and other similar taxes required by law and shall secure all permits, fees and licenses necessary for the execution of the Work.

5.5 The Contractor may not substitute general or specified construction materials of like quality without the written consent of the Owner in each instance. Contractor shall make no modifications to dimensions, within normal construction tolerances, without prior written consent from the Owner in each instance.

5.6 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents and applicable laws. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. All defective Work shall be replaced or repaired at Contractor's sole cost and expense.

5.7 The Contractor covenants with the Owner to cooperate with the Owner and the CRA, as well as exercising the Contractor's skill and judgment as a general contractor in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

**Section 6. DATE OF COMMENCEMENT; SUBSTANTIAL COMPLETION; FINAL COMPLETION.**

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6.1 The date of commencement of the Work shall be ten (10) days after the issuance of the Project building permit.

6.2 The Contractor shall achieve Substantial Completion (defined below) of the entire Work no later than \_\_\_\_\_ (\_\_\_\_) days after the date of commencement of the Work (the "Substantial Completion Date"). The Substantial Completion Date may be extended because of any actions or inactions of the Owner that cause delay, or by delays related to Change Orders or by delays resulting from labor disputes, material shortages, fire, unusual delay in transportation, hurricanes, tropical storms, adverse weather conditions not reasonably anticipated, unavoidable casualties, acts of God, financing delays or any causes beyond the Contractor's control. Notwithstanding anything herein to the contrary, an extension of time shall be the Contractor's sole remedy in the event of a delay due to the action or inaction of the Owner. Contractor hereby waives any claims for delay damages caused by the Owner.

6.3 "Substantial Completion" is the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. For the Substantial Completion to be deemed to have occurred, the Work shall have been completed in accordance with the Contract Documents (except for Punch List [defined below] Work) to the extent required for Owner to obtain a certificate of occupancy and such permit shall have been issued by the appropriate authorities for all of the Work; and, if applicable, all HVAC and life safety systems included in the Work are functioning substantially in accordance with the Contract Documents.

6.4 In addition to inspections during the progress of the Work, Owner and CRA will be given an opportunity immediately following Substantial Completion to inspect the Project with a representative of Contractor. At that time, Owner, CRA and Contractor shall sign a statement listing any defects in workmanship or materials or incomplete Work, which are discovered (the "Punch List"). Contractor will be obligated to perform the Work set forth on the Punch List within a reasonable period of time after the Substantial Completion Date (not to exceed thirty (30) days, excepting delays for product unavailability, labor stoppages, acts of God, etc.). "Final Completion" shall be deemed to have occurred when the Work on the Punch List is complete and accepted by the Owner and CRA, as well as the issuance of certificate of occupancy or its equivalent by the appropriate authorities for all of the Work if not previously issued at Substantial Completion.

**Section 7. LUMP SUM.** The CRA shall pay the Contractor for Contractor's performance of its obligations hereunder a Lump Sum for the Work which Lump Sum is \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_) (the "Lump Sum"). The Lump Sum includes all amounts for labor, materials, costs or expenses necessary to complete the Work (the "Cost of the Work") and the Contractor's Fee. The Contractor's Fee for the Project

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shall be \_\_\_\_\_ and 00/100 Dollars (\$ \_\_\_\_\_). Payment by the Owner of the Lump Sum for the Work performed shall be deemed full compensation to the Contractor for the performance of this Agreement. In the event additional labor, materials, costs or expenses are necessary to complete the Work, such amounts shall be the sole responsibility of Contractor; it being acknowledged and agreed that the Lump Sum for the Work, shall be the maximum amount the Owner shall be required to pay for the Work unless the Lump Sum is increased or decreased by a Change Order.

**Section 8. SCHEDULE, BUDGET AND COST CONTROL.**

8.1 Prior to commencement of the Work, Contractor shall provide Owner and CRA with a Project schedule indicating Subcontractors, activity sequences and durations, and milestone dates for receipt and approval of pertinent information. The Project schedule shall be updated monthly and submitted to the Owner and CRA along with the Applications for Payment.

8.2 Prior to commencement of the Work, Contractor shall provide Owner and CRA with a Project budget. If required by the CRA, the Contractor shall develop and implement a system of cost control that will provide the CRA with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the budget with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes.

**Section 9. COSTS TO BE REIMBURSED.**

9.1 Cost of the Work. The term "Cost of the Work" shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Section 9.1 as follows:

9.1.1 Payments made by the Contractor to Subcontractors in accordance with requirements of the subcontracts.

9.1.2 Costs of materials and equipment (e.g., plumbing fixtures) incorporated into the Work including transportation and storage at the site.

9.1.3 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by general contractors that are provided by the Contractor at the site and costs of transportation, installation, minor repairs and replacement, dismantling and removal thereof. Rates of Contractor-owned equipment and quantities of equipment shall be at customary rates and subject to the Owner's prior approval.

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9.1.4 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

9.1.5 Fees and assessments for the building permit and for other permits, licenses and inspections the Contractor is required by the Contract Documents to pay.

9.2 The Cost of Work shall not include the following:

9.2.1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office.

9.2.2 Expenses of the Contractor's principal office and offices.

9.2.3 Contractor's overhead and general expenses.

9.2.4 Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.

9.2.5 Any other costs not described in Section 9.1 above.

**Section 10. SUBCONTRACTS AND OTHER AGREEMENTS.** Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. All Subcontracts or other agreements for the Work or any portion thereof shall require the prior written consent of the Owner and the CRA in each instance. Unless otherwise agreed to by the Owner and the CRA, any Work to be performed by a Subcontractor shall be bid out. The CRA may designate specific Subcontractors from which, the Contractor shall obtain bids. The Contractor shall obtain at least three (3) bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Owner and CRA. The CRA shall then determine, with the advice of the Owner and Contractor, which bids will be accepted. Subcontractors or other agreements shall conform to the applicable payment provisions of this Agreement and shall be awarded on the basis of lump sum or guaranteed maximum price, unless otherwise agreed to in writing by the CRA.

**Section 11. LIENS.** In the event any person including but not limited to, a Subcontractor records a lien against the Property arising from the Contractor's performance of this Contract, payments due the Contractor shall be withheld in such amounts as the Owner and CRA, in their sole discretion, deem sufficient to completely protect and indemnify Owner from any loss, damage or claim (including attorneys' fees and costs) until the conditions requiring such



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measures have been completely remedied by the Contractor to the satisfaction of the Owner and CRA. The Contractor shall, within twenty (20) days of notice of the filing of any such lien, satisfy such lien or shall provide proper bonds to remove the lien from the Property pursuant to Florida Law. If the lien or other condition is not remedied by the Contractor within this period of time, the Owner may, at his option, proceed to satisfy the lien from the funds held by the Owner and then deduct such amounts from any payments due or becoming due to Contractor. Alternatively, the Contractor shall reimburse the Owner for all sums so expended to remove the lien to the extent the expenditure exceeds the amount held by the Owner.

**Section 12. PAYMENTS.**

12.1 Progress Payments. Based upon "Applications for Payment" submitted to the CRA by the Contractor, the CRA shall make progress payments on account of the Lump Sum to the Contractor as provided below and elsewhere in the Contract Documents. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Provided that an Application for Payment is received by the CRA not later than the first (1st) day of the month, the CRA shall make payment to the Contractor not later than the twentieth (20th) of the same month. If an Application for Payment is received by the CRA after the application date fixed above, payment shall be made by the CRA not later than twenty (20) days after the CRA receives the Application for Payment. Notwithstanding the foregoing, the payments to the Contractor are subject to and contingent upon funding of the Grant by the State of Florida and, therefore, the CRA shall not be held responsible for any delays or failure to fund by the State of Florida. As a condition to each progress payment, the Contractor shall have furnished CRA with a partial lien waiver and release signed by Contractor, conditioned upon payment, for all Work performed that is included in the current Application for Payment, in the form set forth in Florida Statutes Chapter 713, and shall have furnished CRA with partial lien waivers and releases signed by all persons or entities giving Notice to Owner for the furnishing any labor or material, equipment, services, and materials for the project and for all Work performed by same that is included in the respective prior Application for Payment. Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment as well as such other documentation and evidence as reasonably requested by the CRA to demonstrate the Cost of the Work actually incurred by the Contractor. The Contractor shall pay each Subcontractor only upon receipt from each Subcontractor of a partial waiver and release of lien in the form required by Chapter 713, Florida Statutes, with respect to payee's portion of the Application for Payment. Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

12.1.1 Take the Cost of the Work as described in Section 9;

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12.1.2 Subtract the aggregate of previous payments made by the CRA;

12.1.3 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by this Section 12.1 or resulting from errors subsequently discovered by the CRA in such documentation; and

12.1.4 Subtract amounts, if any, for which the CRA has withheld or withdrawn payment on an Application a Certificate for Payment as provided in the Contract Documents.

There shall be ten percent (10%) retainage held on all Subcontracts, labor costs and the Contractor's Fee until fifty percent (50%) completion of the Project. After 50% completion of the Project and prior to Final Payment, there shall be a five percent (5%) retainage held on all Subcontracts, labor costs and the Contractor's Fee; provided, however, there shall be no retainage on material suppliers. The CRA may retain amounts greater than those set forth above that are the subject of a good faith dispute pursuant to Federal Statute 255.078(6), the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the CRA or Contractor.

12.2 Final Payment. Final Payment, constituting the entire unpaid balance of the Lump Sum including retainage, shall be made by the CRA to the Contractor following Final Completion and when:

(a) The Contractor has fully performed the Work and the Owner and CRA have accepted the Work including all Punch List items and correction of defective Work identified by Owner and CRA;

(b) a final certificate of occupancy or its equivalent has been issued by the applicable governmental authorities; and

(c) A final Application for Payment has been issued and a final accounting of the Cost of the Work has been submitted by Contractor and reviewed and approved by the CRA.

Notwithstanding the foregoing or anything in this Agreement to the contrary, neither any progress payment or the final payment shall be due or owing to the Contractor until all of the requirements of this Agreement and Chapter 713, Florida Statutes, have been satisfied.

12.3 Possession or occupancy prior to such final acceptance and closing and final payment being made to the Contractor shall not constitute final acceptance and a waiver of any

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and all further obligations to be performed by Contractor, including all warranties unless otherwise agreed in writing.

**Section 13. CORRECTION OF WORK.**

13.1 Contractor agrees to repair, at Contractor's own cost and expense for a period of one (1) year from the date of Final Completion, all Work that may prove within the one (1) year period of time, to be defective in accordance with the standards of construction prevailing in Broward-Dade County, Florida.

13.2 Upon Final Completion and as a condition to the final payment, Contractor shall deliver to Owner all manufacturer's warranties, if any, covering the consumer products to be conveyed to Owner herein.

**Section 14. TERMINATION.**

14.1 Termination by the Contractor. The Contractor may terminate the Contract if the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor or a Subcontractor, sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

14.1.1 Issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;

14.1.2 An act of government, such as a declaration of national emergency which requires all Work to be stopped;

If one of the reasons described in Section 14.1 above exists, the Contractor may, upon seven (7) days' written notice to the Owner, terminate this Agreement and recover from the Owner payment for the Work executed up to the date of termination and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery.

14.2 Termination by the Owner and CRA for Cause. The Owner and the CRA may terminate this Agreement if the Contractor:

14.2.1 Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

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14.2.2 Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

14.2.3 Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or

14.2.4 Materially fails to comply with established schedules; or

14.2.5 Otherwise breaches any provision of the Contract Documents.

When any of the above reasons exist, the Owner and CRA may without prejudice to any other rights or remedies and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate this Agreement employment of the Contractor. The Contractor shall not be entitled to receive payment for the Work completed until the remainder of the Work is finished and, in addition to any other rights available to the Owner and CRA at law or in equity, the Contractor shall be liable to Owner for all amounts necessary to complete the Work in excess of the Lump Sum, the costs and expenses of engaging a new contractor including attorneys' fees and costs, and any other damages incurred by Owner and CRA as a result of said termination which amount may be deducted for any amounts owed, or claimed to be owed, to Contractor at the time of termination.

14.3 Termination by the Owner and CRA for Convenience. The Owner and CRA, in their sole and absolute discretion, may jointly terminate this Agreement for convenience (i.e., without cause) upon seven (7) days' written notice to the Contractor. In such case the CRA shall pay the Contractor for the Work executed up to the date of termination and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, plus twenty five percent (25%) of the remaining unpaid Contractor's Fee.

**Section 15. INSURANCE.** Not applicable.

**Section 16. INDEMNIFICATION.** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and CRA and their board members from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Agreement. The parties agree that the foregoing indemnity shall be limited to One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and that such monetary limitation bears a reasonable

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commercial relationship to this Agreement. The Contractor hereby acknowledges receipt of One Hundred and 00/100 Dollars (\$100.00) and other good and valuable consideration from the Owner and CRA in exchange for giving the indemnifications required in this Agreement and the Contract Documents. Contractor shall require that each Subcontractor provide an indemnity in favor of Owner and CRA. The provisions of this indemnity are intended to comply with the requirements of Chapter 725, Florida Statutes. To the extent this indemnification clause or any other indemnification clause in this Agreement or the Contract Documents does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract Documents shall hereby be interpreted as the parties' intention for the indemnification clauses and Contract Documents to comply with Chapter 725, Florida Statutes.

**Section 17. NOTICES.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered, delivered by overnight courier by a nationally recognized courier, delivered by facsimile or mailed (airmail or international) by certified mail (postage prepaid), return receipt requested, addressed as set forth on the first page of this Agreement. Each such notice shall be deemed delivered (a) on the date faxed with confirmation of receipt, (b) next business day after deposited with an overnight courier, (c) the date of delivery if delivered by hand, and (d) on the date upon which the return receipt is signed or delivery is refused, as the case may be, if mailed. For purposes of this Agreement, copies of notices shall not constitute notice and may be delivered by means other than as required herein.

**Section 18. MISCELLANEOUS.**

18.1 This Contract shall be construed in accordance with and governed by the laws of the State of Florida and exclusive venue for all actions arising from or relating to this Contract shall be in Broward County, Florida.

18.2 Neither Owner nor Contractor may assign this Agreement or any of Contractor's or Owner's rights hereunder, without the express, prior, written consent of the other party and the CRA, which consent may be withheld in that party's sole discretion. This Agreement shall be binding upon the successors, assigns, trustees, receivers, executors and administrators of the parties hereto.

18.3 If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, or the application of any provision is held to be invalid, illegal or unenforceable as to any person, fact circumstance or situation, such invalidity, illegality or unenforceability shall not affect the remainder of such provision, any other provision hereof, or any permitted application. This Agreement shall be construed so as to be valid, legal, binding and enforceable

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to the fullest extent permitted by law, and as if this Agreement had never contained any such invalid, illegal or unenforceable provision.

18.4. This Agreement may be executed in two or more counterparts, all of which together shall constitute one and the same instrument. There may be duplicate originals of this Agreement, only one of which need to be produced as evidence of the terms hereof. A copy of this Agreement and any signature thereon shall constitute an original for all purposes.

18.5 Except as set forth in the following sentence, no person or entity shall be deemed to be a third party beneficiary of this Agreement. Nothing contained in the Contract Documents shall create a contractual relationship between the Owner and any third party; however, it is understood and agreed that the Owner and CRA are intended third-party beneficiaries of all Subcontractor agreements, purchase orders as well as all agreements between the Contractor and third parties, any or all of which shall be assigned to Owner and CRA, in their sole discretion, upon the termination of this Agreement for any reason whatsoever.

18.6 The parties acknowledge and agree that because all parties participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement which construes any language, whether ambiguous, unclear or otherwise, in favor of, or against, any party by reason of that party's role in drafting this Agreement.

18.7 Time is of the essence in the performance of all obligations at the precise times stated in this Agreement and failure to perform any of them on time shall be a default under this Agreement.

18.8 This Agreement shall not be recorded in the office of the Clerk of any Circuit Court of the State of Florida, unless written consent is obtained from all parties. Any recording of this Contract without said written consent of both parties constitutes a breach of this Agreement and shall terminate this Contract, at either party's option.

18.9 Radon is a naturally, occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines may have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from your County Public Health Department.

18.10 This Agreement constitutes the entire agreement between the parties hereto related to the Project and no modification hereof shall be effective unless made in writing executed by all of the parties hereto.

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18.11. If any party commences an action against the other party to interpret or enforce any of the terms of this Agreement or as the result of a breach by the other party of any terms hereof, the non-prevailing party shall pay to the prevailing party all reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including those incurred in any appellate proceedings, and whether or not the action is prosecuted to a final judgment.

18.12 All covenants, agreements, representations and warranties made herein or otherwise made in writing by any party pursuant hereto shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

18.13 The rights and remedies given in this Agreement and by law to a non-defaulting party shall be deemed cumulative, and the exercise of one of such remedies shall not operate to bar the exercise of any other rights and remedies reserved to a non-defaulting party under the provisions of this Agreement or given to a non-defaulting party by law.

18.14 One or more waivers of the breach of any provision of this Agreement by any party shall not be construed as a waiver of a subsequent breach of the same or any other provision, nor shall any delay or omission by a non-defaulting party to seek a remedy for any breach of this Agreement or to exercise the rights accruing to a non-defaulting party of its remedies and rights with respect to such breach.

18.15 EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHTS TO ANY TRIAL BY JURY IN ALL LITIGATION RELATING TO OR ARISING OUT OF THIS AGREEMENT.

**Section 19. FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND.** PAYMENT MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS: CONSTRUCTION INDUSTRY LICENSING BOARD, 1940 NORTH MONROE STREET, TALLAHASSEE, FL 32399, PHONE: (850) 487-1395.

IN WITNESS WHEREOF the parties hereto have signed and sealed this Agreement on the dates set forth below.

OWNER:

CONTRACTOR:

\_\_\_\_\_



a \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Executed: \_\_\_\_\_, 2016

Date Executed: \_\_\_\_\_, 2016

CRA:  
HALLANDALE BEACH COMMUNITY  
REDEVELOPMENT AGENCY,  
a public body corporate and politic

By: \_\_\_\_\_

Daniel A. Rosemond  
Executive Director

Attest:

By: \_\_\_\_\_

Mario Bataille, CMC  
CRA Clerk

Approved as to form and legal sufficiency:

By: \_\_\_\_\_

Gray Robinson, P.A.  
CRA Attorney

Date Executed: \_\_\_\_\_, 2016