CITY OF HALLANDALE BEACH
400 SOUTH FEDERAL HIGHWAY
HALLANDALE BEACH, FL 33009
PH: 954-457-1333
WWW.COHB.ORG/SOLICIATIONS

Hallandale Beach
PROGRESS. INNOVATION. OPPORTUNITY.

# INVITATION TO BID (ITB)
# BID # FY 2019-2020-003
# JUNE 2020
# TRANSFER PUMP REPLACEMENT

| | |
|---|---|
| **BID DOCUMENT RELEASED** | **FEBRUARY 24, 2020** |
| **MANDATORY PRE-BID CONFERENCE AND MANDATORY SITE VISIT** | **MARCH 3, 2020 @ 11:00 A.M.<br>630 N.W. 2nd Street, Public Works<br>Hallandale Beach FL 33009** |
| **NEW DUE DATE FOR QUESTIONS ADDENDUM # 3** | **JUNE 11, 2020 BY NO LATER THAN 11:00 A.M.** |
| **DEADLINE FOR RECEIPT OF PROPOSALS**<br>***Due to COVID19 and current emergency orders and declarations Hallandale Beach City Hall is not open to the public every day. For drop off of responses to this Bid the City Clerk's Office will be open Mondays and Wednesdays 8 am to 3 pm only. See location below. Access to the building will require time for temperature taking, answering questions and face covering. All must plan for obtaining access to the City Clerk's Office without being late. No late responses will be accepted.*** | **JUNE 24, 2020 BY NO LATER THAN 11:00 A.M.** |
| **BID OPENING**<br>**You will be required to wear a facial covering, have your temperature taken and answer questions prior to entering the building.** | **JUNE 24, 2020 @ 11:10 A.M.<br>COMMISSION CHAMBERS** |
| **RESPONSES MUST BE SUBMITTED TO:**<br>**Bid responses mailed and dropped off to any other Department not received by the City Clerk's Office is deemed not received.** | **CITY OF HALLANDALE BEACH<br>OFFICE OF THE CITY CLERK –<br>2ND FLOOR SUITE 204<br>400 SOUTH FEDERAL HIGHWAY<br>HALLANDALE BEACH, FL 33009** |
| **THE DATES SHOWN ABOVE ARE SUBJECT TO CHANGE VIA ADDENDUM** | |

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020


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## SCOPE OF WORK:

**PURPOSE**

The City of Hallandale Beach (City) is seeking sealed Bids from qualified General Contractor(s) herein referred to as (Bidder) with experience in performing Water Treatment Plant Transfer Pump Replacement Services as per the City's specifications.

This project consists of furnishing of all tools, equipment, materials, supplies, manufactured articles, transportation and services, including fuel, power, water, and essential communications, for the performance of all labor, work, testing and/or other operations as required for the fulfillment of the Contract in strict accordance with the Contract Documents. The work shall be complete, and all work, materials, and services not expressly shown or called for in the Contract Documents which may be necessary for the complete and proper execution of the contract in good faith shall be performed, furnished, and/or provided by the Contractor as though originally so specified or shown, at no increase in cost to the City.

The awarded Bidder will be governed by the City's terms, conditions and agreement and all work must be done in accordance with Bid and all exhibits and/or attachments.

As part of the project close out documentation, the contractor will need provide the City with As-built drawings in the latest version of AutoCAD and Geographic Information Systems (GIS) shapefiles Projected in NAD_1983_StatePlane_Florida_East_FIPS_0901_Feet, ESPG: 102658.

The following Firm(s) are excluded from bidding on this Project due to their involvement in the creation of the scope of work:

- Hazen and Sawyer

**LOCATION OF WORK**

The work is at the City of Hallandale Beach Water Treatment Plant, located at:
630 NW 2nd Street
Hallandale Beach, FL 33009

**TECHNICAL SPECIFICATIONS**

- Exhibit A - Transfer Pumps – Technical Specifications
- Exhibit B - Transfer Pumps Design Plans

**PERMITS**

Pursuant to Florida Statute Section 218.80, the City hereby discloses that the following licenses, permit and fees and their costs are issued by the City for construction. Licenses, permits and fees applicable to this Project are within the link found below and must be obtained and/or paid by the awarded Bidder. The successful Bidder is responsible to identify and obtain all applicable licenses, permit and pay all such related fees. The costs of all licenses, permits and their respective fees applicable to this Project are to be secured and paid for by the awarded Bidder.

https://www.cohb.org/DocumentCenter/View/18879

**BID DOCUMENTS**

This Bid is composed of the following items which all Bidders must review prior to submittal of Bidders response:

- Bid Document
- Exhibit A – Technical Specifications
- Exhibit B – Design Plans

**All proposals must be submitted in accordance with the Bid document which may be obtained online at www.cohb.org/solicitations**

## MINIMUM QUALIFICATION REQUIREMENTS (MQRs):

1. This Bid contains Minimum Qualification Requirements (MQRs) which the Bidder **must** meet in order for the Bidder to be considered responsive.

2. **Please read the MQRs to ensure Bidder meets these requirements prior to submitting a response to this Bid.**

3. **All Minimum Qualification Requirements (MQRs) must be submitted with Bidder's response.**

4. Please note that the information for the Projects/Contracts for MQR # 3 must be the same as the Projects/Contracts provided within the Reference Form.

5. Bidder(s) that do not comply with MQRs will be determined non-responsive and disqualified from the evaluation process and their Bids will not be evaluated.

6. Bidder(s) awarded the Contract will be required to maintain Minimum Qualification Requirements #1 and # 2 during the term of the Contract and any Contract renewals.

**Minimum Qualification Requirement # 1: Years in Business- Sunbiz:**

a. Bidder must be incorporated through Sunbiz with a status of "Active".

b. Provide a copy of your Sunbiz with your Bid showing a date filed of **2015** or earlier.

**Minimum Qualification Requirement # 2: Proposing Firm General Contractor License:**

a. Proposing Firm must be licensed as a Certified General Contractor by the State of Florida Department of Business and Professional Regulations http://www.myfloridalicense.com/dpr/

b. Proposing Firm **must** provide a copy of **all** applicable license(s) with Firm's response.

**Minimum Qualification Requirement (MQR) # 3: Previous Experience and Projects:**

a. Please note the information for the Projects below **must** be the same as the Projects/Contracts requested within the Reference Form.

b. Bidders must have three (3) projects of similar size, scope and complexity to the specifications within the last four (4) years, 2014 to 2018, as referenced in this Bid.

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

**Proposers <u>must</u> provide the information for MQR # 3 a-b with details in the following chart(s). If more than one (1) chart is needed in order to provide the information for MQR # 3 a-b, Proposing Firm is to make copies of the chart and address as needed to meet MQR #3 a-b.**

| | |
|---|---|
| Name of Project # 1: | |
| Name of the entity where the project was performed: | |
| Name of the Prime Firm that was awarded the Contract: | |
| Updated contact name, address, phone number, and email for Project Manager where services for the project were provided to: | |
| Provide the Job Title of the Project Manager: | |
| Date when Project started: | Month: Year: |
| Date when Project was completed: | Month: Year: |
| Was your Firm the Prime General Contractor awarded the Contract for the Project? | ☐ Yes |
| Total amount of approved change orders added to the Project: | $ |
| List all of the sub-contractors that worked for the awarded Firm to provide all services required by the Contract: | |

| | |
|---|---|
| Name of Project # 2: | |
| Name of the entity where the project was performed: | |
| Name of the Prime Firm that was awarded the Contract: | |
| Updated contact name, address, phone number, and email for Project Manager where services for the project were provided to: | |
| Provide the Job Title of the Project Manager: | |
| Date when Project started: | Month: Year: |
| Date when Project was completed: | Month: Year: |
| Was your Firm the Prime General Contractor awarded the Contract for the Project? | ☐ Yes |
| Total amount of approved change orders added to the Project: | $ |
| List all of the sub-contractors that worked for the awarded Firm to provide all services required by the Contract: | |
| a. **Firm must have completed and provide proof of three (3) Projects/Contracts of similar size, scope and complexity to the work and specifications as referenced in this Bid, within the last four (4) years, 2014 to 2018, which Firm performed and was awarded as the Prime General Contractor.**<br><br>b. Provide detail and explain in detail work completed which matches the work listed in this Bid for the Project. | ☐ Yes |

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

| | |
|---|---|
| Name of Project # 3: | |
| Name of the entity where the project was performed: | |
| Name of the Prime Firm that was awarded the Contract: | |
| Updated contact name, address, phone number, and email for Project Manager where services for the project were provided to: | |
| Provide the Job Title of the Project Manager: | |
| Date when Project started: | Month: Year: |
| Date when Project was completed: | Month: Year: |
| Was your Firm the Prime General Contractor awarded the Contract for the Project? | ☐ Yes |
| Total amount of approved change orders added to the Project: | $ |
| List all of the sub-contractors that worked for the awarded Firm to provide all services required by the Contract: | |
| a. **Firm must have completed and provide proof of three (3) Projects/Contracts of similar size, scope and complexity to the work and specifications as referenced in this Bid, within the last four (4) years, 2014 to 2018, which Firm performed and was awarded as the Prime General Contractor.**<br><br>b. Provide detail and explain in detail work completed which matches the work listed in this Bid for the Project. | ☐ Yes |

## BACKGROUND INFORMATION FOR THE CITY OF HALLANDALE BEACH:

The City of Hallandale Beach is a City Manager/City Commission form of government. It serves an area of approximately 4.4 square miles with a population of approximately 39,000 off –season with an increase in population to approximately 50,000 during season. The City's fiscal year begins October 1 and ends September 30.

The City provides the following services to its residents:

- Police, Fire and Rescue;
- Construction and maintenance of streets, bridges, sidewalks, storm drainage, parks, community and recreational facilities;
- City planning, zoning, subdivision and building code regulation and enforcement;
- Supervised recreation programs;
- Redevelopment of commercial and residential neighborhoods; and
- Water, Sewer, Sanitation and municipal cemetery services.

The City of Hallandale Beach is a Commission-Manager form of government, consisting of five elected officials: a Mayor, a Vice-Mayor and three Commissioners who establish legislative policies; which are then carried out by the City Manager. The Commissioners and Mayor are elected at-large during municipal elections that are held the first Tuesday of November in even numbered years. Commission members select the Vice-Mayor from their own membership following each election.

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## BID PRICE SHEET:

I. **Bidder must use the Bid Price Sheet below to submit Bidders price for this Project.**

II. **Bidder shall hold the unit Bid Prices firm throughout the Contract period. Bidder guarantees response time necessary to have a crew return to correct unfinished or unsatisfactory services.**

III. **The City reserves the right to increase, decrease, and/or choose the items and quantities below for the Project to meet its available budget using the unit prices provided below.**

IV. **Bidder must completely fill out each column below, i.e. unit price and total.**

V. **Not applicable or "N/A" is not acceptable and will cause Bidder to be determined non-responsive. An authorized officer per the Bidders Sunbiz, must sign the Total Bid Price Sheet.**

VI. **The award will be to the lowest responsive responsible Bidder for Total Bid Amount.**

| ITEM NO. | ITEM DESCRIPTION | QUANTITY | UNIT | UNIT PRICE | TOTAL |
|---|---|---|---|---|---|
| 1. | Mobilization and demobilization (The total for Bid Item No. 1 shall not exceed 5 percent of the total base bid price.) | 1 | LS | $ | $ |
| 2. | Consideration for Indemnification | 1 | LS | $ 25.00 | $ |
| 3. | Permit Fees | 1 | AL | $ 100,000.00 | $ |
| 4. | Special Inspector | 1 | AL | $ 10,000.00 | $ |
| 5. | Undefined Conditions | 1 | AL | $ 100,000.00 | $ |
| 6. | All Other Work described in the Contract Documents | 1 | LS | $ | $ |
| **TOTAL BID AMOUNT FOR ITEMS NO. 1 – 6:** | | | **$** | | |

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 of Authorized Officer per Sunbiz Print Name

## DEFINITIONS

**"Addenda or Addendum"** means additional directions, modifications and alternations to solicitation which is issued as separate document prior to the time of receipt of RFP/Bids or proposals

**"Award"** means the acceptance of a proposal, offer or proposal by the proper authorized designee. The City Commission must approve all awards over the purchasing authority of the City Manager, except for emergency purchases.

**"Bidder"** means any individual, Firm, qualified joint venture or corporation submitting a bid for this Project, acting directly or through a duly authorized representative.

**"Bid Prices"** A listing of elements, systems, items, Acceptance Testing and Training, or other subdivisions of the work, establishing a value for each, the total, of which equals the contract sum. The Schedule of Bid Prices establishes the cash flow for the Project.

**"Bond"** means a bid, performance, or payment guarantee issued by and, on the form provided by the CITY (where applicable), written through a reputable and responsible surety bond agency licensed to do business in the State of Florida and with a surety which holds a certificate of authority authorizing it to write surety bonds in Florida, with a rating by AM Best Company of "A" or better, "Class V".

**"City"** the City of Hallandale Beach (COHB) a municipal corporation of the State of Florida.

**"City Project Manager"** means the City representative duly authorized by the City Manager to provide direction to the Contractor/Consultant regarding services provided pursuant to this Bid and the Contract.

**"Contract" and "Contract Documents"** means the Agreement for this Bid to be entered between the City and the Successful Bidder.

**"Contractor"** the individual(s) or Firm(s) to whom the award is made and who executes the Contract Documents.

**"Contract Time"** means the original time between commencement and completion, including any milestone dates thereof, established, as may be amended by Change Order.

**"Notice to Proceed"** means the written notice given by the City to the Contractor /Consultant of the date and time for work to start.

**"Project Manager"** means the Contractor's representative authorized to make and execute decisions on behalf of the Contractor.
**"Proposal/ Response"** means the proposal/ response/Bid or submission submitted by a Proposer.

**"Proposer"** means one who submits a Proposal in response to a solicitation. The terms "Proposer" and "Bidder" are used interchangeably and have the same meaning.

**"Proposal/Bid Documents"** the Request for Proposals, Instructions to Proposers, Technical specifications, plans and attachments and the proposed Contract Documents (including all Addenda issued prior to the opening of Bids/Proposals).

## INSURANCE REQUIREMENTS

The awarded Bidder will be required to obtain and maintain the insurance requirements as set forth below in the City's Form Agreement. Insurance requirements must be held for the life of the Contract. The Certificate of Insurance will be required to be provided within the time specified in the notification provided by the Procurement Department after award of contract by the City Commission. The requirements for insurance are stated below, City's Form Agreement, Article 5.

## CONTRACT TERMS

The term of the Agreement shall be concurrent with the construction of the Project.

Contract may be cancelled by the City within thirty (30) days with a written notice by the City of Hallandale Beach.

The Contractor shall not assign, transfer or sub-contract any work either in whole or in part, without prior written approval of the City.

The submittal responses shall be valid until City Commission awards a contract as a result of this Bid. City reserves the right, where it may serve the City of Hallandale Beach's best interest, to request additional information or clarification from Bidder.

Notwithstanding anything to the contrary contained herein, the City of Hallandale Beach reserves the right to waive formalities in any proposal and further reserves the right to take any other action that may be necessary in the best interest of the City. The City further reserves the right to reject any or all proposals, with or without cause, to waive technical errors and informalities or to accept the proposal which in its judgment, best serves the City of Hallandale Beach.

## CONTRACT TIME

The City Project Manager will coordinate the contract start time through the Notice to Proceed. The Total Contract Time for this project is three hundred and sixty-five (365) calendar days. The three hundred and sixty-five (365) calendar days include weekend days and holidays.

The City Commission will award the contract to the lowest responsive, responsible Bidder. Should the awarded Bidder be unable to perform and provide the services stipulated in the Bid and agreement, City reserves the right to move forward with the award of the contract to the 2nd lowest responsive and responsible Bidder.

## 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 on the Conflict of Interest Notification Requirement Questionnaire provided in the Forms Section. 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 prior to entering into a contract with the City of Hallandale Beach.

## SECURITY BID BOND 10%

As per Procurement Code Section 23-12 (2) Security Bonds, each proposer must provide with the submission of the Bid a Security Bid Bond issued by a surety company licensed to do business in the state in an amount equal to ten percent (10%) of the Bid Price submitted.

A Firm shall forfeit the Security Bid Bond if the Firm refuses or fails to execute the Agreement within fifteen (15) calendar days from the Notice to Proceed.

## PERFORMANCE AND LABOR MATERIALS PAYMENT BOND

A Performance and Labor Materials Payment Bond in an amount equal to one hundred (100%) percent of total Contract amount awarded must be submitted by the Awarded Contractor within fifteen (15) days after receipt of Notification of Award. The Notification of Award is the day Commission meeting is held to award the contract. The Procurement Department will notify the awarded Firm of this date via a letter. An original Performance and Labor Materials Payment Bond must be provided in an amount equal to 100% of the Contract price issued by a surety company licensed to do business in the State of Florida. (F.S. 255.05). On approval of any Contract change increasing the Contract price, Contractor shall ensure that the performance bond and payment bond are increased so that each reflects the total Contract price as increased. The performance and payment bond must be recorded with Broward County prior to submitting to the City.

## INSTRUCTIONS FOR SUBMITTAL OF RESPONSES

Bidders are to submit responses on a Universal Serial Bus (USB) drive only. Provide one (1) USB drive with your submittal.

**The files on the USB drive must be in a searchable adobe format (.pdf file).** No other form of submission is acceptable, including hardcopy (paper), CDs, e-mail, etc. Bidders must make sure that the pdf files provided are searchable prior to submission. Do not place a password on the USB drive.

**The Bid Submittal Format section below, outlines the format to be followed to submit responses to this Bid.**

## BID SUBMITTAL FORMAT

Items 1-5 represent the format which Bidders must follow when submitting responses to the Bid.

1. **Title Page**

   Provide the Bid # and title, the Bidder(s) name(s); name, address, telephone number and email of the contact person; and the date of the proposal. Only one (1) contact person is to be provided as the contact and will be contacted by the City. If the proposed submittal is made up of more than one (1) Bidder, provide only one (1) contact person for the entire response.

2. **Bid Price Sheet**

   Ensure all the Bid Price Sheets are completed and submitted.

3. **Minimum Qualification Requirements (MQRs)**

   Review the MQR section above and provide the charts as required with Firm's submission. If Firm does not provide all the required MQR information, Firm's proposal will not be reviewed/evaluated, and Firm's submission will be disqualified.

4. **Security Bid Bond 10%**

   A copy of the Security Bid Bond must be submitted on USB drive with Bidder's submission.

5. **Required Forms**

   a. Proposal Submitted by Form
   b. Variance Form
   c. Legal Proceedings Form
   d. Public Entity Crime Form
   e. Domestic Partnership Certification form
   f. Conflict of Interest Notification Requirement Questionnaire
   g. Drug Free Workplace Form
   h. Anti-Kickback Affidavit
   i. Confidentiality Form
   j. Request to Withdraw Proposal Form
   k. Reference Form(s) - (Three (3) completed and signed by reference)
   l. City of Hallandale Beach Local Vendor Preference (LVP)
      Note: Click link for description and process for submitting application as applicable
   m. Addenda

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

## SUBMITTAL DUE DATE

**SUBMITTAL DUE DATE REVISED PER ADDENDUM # 3. BID RESPONSES ARE DUE: JUNE 24, 2020 NO LATER THAN 11:00 A.M.**

**BIDS MUST BE SUBMITTED IN A SEALED ENVELOPE AND MUST BE MAILED OR HAND DELIVERED TO THE ADDRESS IN THE BOX BELOW.**

***Due to COVID19 and current emergency orders and declarations Hallandale Beach City Hall is not open to the public every day. For drop off of responses to this Bid the City Clerk's Office will be open Mondays and Wednesdays 8 am to 3 pm only. Access to the building will require time for temperature taking and all entering must wear a face covering. All must plan accordingly to obtain access to the City Clerk's Office without being late. No late responses will be accepted.***

**SEALED ENVELOPES MUST BE LABELED AS FOLLOWS:**

**LATE PROPOSALS WILL NOT BE ACCEPTED**

**CITY OF HALLANDALE BEACH**
**OFFICE OF THE CITY CLERK**
**PLACE THE NAME OF YOUR FIRM HERE**
**400 SOUTH FEDERAL HIGHWAY – 2ND FLOOR, SUITE 204**
**HALLANDALE BEACH, FL 33009**
**TITLED: BID # FY 2019-2020-003 TRANSFER PUMP REPLACEMENT**

## MANDATORY PRE-BID CONFERENCE

For this Bid the City is holding a Mandatory Pre-Bid Conference. The Pre-Bid Conference is held to explain in detail the Bid documents which make up the Bid for this Project. The Pre-Bid Conference presents the opportunity for Firms to clarify anything within the Bid and to ask questions directly to City Staff.

**In order for your Firm's proposal to be accepted a representative from your Firm must attend the Mandatory Pre-Bid Conference and sign in for your Firm.**

The Mandatory Pre-Bid Conference will be held **March 3, 2020 at 11:00 a.m.**, City of Hallandale Beach, Public Works Department, EOC, 630 N.W. 2nd Street, Hallandale Beach, FL 33009.

**ADDENDUM # 3**
**BID DUE DATE AND SUBMISSION CHANGE 6-2020**

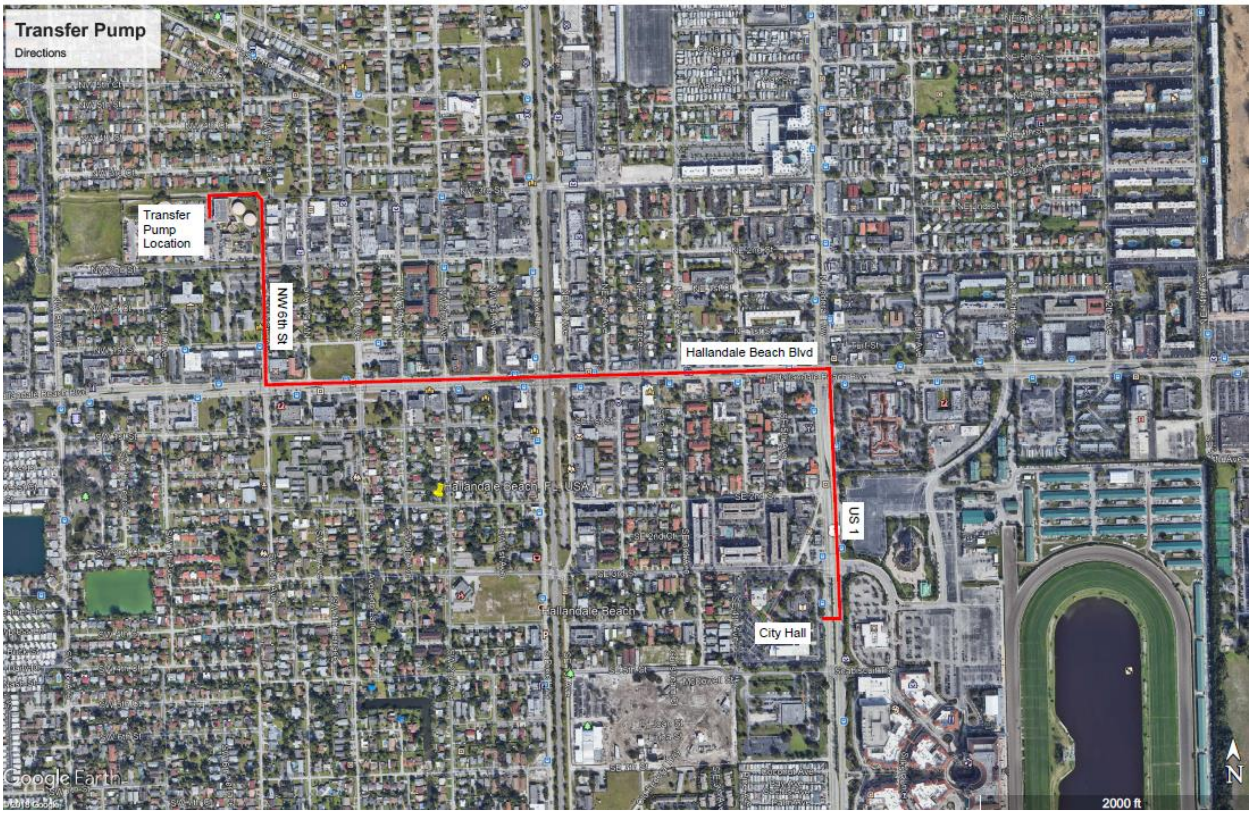
## MANDATORY SITE VISIT

The City of Hallandale Beach will conduct a site visit immediately following the Mandatory Pre-Bid Conference.

The location of the mandatory site visit is 630 NW 2nd Street Hallandale Beach FL 33009, See map of location below. **No pictures are allowed to be taken**.

**No questions will be answered during the Mandatory Site visit**. Any questions must be provided in writing to the email below and the answers will be provided via an addendum.

Below is the map of the location for the Mandatory Pre-Bid Meeting and Mandatory Site Visit.



ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

## LAST DAY FOR QUESTIONS AND CONTACT INFORMATION

Any questions are to be submitted via email to alues@cohb.org no later than **JUNE 11, 2020 NO LATER THAN 11:00 a.m.**

Answers to questions received before the deadline will be released via addendum. Changes, if any, to the scope of the services or Bid procedures will be transmitted only via written addendum and available on the City's website at www.cohb.org/solicitations. The Procurement Department may be contacted at (954) 457-1333. All contact shall be for clarification purposes only.

**Special Accommodations**

Any person with a qualified disability requiring special accommodations at a pre-proposal conference, public meeting, oral presentation and/or opening shall contact the Office of the City Clerk at (954) 457-1340, at least five (5) working days prior to the event. If you are hearing or speech impaired, please contact this office by using the Florida Relay Services which can be reached at 1 (800) 955-8771 (TDD).

Americans with Disabilities Act (ADA). The City complies with the provisions of the Americans with Disabilities Act. If you are a disabled person requiring any accommodations or assistance, please notify the Office of the City Clerk at (954) 457-1340 of such need.

**BIDDERS ARE RESPONSIBLE TO CHECK THE CITY'S WEBSITE PRIOR TO SUBMITTING A RESPONSE TO ENSURE THAT THE BIDDER HAS A COMPLETE BID PACKAGE, INCLUDING ANY ADDENDA.**

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

## TENTATIVE SCHEDULE

**THE DATES SHOWN BELOW ARE TENTATIVE AND ARE NOT BINDING AND MAY BE SUBJECT TO CHANGE VIA ADDENDUM.**

| | |
|---|---|
| BID DOCUMENT RELEASED | **FEBRUARY 24, 2020** |
| MANDATORY PRE-BID CONFERENCE AND MANDATORY SITE VISIT | **MARCH 3, 2020**<br>**11:00 A.M.**<br>**PUBLIC WORKS DEPARTMENT EOC**<br>**630 N.W. 2ND STREET**<br>**HALLANDALE BEACH FL 33009** |
| REVISED DATE FOR QUESTIONS ADDENDUM # 3 | ALL QUESTIONS MUST BE EMAILED BY NO LATER THAN **JUNE 11, 2020**<br>**BY NO LATER THAN**<br>**11:00 A.M.** |
| **DEADLINE FOR RECEIPT OF PROPOSALS ADDENDUM #3**<br>***Due to COVID19 and current emergency orders and declarations Hallandale Beach City Hall is not open to the public every day. For drop off of responses to this Bid the City Clerk's Office will be open Mondays and Wednesdays 8 am to 3 pm only. Access to the building will require time for temperature taking, answering questions and will require face covering. All must plan for obtaining access to the City Clerk's Office without being late. No late responses will be accepted.*** | **JUNE 24, 2020**<br>**BY NO LATER THAN 11:00 A.M.** |
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| **RESPONSES MUST BE SUBMITTED TO:**<br>**Bid responses mailed and dropped off to any other Department not received by the City Clerk's Office is deemed not received.** | **CITY OF HALLANDALE BEACH**<br>**OFFICE OF THE CITY CLERK –**<br>**2ND FLOOR SUITE 204**<br>**400 SOUTH FEDERAL HIGHWAY**<br>**HALLANDALE BEACH, FL 33009** |
| CONTRACT AWARD BY CITY COMMISSION – ESTIMATED | TO BE DETERMINED |
| PROJECT START DATE – NOTICE TO PROCEED ESTIMATED | TO BE DETERMINED |

# FORMS SECTION

Proposing Firm must complete and include all the following forms within the proposal submission on the USB drive.

a. Proposal Submitted by Form
b. Variance Form
c. Legal Proceedings Form
d. Public Entity Crime Form
e. Domestic Partnership Certification form
f. Conflict of Interest Notification Requirement Questionnaire
g. Drug Free Workplace Form
h. Anti-Kickback Affidavit
i. Confidentiality Form
j. Request to Withdraw Proposal Form
k. Reference Check Form(s) - (Three (3) completed and signed by reference)
l. City of Hallandale Beach Local Vendor Preference (LVP)
   Note: Click link for description and process for submitting application as applicable
m. Addenda

**ADDENDUM # 3**
**BID DUE DATE AND SUBMISSION CHANGE 6-2020**

UNABLE TO SUBMIT A RESPONSE? We sincerely hope this is not the case. If Bidder cannot submit a Bid at this time, please provide the information requested in the space provided below and return form to 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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**COMPLETE INFORMATION BELOW**:

| | |
|---|---|
| SIGNATURE: | |
| TITLE: | |
| STREET ADDRESS: (OR) | |
| CITY: | |
| STATE: | ZIP CODE: |
| TELEPHONE/AREA CODE: (  ) | |
| EMAIL ADDRESS: | |
| **RETURN THIS UNABLE TO SUBMIT FORM ONLY TO EMAIL ABOVE:** | |
| **CITY OF HALLANDALE BEACH** | |
| **PROCUREMENT DEPARTMENT** | |
| **400 SOUTH FEDERAL HIGHWAY, ROOM 242** | |
| **HALLANDALE BEACH, FL 33009** | |
| **TITLED: BID # FY 2019-2020-003**<br>**TRANSFER PUMP REPLACEMENT** | |

**THIS BID SUBMITTED BY:**

| |
|---|
| COMPANY/FIRM: |
| ADDRESS: |
| CITY & STATE: |
| ZIP CODE: |
| TELEPHONE: |
| DATE OF BID: |
| 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 Invitation to Bid, Specifications, Bid Forms, and/or any other pertinent document form a part of this Bid and by reference made a part hereof. Signature indicates acceptance of all terms and conditions of the Bid.

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

## VARIANCE FORM

**Bidder must provide and state any and all Variances to this BID, Specifications, the Terms and Conditions and City Form Agreement on this Variance Form (provide additional pages if necessary).**

**Variances requested to either the Bid, the Terms and Conditions and the City Form Agreement may result in the City rescinding award of contract.**

**After award of Contract through City Commission, via Resolution, the awarded Bidder's Variance Form will be reviewed by appropriate City Staff, the City Attorney and the Risk Manager. If the Variances presented by Bidder are acceptable to the City, the Agreement will be routed to the awarded Bidder for execution by the authorized officer per Sunbiz. The fully executed Agreement will be required to be returned to the City of Hallandale Beach Procurement Department, Andrea Lues, via email alues@cohb.org within five (5) business days from receipt of the email from the Procurement Department. Failure to provide a duly executed Agreement to the City within five (5) business days from receipt may result in loss of award.**

**If Bidder has no Variances, Firm must state "None" below. This form must be provided back in your Bid.**

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**LEGAL PROCEEDINGS FORM**

Bidder must provide items a-d with response. **Provide all applicable documents per category checked as an attachment.** Bidder must ensure your response is addressing by title for each item a-d below. If an item(s) is not applicable, Bidder must check off as applicable stating "N/A" and authorized officer per Sunbiz to provide signature.

a. Arbitrations: List all arbitration demands filed by or against your Firm in the last five (5) years, and identify the nature of the claim, the amount in dispute, the parties and the ultimate resolution of the proceeding.

☐ Check here if provided ☐ Check here if Not Applicable (N/A)

b. Lawsuits: List all lawsuits filed by or against, your Firm in the last five (5) years, and identify the nature of the claim, the amount in dispute, the parties, and the ultimate resolution of the lawsuit.

☐ Check here if provided ☐ Check here if Not Applicable (N/A)

c. Other Proceedings: Identify any lawsuits, administrative proceedings, or hearings initiated by the National Labor Relations Board, Occupational Safety and Health or similar state agencies in the past five (5) years concerning any labor practices or Project safety practices by your Firm. Identify the nature of any proceeding and its ultimate resolution.

☐ Check here if provided ☐ Check here if Not Applicable (N/A)

d. 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).

☐ Check here if provided ☐ Check here if Not Applicable (N/A)

e. Settlements: Identify all settlements for your Firm in detail in the last five (5) years.

☐ Check here if provided ☐ Check here if Not Applicable (N/A)

I, _____, _____
Name of Authorized Officer per Sunbiz Title

of _____
Name of Bidding Firm as it appears on Sunbiz

I 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 of Authorized Officer per SunBiz Print Name of Authorized Officer per SunBiz

**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 _____, 2020

## Domestic Partnership Certification Form

**This form must be completed and submitted with Bidder'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 Bidder 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 Bidder 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 Bidder's price for the contract term awarded is $50,000 or less.
- ☐ The Bidder's employs less than five (5) employees.
- ☐ The Bidder's does not provide benefits to employees' spouses nor spouse's dependents.
- ☐ The Bidder 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 Bidder 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

## 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.

**1. Name of Bidder**

**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.**

**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.**

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

## CONFLICT OF INTEREST NOTIFICATION REQUIREMENT QUESTIONNAIRE

**5.**

_____ _____
Signature of person/Bidder Date

**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 I 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 SIGNAURE: |
|---|---|---|---|

**ANTI-KICKBACK AFFIDAVIT**

**STATE OF _____ )**
**) SS:**
**COUNTY OF _____ )**

I, the undersigned hereby duly sworn, depose and say that no portion of the sum herein Bid will be paid to any employees of the City of Hallandale Beach and its elected officials, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my Firm or by an officer of the corporation.

By: _____
Signature of Authorized Officer per Sunbiz

_____
Print Name of Authorized Officer per Sunbiz

_____
Title of Authorized Officer per Sunbiz

Sworn and subscribed before me this _____ day of _____, 20___.

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: _____

# CONFIDENTIALITY FORM

Sealed bids/proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from Chapter 119, Florida Statutes. The Proposer must include any materials it asserts to be exempted from public disclosure under Chapter 119, Florida Statutes, in a separate bound document labeled "Attachment to Request for Proposals, *BID Number and Name* - Confidential Material".

The Proposer must identify the specific Statute that authorizes exemption from the Public Records Law. Any claim of confidentiality on materials the Proposer asserts to be exempt from public disclosure and placed elsewhere in the proposal will be considered waived by the Proposer upon submission, effective after opening.

Proposer should take special note of this as it relates to proprietary information that might be included in this solicitation.

I, _____, _____
Name of authorized Officer per Sunbiz and/or legal documentation Title

of _____
Name of Firm as it appears on Sunbiz and/or legal documentation hereby, attest that I have the authority to sign this notarized certification and certify that the Firm complies with the above requirements.

_____ _____
Signature Title

# REQUEST TO WITHDRAW PROPOSAL FORM

Requests to withdraw proposal will be considered if received by the City, via email to alues@cohb.org before deadline for receipt of proposals.

This form must be provided back via email to alues@cohb.org before deadline for receipt of proposals

I, _____, _____
Name of authorized Officer per Sunbiz and/or legal documentation Title

of _____
Name of Firm as it appears on Sunbiz and/or legal documentation request to withdraw Firm's proposal for **BID # FY 2019-2020-003 TRANSFER PUMP REPLACEMENT.**

_____ _____
Signature Title

Date: _____

Time: _____

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

## REFERENCE CHECK FORM SECTION:

**Please note that the references provided below must be the same as the Projects/Contracts provided for response to MQR #3.**

References are required as a component of due diligence to determine the capability of the Bidder to be able to perform the required services.

Bidder must provide three (3) verifiable references supporting the experience presented in Minimum Qualification Requirement (MQR) # 3 for the Bidder as stated in the Bid:

- **Bidder must have completed and provide proof of three (3) Projects/Contracts of similar size, scope and complexity to the work and specifications as referenced in this Bid, within the last four (4) years, 2014 to 2018, which Firm performed and was awarded as the Prime General Contractor.**

- Bidder must send to three (3) references the Reference Form and obtain back completed and signed Reference Form for each of Bidder's required three (3) references.

- Bidder must include the required three (3) completed and signed Reference Forms within Bidder's proposal submission on the USB drive.

Do not provide more than three (3) references.

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

| REFERENCE FORM |
|---|
| **Please note that the information for the Projects/Contracts in MQR # 3 must be the same as the Projects/Contracts provided within the Reference Check Form.** |
| **BID # FY 2019-2020-003 TRANSFER PUMP REPLACEMENT** |
| **PROPOSING FIRM'S NAME(S):** |
| **PROJECT NAME:** |
| **WAS FIRM THE PRIME GENERAL CONTRACTOR FOR THE PROJECT:** ☐ **YES or** ☐ **NO** |
| **NAME OF FIRM THAT WAS AWARDED THE CONTRACT/AGREEMENT FOR THE PROJECT:** |
| **NAME ALL THE FIRMS THAT WERE SUBCONTRACTORS TO THE PROJECT AND PROVIDED SERVICES:** |

| | | | |
|---|---|---|---|
| **Name of Reference:** | | **Phone:** | |
| **Title of Reference:** | | **E-mail Address:** | |
| **Company/Employer:** | | | |

**Please answer the following questions regarding services provided by the Bidder named above.**

| |
|---|
| **1.** Provide detail information about the level of commitment of the Firm to your Project. Did the Firm devote the time, and personnel necessary to successfully complete the entities needs? |
| |

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|---|
| **2.** Provide detail information about the competence, accessibility, and responsiveness of the Firm's personnel supervising and performing the work on the Project. |
| |
| **3.** Provide detail information about the Firm's response time as required by your Agreement. Where there ever any issues and why. |
| |

| |
|---|
| **4.** Provide detail information about the Firm's success at minimizing any issues. |
| |

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|---|
| **5.** Provide detail what type of service the Firm provided? How satisfied are you with the end result? |
| |

ADDENDUM # 3
BID DUE DATE AND SUBMISSION CHANGE 6-2020

| |
|---|
| **6.** What was the value of the Project? |
| |

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| **7.** Would you consider this Firm for this type of work in the future? |
| |

**ADDITIONAL COMMENTS:**

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| |

**SIGNATURE: _____ Date: _____**

**AGREEMENT**

**Between**

**CITY OF HALLANDALE BEACH, FLORIDA**

**and**

**_____**
**(TYPE NAME OF FIRM AS IT APPEARS IN SUNBIZ)**

**for**

**_____**

**BID # FY 2019-2020-003 CITY OF HALLANDALE BEACH TRANSFER PUMP REPLACEMENT**

## PLEASE NOTE:

**Bidder must provide and state any and all Variances to this Bid, Specifications, the Terms and Conditions and City Form Agreement on this Variance Form.**

**After award of Contract through City Commission, via Resolution, the awarded Bidder's Variance Form will be reviewed by appropriate City Staff, the City Attorney and the Risk Manager. If the Variance(s) presented by Bidder are acceptable to the City, the Agreement will be routed to the awarded Bidder for execution by the authorized officer per Sunbiz. The fully executed Agreement will be required to be returned to the City of Hallandale Beach Procurement Department, Andrea Lues, via email alues@cohb.org within five (5) business days from receipt of the email from the Procurement Department. Failure to provide a duly executed agreement to the City within five (5) business days from receipt may result in loss of award. Variances requested to either the Bid, the Terms and Conditions, Specifications and the City Form Agreement may result in the City rescinding award of contract.**

# CONSTRUCTION CONTRACT

THIS IS A CONTRACT, made and entered into this _____ day of

_____, 20____, by and between The City of Hallandale Beach, hereinafter referred to as CITY and _____

_____, hereinafter referred to as the CONTRACTOR.

WITNESSETH, that the CONTRACTOR and the CITY, for considerations hereinafter name, agree as follows:

## ARTICLE 1

## SCOPE OF WORK

1.1 The CONTRACTOR hereby agrees to furnish all of the labor, materials, equipment and services necessary to perform all of the work described in the Bid Project including Drawings (Design Plans), Specifications and Addenda thereto for the project entitled:

The work to be provided is outlined and includes to **BID # FY 2019-2020-003 CITY OF HALLANDALE BEACH TRANSFER PUMP REPLACEMENT.** which is hereby incorporated and made part of this Agreement by reference and Proposal submitted by CONTRACTOR, which is hereby incorporated and made part of this Agreement by reference.

At the _____ (date) 20__ City Commission Meeting the City Commission adopted Resolution # _____ awarded **BID # FY 2019-2020-003 TRANSFTER PUMP REPLACEMENT.**

The Contract value and per such Resolution # ____ shall not exceed $_____ plus a ten (10) percent contingency, for unforeseen circumstances.

1.2 The CONTRACTOR and the City's Project Manager will develop a single list of items required to render complete, satisfactory, and acceptable construction services, if applicable.

The City's Project Manager will contact the CONTRACTOR with the list of required items for this project and will provide a timeline for the CONTRACTOR to respond. The delivery of the list of items for the accomplishment of the construction project will be provided by the City's Project Manager to the CONTRACTOR within five (5) days of contract execution.

a) For contracts less than $10 million dollars the parties shall, within thirty (30) days of substantial completion, develop and deliver a list required for accomplishment of the Project. If the contract is more than $10 million dollars the parties shall accomplish same within sixty (60) days.

b) The final completion date under the Contract shall be extended at least thirty (30) days after the list is delivered in paragraph a above.

**Local City of Hallandale Beach Vendor Preference**

Contractor has been granted LVP as per Proposal submitted Attachment X. Contractor includes in the attached Attachment X and identifies the vendors that are going to be utilized through the LVP participation and delineate for each the specific elements of work each local vendor will be responsible for performing and the dollar value of work as a percentage of the total contract value.

ARTICLE 2

CONTRACT TIME

2.1 The work to be performed under this Contract shall be commenced within 15 calendar days after the Project Initiation Date specified in the Notice to Proceed. The CITY shall instruct the CONTRACTOR to commence the work by written instructions in the form of a Notice to Proceed and a Purchase Order. These will not be issued until receipt of all required documents and after execution of the Contract by both parties. The receipt of all necessary permits by the CONTRACTOR is a condition precedent to the initiation of all work under this Contract. If

CONTRACTOR is not in receipt of all necessary permits by the Project Initiation Date set forth in the Notice to Proceed, CONTRACTOR shall so notify CITY in writing immediately. CITY shall then have the option of issuing a revised Notice to Proceed.

2.2 Time is of the essence in this Contract. The work shall be substantial completed within **three hundred and sixty-five (365) calendar days** from the Project Initiation Date specified in the Notice to Proceed, and completed and ready for final payment in accordance with Article 22 within thirty (30) calendar days from the Project Initiation Date specified in the Notice to Proceed.

2.3 Upon failure of the CONTRACTOR to substantially complete said Contract within the specified period of time (plus approved extensions, if any) the CONTRACTOR shall pay to CITY the sum of Five Hundred Dollars ($500.00) for each calendar day after the time specified in paragraph 2.2 above (plus any approved extensions) for substantial completion. After substantial completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining work within the Contract Time or any approved extension thereof, the CONTRACTOR shall pay to the CITY the sum of Five Hundred Dollars ($500.00) for each calendar day after the time specified in paragraph 2.2. above (plus any approved extensions) for completion and readiness for final payment. These amounts are not penalties but liquidated damages to the CITY. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the CITY as a consequence of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of the CONTRACTOR to complete the Contract on time.

2.4 The CITY is authorized to deduct liquidated damage amount from the monies due to CONTRACTOR for the work under this Contract, or as much thereof as the CITY may, at is own option, deem just and reasonable.

## ARTICLE 3

## THE CONTRACT SUM

3.1 Payments shall be made at the Contract unit prices or lump sum prices applicable to each integral part of the Contract. These prices shall be full compensation for all costs associated with completion of all work in full conformity with the requirements as stated or shown, or both, in the Bid Project.

3.2 The CITY reserves the right to add or delete work items from the project to meets its available budget.

3.3 In consideration of the work, labor, services and materials to be furnished by the CONTRACTOR, in accordance with the plans and specifications, the City agrees to pay to the CONTRACTOR, upon the completion and acceptance thereof by the City, or its duly authorized agent, the total Contract price of $(  ), in words (  ).

The Contract price may include a 10% contingency amount for change orders, not to exceed City Commission Resolution #_____of $_____ which may be authorized in accordance with applicable policies and procedures.

3.4 Sales and Use Taxes. The CITY is exempt from paying sales and use taxes on materials and equipment purchased for, and incorporated into the NAME OF PROJECT. As such, the CITY reserves the right to utilize a tax savings Direct Purchase Program (DPP) for direct purchases where possible and practical for this Project. The CITY shall make direct purchases of all materials and equipment purchased for, or to be incorporated into the Project, as requested by the Contractor and agreed upon by the CITY in the form of a change order. All direct purchases of materials and equipment shall be made by the City with funds specifically allocated for the construction of the Project. The Contractor shall notify the CITY no later than **10 calendar days** after request by City of the requested materials and equipment to be purchased by the CITY for the Project. The standard City of Hallandale Beach Terms and Conditions applicable to this program are included as Attachment A to this section. Each equipment supplier that will supply equipment under the Direct Purchase Program shall be obligated to meet the requirements of the City of Hallandale Beach Terms and Conditions and the Technical Specifications.

The CITY's Project Manager shall manage the sales tax savings earned by the DPP. The credits for the tax savings and payments made directly to the VENDOR under the DPP shall be deducted from the total contract amount awarded, through a deductive change order. The Project Manager shall instruct the Contractor as to the direct purchase process as further described in the special conditions below.

3.4.1 The Contractor shall: (a) compile Contractor's and any Subcontractors' itemized requirement for materials and equipment, including quantities, unit costs, manufacturers' or vendors' catalogue or order numbers, delivery instructions, and other specific terms and information that are required to order the specific materials and equipment, and terms and conditions to be imposed on suppliers regarding delivery and submittal time requirements, and quantities thereof required by Contractor or Subcontractors in accordance with the applicable requirements of the Construction Contract, from time to time, during the construction of the Project, as materials and

equipment need to be ordered for the Project, and submit such compilation to the CITY's Construction Project Manager; (b) prepare a requisition for such materials and equipment on the CITY's form of requisition; and (c) deliver any such requisition to the CITY's Project Manager no less than thirty (30) days prior to the date the manufacturer or vendor of the materials or equipment, as the case may be, requires orders for such materials or equipment to be placed to assure delivery of such materials or equipment to the Site in accordance with the Project Schedule (the "Order Date"). The requisition shall identify the Order Date. Upon receipt of any such requisition the CITY's Project Manager shall forward same to the CITY. The CITY shall issue a Purchase Order directly to the vendor of the materials or equipment, prior to the Order Date (a Purchase Order). The CITY shall include with any such Purchase Order, a copy of the CITY's sales and use tax exemption certificate. The CITY shall make direct payment to the vendor from the CITY's account.

3.4.2 The Contractor, upon the delivery of any such materials or equipment, shall verify the conformity of such materials or equipment with the terms of the Purchase Order and the Contract Documents. If the Contractor determines that the materials and equipment are conforming, Contractor shall submit the invoice within twenty-four hours to City's Project Manager for approval. If the delivery of such materials or equipment is approved by the City's Project Manager, the CITY shall take title and possession of such material and equipment before such materials and equipment are incorporated into the Project. If the Contractor determines that the materials and equipment are non-conforming, the Contractor shall immediately notify the CITY in writing and the CITY shall reject such material and equipment.

3.4.3 The CITY shall assume all risk of loss on all materials and equipment purchased pursuant to its sales and use tax exemption, subject to the Provisions of Special Condition 3.4.4.

3.4.4 The Contractor shall be fully responsible for all matters relating to the receipt of materials and equipment furnished by the CITY in accordance with this Special Condition, including, but not limited to, the responsibility for verifying correct quantities, verifying documents or orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the materials and equipment at the time of delivery, and loss or damage to materials and equipment following acceptance of items due to the negligence of such Contractor or any Subcontractors. The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by such Contractor for the particular materials furnished. The Contractor shall provide or

arrange for all services required for the unloading, handling and storage of such materials and equipment through installation.

3.4.5 The Contractor shall visually inspect all shipments from material and equipment vendors purchased directly by the CITY in accordance with this Special Condition (the "CITY Furnished Materials") and approve the vendors' invoices for materials or equipment delivered, as CITY-Furnished Materials are furnished to the Site in accordance with this Special Condition. The Contractor shall assure that each delivery of CITY Furnished Materials is accomplished by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the vendor conforming to the Purchase Order, together with such additional information as the CITY may require. The Contractor shall deliver to the CITY's Project Manager all invoices for materials and equipment upon verification by such Contractor that the materials and equipment conform exactly to the Contract Documents and the Purchase Order. Upon receipt of any invoice for CITY Furnished Materials, the CITY's Project Manager shall verify the conformity of such City Furnished Materials and if conforming approve such City Furnished Materials. Upon approval the CITY's Project Manager shall deliver such invoice to the City for direct payment to the vendor.

3.4.6 The Contractor shall inspect all CITY Furnished Materials to determine that such CITY Furnished Materials conform to the Contract Documents, including the Drawings and the Specifications, and to determine prior to incorporation into the Work whether any such CITY Furnished Materials are patently defective, and whether such CITY Furnished Materials are identical to the materials ordered and match the description of the bill of lading and the Purchase Order. If Contractor discovers defective or non-conforming CITY Furnished Materials upon such visual inspection, Contractor shall: (a) not recommend acceptance of such non-conforming materials and equipment, (b) not utilize such non-conforming or defective materials in the Work; (c) not allow Subcontractor to utilize such non-conforming or defective materials in the Work; and (d) **promptly** notify the CITY's Project Manager, in writing, of the defective or non-conforming condition so that repair or replacement of those CITY Furnished Materials can occur without any undue delay or interruption to the Project. In the event that such Contractor fails to perform such inspection or otherwise incorporates into the Work such defective or non-conforming CITY Furnished Materials, the Contractor shall be responsible for the repair and replacement of defective or non-conforming materials, at its sole cost and expense.

3.4.7 The Contractor shall maintain records of all CITY Furnished Materials incorporated into the Work from the stock of CITY Furnished Materials. The

Contractor shall account monthly to the CITY's Project Manager and CITY for any CITY Furnished Materials delivered to the Site, indicating which CITY Furnished Materials have been incorporated into the Work.

3.4.8 The Contractor shall be responsible for obtaining and managing all warranties and guarantees for all CITY Furnished Materials. All repair, maintenance or damage-repair calls shall be forwarded by the CITY or the Contractor to the Contractor for resolution with the appropriate vendor, or Subcontractor.

3.4.9 After the CITY takes possession of the CITY Furnished Materials at the Site, possession of the CITY's Furnished Materials shall immediately and automatically transfer to the Contractor without notice. The transfer of possession of CITY Furnished Materials from the CITY to the Contractor shall constitute a bailment for the mutual benefit of the CITY and such Contractor. The CITY shall be considered the bailor and such Contractor the bailee of the CITY Furnished Materials. CITY Furnished Materials shall be considered returned to the CITY for purposes of their bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project.

3.4.10 The CITY shall not be liable for any interruption or delay damages in the Project by virtue of ordering the CITY Furnished Materials, for any defects or other problems with the Project by virtue of ordering the CITY Furnished Materials, or for any extra costs resulting from any delay in the delivery of, or defects in, the CITY Furnished Materials.

3.4.11 The Contractor, on a monthly basis, shall review invoices submitted by all vendors of CITY Furnished Materials delivered to the Site during the prior month and either concur or object to the CITY's Issuance of payment to the vendors, based upon such contractor's records of materials delivered to the Site and whether any of the CITY Furnished Materials for which payment has not been made were either non-conforming or defective.

3.4.12 In order to arrange for the prompt payment to the vendor, the Contractor shall provide to the CITY's Project Manager a list of the acceptance of the goods or materials within fifteen (15) days of receipt of said goods or materials. Accompanying the list shall be a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the CITY. Upon receipt of the appropriate documentation, the CITY shall prepare a check payable to the vendor based upon the receipt of data provided. This check will be released, delivered and remitted directly to the vendor. The Contractor shall assist the CITY to immediately obtain partial or final release

of waivers as appropriate. The CITY shall not make any payment without the appropriate Contractor's concurrence and approval, which shall be delivered to the CITY by the CITY's Project Manager. Furthermore, the CITY shall not make any payment without the appropriate CITY's Project Manager concurrence and approval. There shall be no retention on CITY Furnished Materials against either the vendor, the Contractor(s) or the Subcontractor(s).

3.4.13 The Contractor may, in its reasonable discretion, require certain material and equipment vendors to provide a supply bond in the amount of one-hundred percent (100%) of the Purchase Order price. The supply bond, if required, shall be issued by a qualified surety company authorized to do business in the State of Florida and acceptable to the CITY. If the supply bond is required, the costs thereof will be added to the amount of the Purchase Order. The Contractor shall verify that a vendor can furnish a supply bond. All bonds will name the CITY and the Contractor as additional obliges. To the extent that materials and equipment are purchased pursuant to the CITY's sales and use tax exemption, the Contractor shall reduce the Contract Amount for direct purchases by the CITY.

## ARTICLE 4

## INDEMNIFICATION

4.1 CONTRACTOR agrees to indemnify, save harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend CITY, their officers, agents, servants and employees against any and all claims, losses, liabilities and expenditures of any kind, including attorney's fees, court costs, and other expenses, caused by negligent act or omission of CONTRACTOR, any sub-contractors, their employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature, whatsoever, resulting from injuries or damages sustained by any person or property. CONTRACTOR further agrees to indemnify and save harmless the CITY, their officers, agents and employees, for or on account of any injuries or damages received or sustained by any person or persons resulting from any construction defects, including latent defects. Neither the CONTRACTOR nor any of its sub-contractors will be liable under this section for damages arising out of
intentional torts of CITY or their officers, agents or employees. In the event that any action or proceeding is brought against CITY by reason of

any such claim or demand, CONTRACTOR, upon written notice from CITY, shall defend such action or proceeding.

CONTRACTOR shall require all of the subcontractors working for it to provide the aforementioned indemnification in all contracts and subcontracts entered into and arising out of work performed by CONTRACTOR in connection with the Project.

4.2 To the extent considered necessary by the City Attorney, any sums due to CONTRACTOR under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

4.3 In the event that any action or proceeding is brought by CONTRACTOR against CITY, CONTRACTOR hereby waives the right to a jury trial. The provisions of this Article shall survive the expiration or early termination of this Agreement.

4.4 Contractor acknowledges that it has received adequate consideration concerning the monetary limitation on the indemnification provided to City, which, shall not be less than $1 million per occurrence.

4.5 To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, in whole or in part, by the professional negligence, error or omission of the CONTRACTOR or persons employed or utilized by the CONTRACTOR in performance of the Agreement.

4.6 To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, in whole or in part, by the recklessness or intentionally wrongful conduct, of the CONTRACTOR or persons employed or utilized by the CONTRACTOR in performance of the Agreement.

4.7 Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

ARTICLE 5

INSURANCE REQUIREMENTS

Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of any resulting contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations *assumed* by Contractor under any resulting contract.

**Commercial General Liability** Contractor agrees to maintain Commercial General Liability at a limit of liability not less than **$2,000,000** Each Occurrence, **$2,000,000** Annual Aggregate.
Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

**Contractor's Pollution Legal Liability**. Contractor agrees to maintain Contractor's Pollution Legal Liability at a limit of liability not less than **$1,000,000** Each Occurrence **$2,000,000** Annual Aggregate. The CONTRACTOR agrees the policy shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Contract, or the performance of Work hereunder. The Contractor agrees the Self-Insured-Retention shall not exceed $25,000. This coverage may be provided on a Per-Project Basis.

**Business Automobile Liability** Contractor agrees to maintain Business Automobile Liability at a limit of liability not less than **$1,000,000** Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

**Worker's Compensation Insurance & Employers Liability** Contractor agrees to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.

**Additional Insured** Contractor **agrees to** endorse City as an Additional Insured with a CG 2026 07 04 Additional Insured – Designated Person or Organization endorsement or CG 2010 19 01 Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization or CG 2010 07 04 Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or organization in combination with CO 2037 07 04 Additional Insured - Owners. Lessees Contractors- Completed Operations, or similar endorsements, to the

Commercial General Liability. The Additional Insured shall read "City of Hallandale Beach."

**Waiver of Subrogation** Contractor agrees by entering into this contract to *a Waiver* of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Contractor to enter into an pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify *the* insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

**Certificate(s) of Insurance** Contractor agrees to provide City a Certificate(s) of Insurance evidencing that all coverages, *limits* and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty **(30)** day endeavor to notify due to cancellation or non-renewal coverage. The Certificate Holder address shall read:

City of Hallandale Beach
Risk Manager
400 South Federal Highway
Halladale Beach, FL 33009

**Umbrella or Excess Liability.** Contractor may satisfy the minimum liability limits required above for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. Contractor agrees to endorse City as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

**Right to Revise or Reject** City reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

## ARTICLE 6

## WEATHER

6.1 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten years of weather data as recorded by the U.S. Department of

Commerce, National Oceanic and Atmospheric Administration at the Fort Lauderdale Weather Station.

6.2 No more than one day of time extension shall be granted for each day the precipitation, in inches exceeds one (1) inch at the Weather Station, and only when fifty percent or more of the scheduled construction work force cannot work due occurrence of such precipitation on the day claimed.

## ARTICLE 7

## HURRICANE PRECAUTIONS

7.1 During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning or alert, the CONTRACTOR, at no cost to the CITY, shall take all precautions necessary to secure the Project site in response to all threatened storm events, regardless of whether the CITY or CITY ENGINEER has given notice of same.

7.2 Compliance with any specific hurricane warning or alert precautions will not constitute additional work.

7.3 The contractor acknowledges that threatened tropical storm activity is normal in Broward County and the mere possibility that a warning or watch might be declared is not a basis for compensable or non-compensable extension of time. Tropical Storm Watches and Warnings will not automatically result in a compensable extension of time.

## ARTICLE 8

## PERMITS, LICENSES AND IMPACT FEES

8.1 Except as otherwise provided within the Supplemental Conditions, all permits and licenses required by federal, state, local or county laws, rules and regulations necessary for the execution of the work undertaken by the CONTRACTOR pursuant to this Contract shall be secured and paid by the CONTRACTOR. It is the CONTRACTOR'S responsibility to determine that all zoning requirements have been met prior to obtaining any permits or licenses. It is the CONTRACTOR'S responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the type of work to be performed and for the jurisdiction in which the work is to be completed.

8.2. Impact fees levied by any municipality shall be paid by the CONTRACTOR. CONTRACTOR shall be reimbursed only for the actual amount of the impact fee levied by the municipality as evidenced by an invoice or other acceptable documentation issued by the municipality. Reimbursement to the CONTRACTOR in no event shall include profit or overhead of the CONTRACTOR.

8.3 Necessity of complying with permit requirements. CONTRACTOR and the City agree that the failure of the Agreement to address a particular permit, condition, fee, term or restriction, shall not relieve CONTRACTOR of the necessity of complying with the law governing said permitting requirements, conditions, fee, terms and restrictions.

## ARTICLE 9

## DESIGN PLANS AND WORKING DRAWINGS

9.1 The Bid Project includes drawings (design plans) and specifications. The CITY, through the CITY ENGINEER, shall have the right to modify the details of these drawings (design plans) and specifications, to supplement said design plans and additional design plans, drawings or additional information as the work proceeds, all of which shall be considered as part of the Bid Project. In case of disagreement between the written and graphic portions of the Bid Project, the written portion shall govern.

## ARTICLE 10

## "OR EQUAL" CLAUSE:

10.1 Whenever a material, article or piece of equipment is identified in the Bid Project including drawings (design plans) and specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, or otherwise, it is intended merely to establish a standard; and, unless it is followed by words indicating that no substitution is permitted because of form fit function and quality. Any material, article, or equipment of other manufacturers and vendors which will perform or serve the requirements of the general design will be considered equally acceptable provided the materials, article or equipment so proposed is, in the opinion of the CITY, equal in substance, quality and function.

10.2 The CITY ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or used without the CITY

ENGINEER'S prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. CITY may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance bond or other Surety with respect to any substitute.

## ARTICLE 11

## DEFECTIVE WORK

11.1 The CITY ENGINEER shall have the authority to reject or disapprove work which he finds to be defective. The CONTRACTOR shall promptly either, as directed, correct all defective work or remove it from the site and replace it with nondefective work. CONTRACTOR shall bear all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

11.2 If, within one year after substantial completion or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, the CONTRACTOR shall correct it promptly without cost to the CITY, after receipt of written notice from the CITY to do so. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the CONTRACTOR might have under the Contract Documents.

11.3 Should the CONTRACTOR fail or refuse to remove or correct any defective work performed or to make any necessary repairs in an acceptable manner, and in accordance with the requirements of the Contract with the time indicated in writing, the CITY shall have the authority to cause the unacceptable or defective work to be removed or renewed, or make such repairs as may be necessary to be made at the CONTRACTOR'S expense. Any expense incurred by the CITY in which the CONTRACTOR has failed or refused to make shall be paid for out of any monies due or which may become due to the CONTRACTOR, or may be charged against the Performance and Payment Bond. Continue failure or refusal on the part of the CONTRACTOR to make any or all necessary repairs promptly, fully, and to declare the Contract forfeited, in which case the CITY at its option, may purchase materials, tools, and equipment and employ labor or may contract with other individual, firm or corporation, or may proceed with its own forces to perform the work. All costs and expenses incurred thereby shall be charged against the

defaulting CONTRACTOR and the amount thereof deducted from any monies due, or which may become due to him, or shall be charged against the Performance and Payment Bond. Any special work performed, as described herein, shall not relieve the CONTRACTOR in any way from his responsibility for the work performed by him.

11.4 Failure to reject any defective work or material shall not in any way prevent later rejection when such defect is discovered, or obligate the CITY to final acceptance.

## ARTICLE 12

## SUBCONTRACTS

12.1 The CONTRACTOR shall, within 15 calendar days after the signing of the Contract, notify the CITY in writing of the names of Subcontractors proposed for the work. Such Subcontractor must be in compliance with the provisions of Chapter 9 of the Broward County Code of Ordinances and/or state law as it relates to Certificates of Competency. The CONTRACTOR shall have a continuing obligation to notify the CITY of any change in Subcontractors.

12.2 CONTRACTOR shall not employ any Subcontractor against whom CITY may have a reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor against whom CONTRACTOR has a reasonable objection.

12.3 The CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by his Subcontractors and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any subcontractor and the CITY or any obligation on the part of the CITY to pay or to see the payment of any monies due any Subcontractor. The CITY may furnish to any Subcontractor evidence of amounts paid to the CONTRACTOR on account of specific work performed.

12.4 The CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the CITY.

## ARTICLE 13

## SEPARATE CONTRACTS

13.1 The CITY reserves the right to let other Contracts in connection with this work. The CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate this work with theirs.

13.2 If any part of the CONTRACTOR'S work depends for proper execution or results upon the work of any other contractor, the CONTRACTOR shall inspect and promptly report to the CITY ENGINEER any defects in such work that render it unsuitable for such proper execution and results. CONTRACTOR'S failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in other contractor's work after the execution of his work.

13.3 The CONTRACTOR shall conduct his operations so as to create no interference or impact on any other contractor on the site. Should such interference or impact occur, the CONTRACTOR shall be liable to the affected contractor for the cost of such interference or impact.

13.4 To ensure the proper execution of his subsequent work, the CONTRACTOR shall inspect the work already in place and shall at once report to the CITY ENGINEER any discrepancy between the executed work and the requirements of the Bid Project.

## ARTICLE 14

## DAMAGE TO EXISTING FACILITIES, EQUIPMENT OR UTILITIES

14.1 CONTRACTOR shall have full responsibility for reviewing and checking such information and data, for locating all underground facilities shown or indicated in the Contract Documents, for coordination of the work with the owners of such underground facilities during construction, for the safety and protection thereof and for repairing any damage thereto resulting from the work, the cost of all of which will be considered as having been included in the Contract price.

14.2 During construction of buildings and/or during improvements, CONTRACTOR covenants and agrees that it shall safely maintain the site of construction activities and protect against damage to persons and property by reason of construction activities and will provide adequate security during non-construction periods. In the case of damage or loss to the building and/or improvements constructed on the property by CONTRACTOR in accordance with this Agreement, CONTRACTOR shall, as soon as possible after the occurrence of such loss or damage, repair or rebuild the buildings and/or improvements in such manner that the buildings and/or improvements after such repairing or rebuilding shall be of the same general character as set forth in this Agreement and the approved Scope of Work and at least equal in value to the buildings and improvements prior to such loss or damage. Such repairs shall begin within ninety (90) calendar days after such occurrence or if rebuilding is required, such rebuilding shall be begun within one hundred eighty (180) calendar days after such occurrence and in either case shall be completed in a reasonable time, subject to extension for Permitted Delays; provided insurance funds are made available to CONTRACTOR for such repair or rebuilding, in which event CONTRACTOR shall commence repairs or rebuilding within one hundred eighty (180) days from the date of occurrence. CONTRACTOR shall have the reasonable right to extend the time period for rebuilding in the event of a major catastrophic event (similar in scope and widespread damage to Hurricane Andrew) which would reasonably affect the ability to secure insurance proceeds, labor, public services, and other required elements to reasonably begin said rebuilding. CONTRACTOR shall pay for all such repairing and rebuilding so that the property and the buildings and improvements shall be free and clear of all liens of mechanics and materials and similar liens arising out of such repair, rebuilding or reconstruction of the buildings and improvements.

## ARTICLE 15

## MONITORING REPORTS

15.1 CONTRACTOR shall provide the City, in a format reasonably acceptable to the City and CONTRACTOR, information, data and reports to be used by the City in monitoring CONTRACTOR'S performance in carrying out the Project.

ARTICLE 16

CHANGE OF CONTRACT TIME

16.1 The "Contract Time" may only be changed by a Change Order. Any claim for an extension of the "Contract Time" shall be based on written notice delivered by the party making the claim to the CITY ENGINEER and the City's Project Manager within 7 calendar days of the beginning of the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within 15 days after the end of such occurrence (unless the CITY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the "Contract Time" shall be determined by the CITY ENGINEER in accordance with paragraph 16.2, if CITY and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the "Contract Time" will be valid if not submitted in accordance with the requirements of this paragraph.

16.2 The CITY ENGINEER and/or City's Project Manager must submit the request of an extension of the "Contract Time" with the written information provided by the CONTRACTOR and with a written explanation as to why the extension shall be allowed to the City Manager for approval.

If the City Manager approves the request, the "Contract Time" will be extended in an amount equal to time lost due to delays beyond the control of and through no fault or negligence of the CONTRACTOR. Such delays shall include, but not limited to, acts or neglect by CITY or the CITY ENGINEER, or by any employee of either, or any separate contractor employed by the CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

16.3 No Damages for Delay:

Except as provided in Article 1.2(a) and (b) NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS. The CONTRACTOR shall not be entitled to an increase in the Contract Sum or payment or compensation of any kind from the CITY for

direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the CITY or its agents. Otherwise, the CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

16.4 Changes in the Work or Terms of Contract Documents:

16.4.1 Without invalidating the Contract and without notice to any surety, CITY reserves and shall have the right, from time to time to make such increases, decreases or other changes in the character or quantity of the Work as may be considered necessary or desirable to complete fully and acceptably the proposed construction in a satisfactory manner. Any extra or additional work within the scope of this Project must be accomplished by means of appropriate Field Orders and Supplemental Instructions or Change Orders. Surety waives its right to notice of changes in the Contract Terms and/or Contract Price.

16.4.2 Any changes to the terms of the Contract Documents must be contained in a written document, executed by the parties hereto, with the same formality and of equal dignity prior to the initiation of any work reflecting such change, except as provided for in Subparagraph 16.4.1, above. This section shall not prohibit the issuance of Change Orders executed only by the City Manager as hereinafter provided.

16.5 Field Orders and Supplemental Instructions:

The CITY ENGINEER and the City's Project Manager, shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of the Contract Documents and ordering minor changes in Work execution, providing the Field Order involves no change in the Contract Price or the Contract Time. CITY ENGINEER shall have the right to approve and issue Supplemental Instructions setting forth written orders, instructions, or interpretations concerning the Contract Documents or its performance, provided such Supplemental Instructions involve no change in the Contract Price or the Contract Time.

## ARTICLE 17

## CHANGE ORDERS

17.1 Changes in the quantity or character of the Work within the scope of the Project which are not properly the subject of Field Orders or Supplemental Instructions, including all changes resulting in changes in the Contract Price, or the Contract Time, shall be authorized only by Change Orders approved in advance by the City Manager.

17.2 CONTRACTOR shall not start work on any changes requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved by the City Manager. Upon receipt of a Change Order, CONTRACTOR shall promptly proceed with the work set forth within the document.

17.3 In the event satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, CITY reserves the right at its sole option to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed work; to remove the disputed work from the scope of work and to process a unilateral change order reducing the contract price; or submit the matter in dispute to CITY ENGINEER. During the pendency of the dispute, and upon receipt of a Change Order approved by the City Manager, CONTRACTOR shall promptly proceed with the change in the Work involved and advise the CITY ENGINEER and City's Project Manager in writing within seven (7) calendar days of CONTRACTOR's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time.

17.4 Under circumstances determined necessary by CITY, Change Orders may be issued unilaterally by the City Manager without consent of Surety.

## ARTICLE 18

## VALUE OF CHANGE ORDER WORK

18.1 The value of any work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

18.1.1. By mutual acceptance of a lump sum which CONTRACTOR and the City Manager acknowledge contains a component for overhead and profit.

18.1.2. On the basis of the "cost of work," determined as provided in Sections 18.2 and 18.3, plus a CONTRACTOR's fee for overhead and profit that is determined as provided in Section 18.4.

18.2 The term "cost of work" means the sum of all direct costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work described in the Change Order. Except as otherwise may be agreed to in writing and approved by the City Manager, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Section 18.3.

18.2.1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the work described in the Change Order under schedules of job classifications agreed upon by CITY and approved by the City Manager and CONTRACTOR. Payroll costs for employees not employed full time on the work covered by the Change Order shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by the City Manager.

18.2.2. Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless CITY deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to CITY. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to CITY and CONTRACTOR shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by CITY ENGINEER and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.

18.2.3. Payments made by CONTRACTOR to Subcontractors for work performed by Subcontractors. If required by CITY, CONTRACTOR shall

obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to CITY ENGINEER who will then determine which bids will be accepted. If the Subcontract provides that the Subcontractor is to be paid on the basis of cost of the work plus a fee, the Subcontractor's cost of the work shall be determined in the same manner as CONTRACTOR'S cost of the work. All Subcontractors shall be subject to the other provisions of the Contract Documents insofar as applicable, including but not limited to the CITY'S False Claims Ordinance.

18.2.4. Cost of special engineers, including, but not limited to, engineers, architects, testing laboratories, and surveyors employed for services specifically related to the performance of the work described in the Change Order.

18.2.5. Supplemental costs including the following:

8.2.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the work except for local travel to and from the site of the work or to Contractor's home office or branch office.

18.2.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remains the property of CONTRACTOR.

18.2.5.3. Sales, use, or similar taxes related to the work, and for which CONTRACTOR is liable, imposed by any governmental authority, provided however, that the Contractor shall not be paid or, or reimbursed, the cost of fines and penalties levied by entities other than the City of Hallandale Beach.

18.2.5.4. Deposits lost for causes other than CONTRACTOR's negligence; royalty payments and fees for permits and licenses.

18.2.5.5. The cost of utilities, fuel and sanitary facilities at the site.

18.2.5.6. Receipted minor expenses such as telegrams, long distance telephone calls (except to Contractor's home office or branch offices), telephone service at the site, expressage and similar petty cash items in connection with the work.

18.2.5.7. Cost of premiums for additional bonds and insurance required because of changes in the work or default by the Contractor.

18.3 The term "cost of the work" shall not include any of the following:

18.3.1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, scheduling consultants, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed or retained by CONTRACTOR or surety, whether at the site or in its principal or a branch office for general administration of the work and not specifically included in the agreed-upon schedule of job classifications referred to in Section 18.2.1., all of which are to be considered administrative costs covered by CONTRACTOR's fee.

18.3.2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.

18.3.3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the work and charges against CONTRACTOR for delinquent payments.

18.3.4. Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same, except for additional bonds and insurance required because of cardinal changes in the work.

18.3.5. Costs due to the negligence or neglect of CONTRACTOR, any Subcontractors, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

18.3.6. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in Section 18.2.

18.4 CONTRACTOR's fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

18.4.1. A mutually acceptable fixed fee or,

18.4.2. If none can be agreed upon, a fee based on the following percentages of the various portions of the cost of the work:

18.4.2.1. For costs incurred under Sections 18.2.1 and 18.2.2, CONTRACTOR's fee shall not exceed ten percent (10%).

18.4.2.2. For costs incurred under Section 18.2.3, CONTRACTOR's fee shall not exceed seven and one half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and

18.4.2.3. No fee shall be payable on the basis of costs itemized under Sections 18.2.4 and 18.2.5, (except Section 18.2.5.3), and Section 18.3.

18.5 The amount of credit to be allowed by CONTRACTOR to CITY for any such change, which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit, if otherwise allowed, shall be figured on the basis of the net increase or decrease, if any, however, CONTRACTOR shall not be entitled to claim lost profits for any Work not performed.

18.6 Whenever the cost of any work is to be determined pursuant to Sections 18.2 and 18.3, CONTRACTOR will submit in a form acceptable to CITY ENGINEER an itemized cost breakdown together with the supporting data.

18.7 Where the quantity of any item of the Work that is covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such work indicated in the Contract Documents, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

18.8 Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, CONTRACTOR shall submit an initial cost estimate acceptable to CITY ENGINEER and the City's Project Manager.

18.8.1. Breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost.

18.8.2. Whenever a change involves CONTRACTOR and one or more Subcontractors and the change is an increase in the Contract Price, overhead and profit percentage for CONTRACTOR and each Subcontractor shall be itemized separately.

18.9 Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "cost of the work."

## ARTICLE 19

## TERMINATION FOR CONVENIENCE

19.1 The CITY may terminate the Contract for its convenience, at any time, with or without cause, upon thirty (30) days written notice to CONTRACTOR.

19.2 Upon such notice of termination, CONTRACTOR will immediately terminate its performance and turn over all of its work product (e.g. plans to the CITY).

19.3 CONTRACTOR will then submit a final statement to the CITY for all services performed (based on percentage of project completion) ten days after the date on the notice of termination for convenience.

19.4 The CONTRACTOR is precluded from recovering damages for loss of anticipated, but unearned profit on the Contract, as well as consequential damages.

## ARTICLE 20

## SHOP DRAWINGS

20.1 The CONTRACTOR shall submit Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles. The purpose of the Shop Drawings is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of its compliance or noncompliance with the Bid Project.

20.2 The CONTRACTOR shall thoroughly review and check the Shop Drawings and each and every copy shall show this approval thereon.

20.3 If the Shop Drawings show or indicate departures from the Contract requirements, the CONTRACTOR shall make specific mention thereof in his letter of transmittal. Failure to point out such departures shall not

relieve the CONTRACTOR from his responsibility to comply with the Bid Project.

20.4 The CITY ENGINEER'S approval of the Shop Drawings will be general and shall not relieve the CONTRACTOR of responsibility for the accuracy of such Drawings, nor for the proper fitting and construction of the work, nor for the furnishing of materials or work required by the Contract and not indicated on the Drawings. No work called for by Shop Drawings shall be performed until the said Drawings have been approved by the CITY ENGINEER. Approval shall not relieve the CONTRACTOR from responsibility for errors or omissions of any sort on the Shop Drawings.

20.5 The CONTRACTOR shall keep one set of Shop Drawings marked with the CITY ENGINEER'S approval at the job site at all times.

## ARTICLE 21

## PROGRESS PAYMENTS

All invoices and/or bills and/or requests for payments and/or application for payment are to be sent to the City Engineer and the City's Project Manager.

21.1 The CONTRACTOR may request payments for work completed at intervals of not more than once a month. The CONTRACTOR'S requisition shall show a complete breakdown of the project components, the quantities completed and the amount due, together with such supporting evidence as may be required by the CITY ENGINEER. Each requisition shall be submitted in triplicate to the CITY ENGINEER for approval. CITY shall make payment to the CONTRACTOR within 25 days after approval by the CITY ENGINEER of CONTRACTOR'S requisition for payment.

a) Overdue notice. The CONTRACTOR may send the City an overdue notice if the invoice is not paid or rejected within the time frame in Section 21.1, and four (4) business days following the delivery of overdue notice the payment required by the City shall be accepted, rejected or rejected in part.

21.2 Retainage: The CONTRACTOR agrees that ten percent (10%) of monies earned by CONTRACTOR shall be retained by CITY until fifty percent (50%) completion of the project. After 50% completion of the project and prior to Final Payment, the Contractor may request a reduction of retainage to 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 or CONTRACOR.

21.3 The CITY may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

21.3.1. Defective work not remedied.

21.3.2. Claims filed or reasonable evidence indicating probable filing of claims by other parties against the CONTRACTOR.

21.3.3. Failure of the CONTRACTOR to make payments properly to Subcontractors or for material or labor.

21.3.4 Damage to another Contractor not remedied.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety bond or a consent of Surety, satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part.

## ARTICLE 22

## ACCEPTANCE AND FINAL PAYMENT

22.1 Upon receipt of written notice from the CONTRACTOR that the work is ready for final inspection and acceptance, the CITY shall within ten days make an inspection thereof. If the CITY finds the work acceptable under the Contract and the Contract work has been fully performed, payment shall be issued by the CITY, stating that the work required by the Contract has been completed and is accepted under the terms and conditions thereof.

22.2 Before issuance of the Final Certificate for Payment, the CONTRACTOR shall deliver to the CITY a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and an Affidavit certifying that all suppliers and Subcontractors have been paid in full and that all other indebtedness connected with the work has been paid, and a consent of the Surety of Final Payment. The CITY may

withhold final payment under the same terms and conditions as set forth in Section 21.3 above.

22.3 If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, the CITY shall, without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute waiver of claims.

22.4 The making and acceptance of the final payment shall constitute a waiver of all claims by the CITY, other than those arising from faulty or defective work, failure of the work to comply with requirements of the Contract Documents or terms of any special warranties required by the Contract Documents. It shall also constitute a waiver of all claims by the CONTRACTOR, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of the application for final payment.

## ARTICLE 23

## CITY'S RIGHT TO TERMINATE CONTRACT

23.1 If CONTRACTOR fails to begin the Work within fifteen (15) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if CONTRACTOR shall fail to perform any material term set forth in the Contract Documents or if CONTRACTOR shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the Work in an acceptable manner, CITY may give notice in writing to CONTRACTOR and its Surety of such delay, neglect or default, specifying the same. Nevertheless, Surety waives its right to notice pursuant to this paragraph. If CONTRACTOR, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then CITY may neglect or default the CONTRACTOR and CONTRACTOR's failure to comply with such notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Project site and take the prosecution of the Work out of the hands of CONTRACTOR, and appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable. In such case, CONTRACTOR shall not be entitled to receive any

further payment until the Project is completed. In addition CITY may enter into an agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in City's sole opinion shall be required for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in City's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by CITY, together with the costs of completing the Project and any fines or levies that may be assessed against the City by any governmental entity or by Broward County as a result of late completion of the Project, shall be deducted from any monies due or which may become due to CONTRACTOR. In case the damages and expenses so incurred by CITY shall exceed the unpaid balance, then CONTRACTOR shall be liable and shall pay to CITY the amount of said excess.

23.2 If after notice of termination of CONTRACTOR's right to proceed, it is determined for any reason that CONTRACTOR was not in default, the rights and obligations of CITY and CONTRACTOR shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth in Article 19.

## ARTICLE 24

## CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If CITY ENGINEER received CONTRACTOR's proper invoice and/or bill and/or request for payment and/or application for payment, and should CITY ENGINEER fail to review and approve or state in writing reasons for not approving, or for rejecting, of the Application for Payment within twenty-five (25) business days after it is presented, then CONTRACTOR shall provide CITY with written notice of same, and if CITY fails either to pay CONTRACTOR within four (4) business days after CITY receives CONTRACTOR's notice, CITY shall notify CONTRACTOR in writing of any objection to the Application for Payment, then CONTRACTOR shall, give a second written notice to CITY of such delay, neglect or default, specifying the same and if CITY, within a period of ten (10) calendar days after such second notice shall not remedy the delay, neglect, or default upon which the notice is based, then CONTRACTOR may stop work or terminate this Contract and recover from CITY payment for all work executed and reasonable expenses sustained therein plus reasonable termination expenses. In such event, the contract shall be deemed terminated for convenience, and CONTRACTOR shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by CONTRACTOR relating to commitments, which had become firm prior to the

termination. Payment shall include reasonable profit for work/services performed. No payment shall be made for profit for work or services that have not been performed or for consequential damages.

## ARTICLE 25

## DIFFERING SITE CONDITIONS

In the event that during the course of the Work CONTRACTOR encounters subsurface or concealed conditions at the Project site which differ materially from those shown on the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents and Supplementary Conditions; or unknown physical conditions of the Project site, of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents in the locales such as that where the work is to be done, CONTRACTOR shall, within twenty-four (24) hours of their discovery, notify CITY in writing of the existence of the aforesaid conditions. CITY shall, within two (2) business days after receipt of CONTRACTOR's written notice, investigate the site conditions identified by CONTRACTOR. If, in the sole opinion of CITY ENGINEER with the consent of City's Project Manager, the conditions do materially so differ and cause an increase or decrease in CONTRACTOR's cost of, or the time required for, the performance of any part of the Work, CITY ENGINEER shall recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If CITY and CONTRACTOR cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to CITY ENGINEER for determination in accordance with the provision for resolving disputes. Should CITY ENGINEER determine that the conditions of the Project site are not so materially different to justify a change in the terms of the Contract, CITY ENGINEER shall so notify CONTRACTOR in writing, stating the reasons, and such determination shall be final and binding upon the parties hereto.

No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by CITY ENGINEER as the date of substantial completion.

## ARTICLE 26

## RESOLUTION OF DISPUTES

26.1 To prevent all disputes and litigation, it is agreed by the parties hereto that the CITY ENGINEER shall decide all questions, claims, difficulties and disputes

of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Contract as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents and CITY ENGINEER's estimates and decisions upon all claims, questions, difficulties and disputes shall be final and binding to the extent provided in Section 26.2. Any claim, question, difficulty or dispute which cannot be resolved by mutual agreement of CITY and CONTRACTOR shall be submitted to CITY ENGINEER in writing within twenty-one (21) calendar days. Unless a different period of time is set forth herein, CITY ENGINEER shall notify CONTRACTOR in writing of CITY ENGINEER's decision within twenty-one (21) calendar days from the date of the submission of the claim, question, difficulty or dispute, unless CITY ENGINEER requires additional time to gather information or allow the parties to provide additional information. All non-technical administrative disputes shall be determined by the CITY ENGINEER and the City's Contract Manager pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, CONTRACTOR and CITY shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction.

26.2 In the event the determination of a dispute under this Article is unacceptable to either party hereto, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after a disputed invoice or during Final Completion of the Work, the parties shall participate in settlement discussions to address all objections to any determinations hereunder and to attempt to prevent litigation. Should any objection not be resolved, the parties retain all their legal rights and remedies provided under State law. This article shall not limit the CITY'S rights under the CITY'S False Claims Ordinance.

## ARTICLE 27

## APPLICABLE LAW AND VENUE

The parties expressly agree that this Contract shall be construed and interpreted in accordance with the laws of the State of Florida. Venue for adjudication of disputes and litigation concerning this CONTRACT shall be in Broward County, Florida.

BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

## ARTICLE 28

## CONTRACT DOCUMENTS

28.1 This Contract incorporates by reference the following documents: the Bid Project including drawings (design plans) and specifications, the Notice for Bids, the Addenda to the Bid Project, the Bid Tender Form, the record of Contract awarded by the City of Hallandale Beach, the Contract, the Performance and Payment Bond, any additional documents the submission of which is required by this Bid Project, the Notice of Award, the Notice to Proceed, and the Purchase Order.

28.2 Where there is a conflict between any provision set forth within the General Conditions and a more stringent state or federal provision which is applicable to this Project, the more stringent state or federal provision shall prevail.

28.3 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are not commitments, agreements, or understandings concerning the subject matter of these Contract Documents that are not 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.

28.4 By execution of this Agreement, CONTRACTOR does certify that CONTRACTOR has been duly authorized by delivery of this Agreement and all other documents, certificates, agreements, consents and receipts, and to take any and all other actions of any kind whatsoever in order to accomplish the purposes and undertakings of this Agreement

ARTICLE 29

NONDISCRIMINATION, EQUAL OPPORTUNITY

AND AMERICANS WITH DISABILITIES ACT

29.1 CONTRACTOR shall not unlawfully 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 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 or 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.

29.2 DOMESTIC PARNTER BENEFITS REQUIREMENT

CONTRACTOR certifies, and has provided the Domestic Partnership Certification Form, that it would provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses.

CONCTRACTOR shall comply with the applicable provisions of this section.

(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 may terminate the Contract if the Contractor fails to comply with this section.
(iv) The City may retain all monies due or to become due until the Contractor complies with this section.

## ARTICLE 30

## NOTICES

Whenever either party desires or is required to provide notice to the other as addressed in this contract, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, or by email provided that the notice is also sent by one of the foregoing methods, and addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

**City of Hallandale Beach**
Greg Chavarria, City Manager
400 South Federal Highway
Hallandale Beach, FL 33009

**With Copy to:**
Department of Public Works
James F. Sylvain, P.E., Public Works Director
630 NW 2nd Street
Hallandale Beach, FL 33009

**And:**
Jennifer Merino, City Attorney
400 South Federal Highway
Hallandale Beach, FL 33009
**And:**
Procurement Department
400 South Federal Highway
Hallandale Beach, FL 33009

**Contractor:**

ARTICLE 31

RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY; and, if a copyright is claimed, CONTRACTOR grants to CITY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CONTRACTOR, whether finished or

unfinished, shall become the property of CITY and shall be delivered by CONTRACTOR to the City's Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.

## ARTICLE 32

## AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of CONTRACTOR and its subcontractors that are related to this Project. CONTRACTOR and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of CONTRACTOR and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONTRACTOR or its subcontractor, as applicable, shall make same available at no cost to CITY in written form.

CONTRACTOR and its subcontractors shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONTRACTOR's and its subcontractors' records, CONTRACTOR and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

CONTRACTOR shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK AT (954) 457-1340, BY EMAIL AT CITYCLERKOFFICE@COHB.ORG, OR AT 400 S. FEDERAL HWY, ATTN: CITY CLERK, HALLANDALE BEACH, FL 33009**

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF HALLANDALE BEACH through its authorization to execute same by COMMISSION action on the _____ day of _____, 20_____, signing by and through its City Manager, duly authorized to execute same, and _____, signing by and
(name of contractor)
through its_____ duly authorized to execute same.
(title of authorized officer)

CITY

ATTEST: CITY OF HALLANDALE BEACH

_____ By _____
City Clerk Greg Chavarria, City Manager

_____ day of _____, 20_____.

Approved as to form by
City Attorney

By _____
Jennifer Merino, City Attorney

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW.
USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.

(If incorporated sign below).

CONTRACTOR

ATTEST: _____
(Name of Corporation)

_____ By _____
(Secretary) (Signature and Title)

(Corporate Seal) _____
(Type Name and Title Signed Above)

____ day of _____, 20___.

(If not incorporated sign below).

CONTRACTOR

WITNESSES:

_____ _____
(Name)

_____ By _____
(Signature)

_____
(Typed Name Signed Above)

_____ day of _____, 20____.

## GENERAL TERMS AND CONDITIONS:

### 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. 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 City of Hallandale Beach by all prospective Proposers. The City of Hallandale Beach 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 City of Hallandale Beach.

**1. CONE OF SILENCE:**

(a) *Purpose.* A cone of silence shall be applicable to all requests for proposal (BID), 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's staff including, but not limited to, the City Manager and his/her staff;

(2) 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 any member of the selection/evaluation committee therefor;

(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 presents his/her written recommendation to the city commission;
(4) Emergency procurements;
(5) Communications with the City Attorney;
(6) Sole source procurements;
(7) Those purchases that are exempted from competitive requirements in accordance with Code of Ordinances, Section 23-8
(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 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 and his/her staff, and the mayor and City Commission and their staff ,following the evaluation process, to discuss the documents released by the city as well as documents received from responders. The City Manager shall make available to the mayor and the city commission all documents reviewed by the evaluation committee for the top three ranked responders.

(d) Procedure.

(1) Imposition. A cone of silence shall be imposed upon each RFP, RFQ, RFLI, ITB or any other advertised solicitation when the solicitation is advertised. At the time of imposition of the cone of silence, the City Manager or designee shall issue a notice thereof to the affected department, the City Clerk, Mayor and City Commission and shall include in any advertised solicitation a statement disclosing that the solicitation is subject to the cone of silence.

(2) Termination; City Commission awarding authority. Except as otherwise provided herein, the cone of silence shall terminate at the date and time of the city commission meeting where the award will be made; provided, however, that if the City Commission 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 for further deliberation. In the event the city commission decides to reject all Bids, then the cone of silence shall be lifted.

(3) City Manager 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; provided, however, that if the City Manager refers the recommendation back for further review, the cone of silence shall be reinstated until such time as the City Manager 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. 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.

**2. <u>SPECIAL ACCOMODATIONS</u>**

Any person with a qualified disability requiring special accommodations at a pre-proposal conference, public meeting, oral presentation and/or opening shall contact the Office of the City Clerk at (954) 457-1340, at least five (5) working days prior to the event. If you are hearing or speech impaired, please contact this office by using the Florida Relay Services which can be reached at 1 (800) 955-8771 (TDD).

**3. <u>CONFIDENTIAL MATERIAL</u>**

The Proposer must include any materials it asserts to be exempted from public disclosure under Chapter 119, Florida Statutes, in a separate bound document labeled "Attachment to Request for Proposals, *(Name of RFP/BID)* - Confidential Material". The Proposer must identify the specific Statute that authorizes exemption from the Public Records Law. Any claim of confidentiality on materials the Proposer asserts to be exempt from public disclosure and placed elsewhere in the proposal will be considered waived by the Proposer upon submission, effective after opening

**4. 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, must 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:

(v) The Contractor certifies and represents that it will comply with this section during entire term of the Contract.

(vi) 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.

(vii) The City may terminate the Contract if the Contractor fails to comply with this section.

(viii) The City 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 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 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.

**5. LOBBYIST REGISTRATION:**

Annual registration. Every lobbyist shall file a registration form with the City Clerk's Office. The registration form requires the Lobbyist to state under oath the lobbyist's name, business address, the name and business address of each party, person, principal, and/or client represented on city matters, any previous principal, and/or client represented who has, at the time of registration, any pending matters involving the City, and the general and specific areas of lobbyist interest in any City matter, if not previously disclosed. Registration is required annually, along with a payment of an annual registration fee of fifty ($50.00) Dollars.

**6. 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.

**7. 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 until such time as the City Commission approves award of contract.

**8. 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 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, 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.

**9. ADDENDA AND MODIFICATIONS:**

All addenda and other modifications to the documents or this BID 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://www.cohb.org/solicitations.

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.

**10. PERFORMANCE:**

It is the intention of the City 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. The City 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.

**11. DELIVERY:**

Time is of the essence. City 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.

**12. DEFAULT PROVISION:**

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

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

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

Copyrighted material will be accepted as part of a technical proposal only if accompanied by a waiver that will allow the City to make paper and electronic copies necessary for the use of City staff and agents. It is noted that copyrighted material is not exempt from the Public Records Law, Chapter 119, Florida Statutes. Therefore, such material will be subject to viewing by the public, but copies of the material will not be provided to the public.

**14. TAXES:**

The City is exempt from any taxes imposed by the State of Florida and/or Federal Government. State Sales Tax Exemption Certificate No. 85-8015922477C-2; United States Treasure Department. Exemption Certificates provided on request.

**15. 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.

**16. 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 of the City of Hallandale Beach, Florida and in case of default on the part of the successful Proposer or Firm, after such acceptance, the City may take such action as it deems appropriate, including legal action, for damages or specific performance.

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

Where Proposers are required to enter onto City of Hallandale Beach 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 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.

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

The City 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 also reserves the right to award the contract on such material the City deems will best serve its interests.

The City 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 reserves the right to cancel any contract by giving thirty (30) days written notice. **The City 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.**

The City Manager shall have the authority to recommend to the city commission award of contracts. Contracts shall be awarded to the lowest responsive, responsible bidder, or as otherwise determined in the best interest of the city. The City Commission shall not be involved in the preparation, submittal and evaluation of bids, request for proposals and other purchases, including attendance at or participating in presentations to or deliberations by a selection committee or contact with persons, Firms, organizations and

corporations submitting bids or proposals to the city. Following an evaluation of responses received for bids, request for proposals, and other purchases, the city manager shall have the authority to recommend to the city commission award of contracts.

**19. 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.

**20. 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.

**21. PROPOSER'S COSTS:**

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

**22. UNAUTHORIZED ALIENS**

The employment of unauthorized aliens by any contractor/Firm is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor/Firm knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

**23. 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 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 or 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.

**24. <u>PROTEST PROCEDURES:</u>**

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 City Attorney and other appropriate City staff.

(3) Protest Filing Fee

The written protest must be accompanied by a filling 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 filling 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 Executive Director and the City 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.

**25. <u>QUALFICIATIONS OF PROPOSER:</u>**

Proposals shall be considered only from Firms normally engaged in performing the type of work specified within the BID 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 responsibility may be grounds for determination of non-responsibility with respect to such Proposer or Firm.

**26. 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.

**27. 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. 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 prior to entering into a contract with the City of Hallandale Beach.

**28. SAMPLE FORM CONTRACT:**

The City's Form Contract is attached as part of this solicitation. Submission of a 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.

**29. AWARD OF CONTRACT:**

The City exercises the right reserved herein to reject any or all bids. The Contract shall be awarded by the City 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 determines to be in its own best interests depending upon whichever is applicable to the particular bid.

**30. POLYSTYRENE (STYROFOAM) ADMINISTRATIVE POLICY:**

The City of Hallandale Beach Administrative Policy 2009.002, Expanded Polystyrene Administrative Policy was approved by the City Commission during the April 18, 2018 by City Commission. The Policy is to preserve and enhance the health and quality of the environment in Hallandale Beach by restricting the use of City funds by City employees, contractors and/or vendors to purchase expanded polystyrene (Styrofoam) products for use or sale on City property or City facilities. Under the policy, City funds may not be expended to purchase Styrofoam food services articles for use or sale in City facilities or on City property. This includes funds used by City employees or used to pay City Contractors or vendors. Styrofoam food service articles will no longer be permitted to be sold or used in City facilities or on City properties by contractors or vendors that are paid with City funds. Click to access 2009.002 Expanded Polystyrene (Styrofoam) Administrative Policy.

**31. FALSE CLAIMS ORDINANCE NO. 2018-22:**

The City of Hallandale Beach Code of Ordinances, Chapter 19, Article V, False Claims (Ordinance No. 2018-22) was approved by City Commission on August 15, 2018. The False Claims Ordinance purpose is to deter persons from knowingly causing or assisting in causing the City to pay false claims, and to provide remedies for obtaining damages and civil relief for the City if a false claim is sought or obtained from the City. Click link to access False Claims Ordinance No. 2018-22.

## CITY OF HALLANDALE BEACH LOCAL VENDOR PREFERENCE
## How a proposer qualifies for Tier 1, Tier 2 or Tier 3 LVP:

The City of Hallandale Beach has a Hallandale Beach Local Vendor Preference (CHBLVP). The CHBLVP is not a requirement for this Bid. However, if the Proposing Firm itself or the Proposing Firm's subcontractor(s) qualify as a Hallandale Beach Local Vendor, read below to make the determination of how to do that, in order to receive the Hallandale Beach local vendor preference consideration. The Proposer must identify all Hallandale Beach local vendors that will be utilized as subcontractors, and delineate for each the specific elements of work each local vendor will be responsible for performing and the dollar value of work as a percentage of the total contract value.

**All proposers must provide the documentation/paperwork requested below in order for the Procurement Department to grant the LVP status.** Please note that the paperwork/documentation being requested below is retroactive, must be dated, one (1) year prior to the bid/proposal due date.

Please note that the submission of incomplete/incorrect information and/or omissions of detailed information as required per this section may deem the LVP preference from being granted.

**Proposer must provide the following submittal to be granted Tier 1, 2 or 3 LVP:**

In order to grant the Local City of Hallandale Beach Vendor preference, the Firm must submit the specified paper work/documents stated below and must provide the submittal of the LVP labeled as Attachment A with all the following requirements for the Firm(s), letters a-d below.

**Firm must clearly label the LVP submittal "Local City of Hallandale Beach Vendor Preference", Attachment A. The submittal must include all of the following:**

a) The Tier applicability being required.

b) The name of the company that meets the Tier applicability.

c) Copy of the forms required to apply for the specific Tier preference.

d) The dollar value of work as a percentage (%) of the total project work which equals to the cost/value which will be provided and performed by the Local Vendor whose name is provided for letter b above. Exact type of service/element of work, or direct labor or a bona fide service that Local Vendor will provide to the project. If a nonlocal proposer submits a bid or proposal that includes subcontractors that qualify for tier 1, tier 2 or tier 3 local vendor, in order to receive local preference consideration, the proposer must identify all local vendors that will be utilized as subcontractors, and delineate for each the specific elements of work each local vendor will be responsible

for performing and the dollar value of work as a percentage of the total contract value.

**Tier 1 LVP:**

A Tier 1 "local City of Hallandale Beach vendor" shall mean a resident which has a valid homestead from Broward County Property Appraiser's in the City's limits and the resident owns a business within the City limits with a valid Business Tax Receipt issued by the City that authorizes the business to do business in the City and that authorizes the business to provide the goods, services or construction to be purchased.

Documentation to provide to receive LVP Tier 1:

Business Tax Receipt (BTR) from Hallandale Beach:

The valid Business Tax Receipt shall have been issued by the City at least one (1) year prior to the bid or proposal due date. The business must have a physical address located within the City limits. Post office boxes shall not be utilized for the purpose of establishing said physical address. Proof of Business Tax Receipt must be submitted with response to the solicitation.

Homestead in Hallandale Beach:

Proof of the homestead must be submitted with the response to the solicitation.
A valid homestead from Broward County Property Appraiser's in the City's limits must be provided. The homestead shall have been issued by the County at least one (1) year prior to the bid or proposal due date.

**Tier 2 LVP:**

A Tier 2 "local City of Hallandale vendor" shall mean a business within the City limits that has a valid Business Tax Receipt issued by the City that authorizes the business to do business in the City and that authorizes the business to provide the goods, services or construction to be purchased. The valid Business Tax Receipt shall have been issued by the City at least one (1) year prior to the bid or proposal due date.

Documentation to provide to receive LVP Tier 2:

Business Tax Receipt (BTR) from Hallandale Beach:

The business must have a physical address located within the City limits. Post office boxes shall not be utilized for the purpose of establishing said physical address. Proof of Business Tax Receipt

must be submitted with response to the solicitation. The valid Business Tax Receipt shall have been issued by the City at least one (1) year prior to the bid or proposal due date.

## Tier 3 LVP:

A Tier 3 "local City of Hallandale vendor" shall mean a resident which has a valid homestead from Broward County Property Appraiser's in the City's limits at least one (1) year prior to the bid or proposal due date. Additionally, the resident owns a business outside of the City limits. The valid Business Tax Receipt shall have been issued at least one (1) year prior to the bid or proposal due date. Post office boxes shall not be utilized for the purpose of establishing said physical address. Proof of the Business Tax Receipt must be submitted with response to the solicitation.

Documentation to provide to receive LVP Tier 3:

Homestead in Hallandale Beach:

Proof of the homestead must be submitted with the response to the solicitation. A valid homestead from Broward County Property Appraiser's in the City's limits must be provided with the submission. The homestead shall have been issued by the County at least one (1) year prior to the bid or proposal due date. Proof of homestead must be submitted with the response to the solicitation.

Business Tax Receipt (BTR) for the business from City business is conducting business:

Proof of the Business Tax Receipt from business outside City limits must be submitted with response to the solicitation. A valid Tax Receipt from the City in which the business is located must be provided with the submission. The Business Tax Receipt must have been issued at least one (1) prior to the bid or proposal due date.

## Process to apply the Local Vendor Preference (LVP) to a Bid response.

The Procurement Department will review the submission of Attachment A by the proposer and review of the proper documentation that has been submitted for the requested LVP tier, as well as, all requirements for the LVP. If the complete information/documentation/paperwork has been provided by the proposer the following process below will apply.

## Process to apply the LVP to a Bid response having provided all items required

Conditions:

(1) A vendor/business can only qualify for one tier preference level.

(2) A vendor/business with outstanding liens, fines or violations with the City shall not be eligible to qualify for Tier 1—3 status.

(3) A vendor/business that operates through a post office box shall not be eligible to qualify for Tier 1-3.

Process to apply the LVP to bids:

(1) *Competitive Bid Tier 1 Local Vendor Preference.* When a responsive, responsible nonlocal business submits the lowest price bid, and the bid submitted by the tier 1 local vendor is within ten percent of the lowest price submitted by any vendor, the tier 1 local vendor shall have an option to submit another bid to match the lowest responsive bid. If the tier 1 local vendor submits a bid that matches the lowest responsive bid, then the award will go to the tier 1 local vendor. If not, the award will be made to the vendor that submits the lowest responsive bid.

(2) *Competitive Bid Tier 2 Local Vendor Preference.* When a responsive, responsible nonlocal business submits the lowest price bid, and the bid submitted by the tier 2 local vendor is within five percent of the lowest price submitted by any vendor, the tier 2 local vendor shall have an option to submit another bid to match the lowest responsive bid. If the tier 2 local vendor submits a bid which matches that lowest responsive bid, then the award will go to the tier 2 local vendor. If not, the award will be made to the vendor that submits the lowest responsive bid.

(3) *Competitive Bid Tier 3 Local Vendor Preference.* When a responsive, responsible nonlocal business submits the lowest price bid, and the bid submitted by the tier 3 local vendor is within two and one-half percent of the lowest price submitted by any vendor, the tier 3 local vendor shall have an option to submit another bid to match the lowest responsive bid. If the tier 3 local vendor submits a bid which matches that lowest responsive bid, then the award will go to the tier 3 local vendor. If not, the award will be made to the vendor that submits the lowest responsive bid.

If there is a Tier 1 local vendor and a Tier 2 local vendor and a Tier 3 local vendor participating in the same Bid solicitation and the three vendors qualify to submit a second Bid as detailed above, the Tier 1 local vendor will be given first option.

If the Tier 1 local vendor cannot match the lowest bid received, an opportunity will be given to the tier 2 local vendor. If the tier 2 local vendor cannot match the lowest bid received, then an opportunity will be given to the tier 3 local vendor. If the tier 3 local vendor cannot match the lowest bid received, then the bid will be awarded to the lowest bidder regardless of tier 1, tier 2 or tier 3 local vendor preference.

If multiple local vendors submit bids which are within ten percent of the lowest bid, then all vendors will be asked to submit a "best and final offer (BAFO)." The award will be made to the tier 1 local vendor submitting the lowest BAFO providing that the BAFO at least matches the

lowest bid received in the original solicitation. If no tier 1 local vendor can beat the lowest bid by matching it, then the process will be repeated with tier 2 and tier 3 local vendors who have submitted a bid which is within two and one-half percent of the lowest bid. If no tier 1, tier 2 or tier 3 local vendor can submit a BAFO that matches the lowest bid submitted in the original solicitation, the award will be made to the lowest responsive bidder regardless of the tiers.

Exemptions to Tier 1, Tier 2 and Tier 3.

The City will not count toward a proposer Tier 1, Tier 2 or Tier 3 local vendor participation any portion or portions of the local vendor subcontractor's work that is subcontracted back to as follows:

a) The proposer, either directly, or through any other company or Firm owned or controlled by the proposer.

b) Any nonlocal business.

c) A Tier 1, Tier 2 or Tier 3 local vendor shall not be permitted to subcontract all or a majority of the sub contractual portion of the work to another nonlocal business. A Tier 1, Tier 2 or Tier 3 local vendor subcontractor shall be prohibited from engaging in a sub contractual agreement with the intent of collecting a broker's fee or commission. A Tier 1, Tier 2 or Tier 3 local vendor subcontractor shall also be prohibited from entering into a sub contractual agreement with a Firm whose employees perform none of the direct labor or service activities specified in the contract.

**d)** Participation by a Tier 1, Tier 2 or Tier 3 local business shall not be considered and the Tier 1, Tier 2 or Tier 3 local vendor shall be disqualified if the owner of the Tier 1, Tier 2 or Tier 3 enters into an agreement with a nonlocal business with the intent of securing employment with that nonlocal business during the course of performing a City contract.