



CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444

RFQ No. 2017-048
Continuing Engineering, Surveying, and Landscaping
Architectural Consulting Services (918-42, 918-89, 906-56)

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**CITY OF DELRAY BEACH, FLORIDA
PURCHASING DEPARTMENT
REQUEST FOR QUALIFICATIONS**

**RFQ No. 2017-048
Continuing Engineering, Surveying, and Landscaping
Architectural Consulting Services
Summary**

ISSUE DATE: April 14, 2017

DEPARTMENT: Environmental Services

DUE DATE: May 16, 2017

TIME: 2:00 P.M., ET

The City of Delray Beach, Florida is soliciting proposals for the provision of Continuing Engineering, Surveying, and Landscaping Architectural Consulting Services, as identified in the Scope of Services herein. Any Proposer wishing to submit a proposal must comply with the requirements contained in this Request for Qualifications (RFQ).

A Non-Mandatory Pre-proposal conference is scheduled for April 26, 2017 at 10:00 a.m., ET, in the City of Delray Beach (City) City Hall Building, 1st Floor Conference Room, 100 N.W. 1st Avenue, Delray Beach, FL. Information regarding the solicitation requirements and the City's solicitation process are provided during the pre-solicitation conference. Interested parties are encouraged to attend.

1. **NOTIFICATION:** The City utilizes the following methods for notification and distribution of solicitation opportunities:
 - BidSync – www.bidsync.com
 - Purchasing webpage on the City of Delray Beach [website](#)
 - Request via email purchasing@mydelraybeach.com
 - Hard copies are available at City Hall

These are the only methods of notification and distribution authorized by the City. The City will not be responsible for receipt of notification and information from any source other than those shown above. It shall be the Proposer's responsibility to verify the validity of all RFQ documents and solicitation information received by sources other than those listed.

2. **REQUIRED INFORMATION:** This RFQ contains various sections which require completion. Responses to this RFQ (Proposals) must be completed and returned prior to the Due Date and Time for Proposal opening or the Proposer will be found non-responsive.
3. **CORRESPONDENCE:** The number of this RFQ must appear on all correspondence or inquiries pertaining to this RFQ.
4. **NOTICE OF PUBLIC DOCUMENTS:** Any and all materials initially or subsequently submitted as part of the solicitation process for this RFQ shall become the property of the City, and shall be treated as City documents subject to typical practice and applicable laws for public records.

5. **ADDENDA:** Any interpretations, corrections, or changes to this RFQ will be made by addenda. Sole issuing authority shall be vested in the City Purchasing Department. Addenda will be posted and available through the City notification methods shown above.
6. **ELECTRONIC PROPOSAL SUBMISSION:** Submission of Proposals electronically will be through a secure mailbox at BidSync (www.bidsync.com) until the Due Date and Time as indicated in this RFQ. BidSync does not accept electronic Proposals after the Due Date and Time. It is the sole responsibility of the Proposer to ensure their proposal reaches BidSync before the solicitation Due Date and Time. There is no cost to the Proposer to submit a proposal to a City via BidSync. Electronic proposal submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate file.

Additionally, Proposers who submit an proposal electronically via BidSync shall deliver two copies of the proposal each on separate universal serial bus (USB) portable flash memory cards to the City in a sealed container per Item 8 below .

USB electronic copies should be in Adobe Acrobat® portable document format (PDF) in one continuous file. Do not password protect or otherwise encrypt electronic proposal copies. Electronic copies must contain an identical proposal to the original. Electronic copies must be received on or before the Due Date and Time (local time) at the City of Delray Beach, Purchasing Department, 100 N.W. 1st Avenue, Delray Beach, Florida, 33444. The Proposer's name, return address, the RFQ number, RFQ title, Due Date and Time must be noted on the outside of the sealed container.

7. **HARD COPY (PAPER) PROPOSAL SUBMISSION:** Paper hard copies of Proposer's proposal may be submitted as an alternative method. The proposal and all copies must be received on or before the Due Date and Time (local time) at the City Hall Lobby reception desk, 100 N.W. 1st Avenue, Delray Beach, Florida, 33444. Proposals must be presented to the Purchasing Department in a sealed container unless otherwise indicated.

It is the sole responsibility of the Proposer to utilize the forms provided in this RFQ and to ensure their proposal is delivered to the City Hall Lobby reception desk prior to the Due Date and Time. The Proposer's name, return address, the RFQ number, RFQ title, Due Date and Time must be noted on the outside of the sealed container. Included in the sealed container shall be:

- One (1) unbound original clearly identifying Proposer and marked "ORIGINAL".
- Six (6) copies clearly identifying Proposer and marked "COPY" with all required information and identical to the original.
- Three (3) electronic copies clearly identifying Proposer.

8. **ELECTRONIC FORMAT COPIES:** Electronic format copies should be submitted on separate USB portable flash memory cards/drives in Adobe Acrobat® portable document format (PDF) in one continuous file. Do not password protect or otherwise encrypt electronic proposal copies. Electronic copies must contain an identical proposal to the original. Electronic copies must be received on or before the Due Date and Time (local time) at the City of Delray Beach, City Hall Lobby reception desk located at 100 N.W. 1st Avenue, Delray

Beach, Florida, 33444. Electronic format copies must clearly identify Proposer and be submitted in a sealed container.

NOTE: Proposal responses submitted via facsimile or email will not be accepted.

9. **LATE PROPOSALS:** The City shall not be responsible for a Proposer's inability to submit a proposal via BidSync by the Due Date and Time for any reason. Hard copy proposals received at the City of Delray Beach City Hall after the Due Date and Time shall be returned unopened and will be considered non-responsive. It is the sole responsibility of Proposer to ensure its Proposal is received by the City by the Due Date and Time. The City is not responsible for the lateness due to weather conditions, delivery service, issues arising from the use of BidSync. or any other reasons. City business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City holidays.
10. **PROPOSAL OPENINGS:** All proposals submitted before the Due Date and Time shall be publicly opened by the Purchasing Department at the City Hall Building, located at 100 N.W. 1st Avenue, Delray Beach, FL or other designated City location as posted. The Purchasing Department will decrypt responses received in BidSync immediately following the designated Due Date and Time. Proposers and the public are invited to attend Proposal openings. Only the Proposers' names will be read aloud at the Proposal opening.
11. **MINOR DEFECT:** The City reserves the right to waive any minor defect, irregularity, or informality in any proposal. The City may also reject any or all proposals without cause prior to award.
12. **EVALUATION:** Proposals will be evaluated as outlined in this RFQ.
13. **AWARD:** The City reserves the right to accept any proposal or combination of proposal alternates which, in the City's judgment will best serve the City's interest, reject any and all proposals or any part of a proposal, and to negotiate terms with the Successful Proposer. The City reserves the right to waive any informality in a proposal, and to award the purchase in the best interest of the City.

The City reserves the right to award the Agreement on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City.

The City reserves the right to make an award to the responsive and responsible Proposer whose product or service meets the terms, conditions, and specifications of the RFQ and whose Proposal is considered to best serve the City's interest.
14. **INFORMATION:** Within this RFQ are several Sections. Section 1 provides the scope of services, Section 2 describes the Terms and Conditions that will apply to this RFQ and any resulting Agreement. Section 3 describes the Proposal Response Requirements to be provided by the Successful Proposer. Section 4 provides the scope of work and Section 4 provides forms and instructions for preparing a proposal in response to this RFQ.
15. **RFQ SCHEDULE:** A summary schedule of the major activities associated with this solicitation is presented in Table 1, below. The City, at its sole discretion, may modify this schedule as the City deems appropriate.

Table 1

ACTIVITY	DATE
Issue RFQ	April 14, 2017
Non-Mandatory Pre-proposal Conference	April 26, 2017 at 10:00 a.m., ET at City Hall's Conference Room
Deadline for Delivery of Questions	May 3, 2017
Due Date and Time (for delivery of Proposals)	May 16, 2017 by 2:00 p.m., ET
Institute Cone of Silence	May 16, 2017 at 2:00 p.m., ET
Phase 1 Evaluation	May 26, 2017
Selection Committee Meeting – Technical Evaluations	June 2, 2017 at 9:30 a.m. ET at ESD Training Room
Selection Committee Meeting – Interviews (if conducted)	June 9, 2017 at 9:30 a.m. ET at ESD Training Room
Selection Committee Meeting - Final Evaluations	June 14, 2017 at 8:30 a.m. ET at City Hall's Conference Room

16. MEETING LOCATIONS:

- **City Hall Conference Room** - located at 100 N.W. 1st Avenue, first floor, Delray Beach, FL.
- **ESD Training Room** - located at Environmental Services Department Administration Building located at 434 South Swinton Avenue, Delray Beach, FL.

17. BIDSYNC: The City uses BidSync (www.bidsync.com) to administer the competitive solicitation process, including but not limited to soliciting proposals, issuing addenda, posting results and issuing notification of an intended award decision. There is no charge to potential Proposers to register and download the solicitation from BidSync. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available on the BidSync website well in advance of their intention of submitting a proposal to ensure familiarity with the use of BidSync.

18. POINT OF CONTACT: For information concerning procedures for responding to this RFQ, contact the City Purchasing Department via email at purchasing@mydelraybeach.com. Such contact shall be for clarification purposes only.

19. QUESTIONS: Each Proposer must examine this RFQ, which incorporates all its addenda, appendices, exhibits, drawings, instructions, special conditions and attachments to determine if the requirements are clearly stated. All questions concerning this RFQ, such as discrepancies, omissions and exceptions to any term or condition of the RFQ documents, including the Sample Agreement, should be submitted in writing utilizing the question / answer feature provided by BidSync at www.bidsync.com. Questions of a material nature must be received prior to the Deadline for Delivery of Questions specified in the RFQ schedule.

Failure of the Proposer to examine all pertinent documents shall not entitle the Proposer to any relief from the conditions imposed in the Agreement.

20. DEFINITIONS The City will use the following definitions in its special conditions, scope of services, instructions, addenda and any other document used in the solicitation process:

- A. REQUEST FOR QUALIFICATIONS (RFQ) - City request for proposals from qualified Proposers.
- B. PROPOSER – Person or firm submitting a Proposal.
- C. PROPOSAL – Proposers response to this RFQ.
- D. RESPONSIVE PROPOSER – A Proposer whose Proposal conforms in all material respects.
- E. RESPONSIBLE PROPOSER – A Proposer who meets the minimum qualification requirements and has the capability to perform the Agreement requirements.
- F. FIRST RANKED PROPOSER – The Proposer whose Proposal is deemed the most advantageous to the City after applying the evaluation criteria contained in this RFQ.
- G. SUCCESSFUL PROPOSER – Proposer who is awarded an Agreement for the provision of services detailed in this RFQ.
- H. AGREEMENT – The Agreement, a sample of which is attached hereto and made a part hereof, between the City and the Successful Proposer to perform the services described herein.
- I. ENGINEERING SERVICES - includes the term “professional engineering” and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. (Florida 471.005 - Statutes)
- J. SURVEYING / MAPPING SERVICES: includes the term “professional surveyor and mapper” and means a person who is registered to engage in the practice of surveying and mapping under ss. 472.001-472.037. For the purposes of this statute, a surveyor and mapper means a person who determines and displays the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures. (Florida 472.005 Statutes)
- K. LANDSCAPE ARCHITECTURAL SERVICES: professional services, including, but not limited to, the following: (a) Consultation, investigation, research, planning, design,

preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas, including the use of Florida-friendly landscaping as defined in s. 373.185, where, and to the extent that, the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values; (b) The determination of settings, grounds, and approaches for and the siting of buildings and structures, outdoor areas, or other improvements; (c) The setting of grades, shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems where such systems are necessary to the purposes outlined herein; and (d) The design of such tangible objects and features as are necessary to the purpose outlined herein. (Florida 481.303 Statutes)

- L. SERVICE AUTHORIZATION: is a form used to authorize work, projects, and services. The Service Authorization includes the scope of work to be performed and related costs.

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SECTION 1: SPECIAL TERMS AND CONDITIONS

A. INTRODUCTION AND INFORMATION

1. Purpose

The City is soliciting proposals for the provision of Continuing Engineering, Surveying, and Landscaping Architectural Consulting Services as identified in the Scope of Services herein. Any Proposer wishing to submit a proposal must comply with the requirements contained in this RFQ.

Within this RFQ are several Sections. Section 1 describes the Terms and Conditions that will apply to this RFQ and any resulting Agreement. Section 2 describes the Proposal Response Requirements to be provided by the Successful Proposer. Section 3 provides the scope of work and Section 4 provides forms and instructions for preparing a proposal in response to this RFQ.

B. TERMS AND CONDITIONS

1. Addenda, Changes, and Interpretations

Potential Proposers should utilize the question / answer feature provided by BidSync and request modification or clarification of any ambiguity, technical specifications, conflict, discrepancy, omission or other error discovered in this RFQ. Requests for clarification, modification, interpretation, or changes must be received prior to the Deadline for Delivery of Questions. Requests received after the Deadline may not be addressed.

The City's response to questions and requests for information will be answered within the question/answer feature provided by BidSync. Additionally, all questions received and responses given will be provided via an addendum to this ITB and uploaded to BidSync. Material changes, if any, to the requirements, scope, specifications, or the solicitation process will be made by official written addendum issued by the City and uploaded to BidSync as an addendum to this ITB.

All addenda are a part of the RFQ solicitation documents and each Proposer will be bound by such addenda. It is the responsibility of each Proposer to read and comprehend all addenda issued. Failure of any Proposer to acknowledge an issued addendum in its Response will not relieve the Proposer from any obligation contained therein.

2. Evaluation of Proposals

The City Manager will designate a Selection Committee to review and evaluate the Proposals submitted in response to this RFQ. The review process will be conducted at a minimum of two phases. In Phase One, the Chief Purchasing Officer (CPO) or designee shall determine whether each Proposer is responsive and responsible. For the purposes of this RFQ, a responsive Proposer means a Proposer that has submitted a proposal that conforms in all material respects to the requirements in the RFQ. Accordingly, in Phase One, the CPO or designee will determine whether each Proposer correctly submitted all of the necessary forms and documents. For the purposes of this RFQ, a

responsible Proposer means a Proposer meets the minimum qualification requirement(s) in this RFQ, Section 2.

Among other things, a Proposal may be found to be non-responsive if the Proposer failed to provide the information requested in the RFQ; failed to utilize or complete the required forms; provided incomplete, indefinite, or ambiguous responses; failed to comply with the applicable deadlines; provided improper or undated signatures; or provided information that is false, misleading, or exaggerated.

In Phase Two, the Selection Committee will evaluate each proposal utilizing the following weighted criteria:

Evaluation Criteria

Criterion	Max Score
Experience, Background, Reference Feedback	30
Projects for Similar Services	15
Approach to Project Management	25
Organizational Structure (capacity, resources, personnel)	20
Interviews	10
Total	100

Each Selection Committee member will evaluate, rank and score the proposals for each of the evaluation criteria. The Selection Committee may create a short list of Proposers from the proposals received and elect to conduct interviews/presentations with the short-listed firms. If the Selection Committee elects to short-list only those proposals from Proposers that are short-listed will be considered for award of the Agreement.

The Selection Committee may rank Proposals without conducting interviews with Proposers. For this reason, each Proposer must ensure that its proposal contains all of the information requested in this RFQ.

If interviews are conducted, the evaluation will be on the knowledge demonstrated by the Proposer and its team members, as well as the team's ideas and vision for services for the City. Consideration will be given for unqualified answers, comprehensive explanations of relevant experience, and understanding of the required services. Consideration will also be given for presentation style. Clarification information as well as information obtained during the interview process will be considered in the final evaluations and ranking of Proposals.

At any time during the Selection process, the City may conduct investigations it deems necessary to evaluate the Proposals. Each Proposer shall promptly provide the City with any additional information reasonably requested by the City. The City shall have the right to make additional inquiries, visit the facilities of one or more of the Proposers, or take any other action the City deems necessary to fairly evaluate a Proposal.

At any time during the Selection process, the City may reject a proposal if the City concludes the Proposer is not qualified (e.g. Proposer does not satisfy the minimum requirements criteria set forth in this RFQ).

The Selection Committee and/or the City Commission may select the Successful Proposer without allowing any presentations or interviews by any Proposer. For this reason, each Proposer must ensure that its proposal contains all of the information requested in this RFQ.

3. Award

The City reserves the right to accept a Proposal(s) and award Agreements that in its judgment will be for the best interest of the City. The City reserves the right to negotiate agreement terms with the Successful Proposers.

4. The City's Acceptance or Rejection of Proposals

The City reserves its exclusive right to:

- Disregard all non-conforming, non-responsive, unbalanced or conditional proposals
- Reject any and all proposals that fail to satisfy the requirements and specifications in this RFQ
- Accept the proposal which is the best overall proposal, based on the selection criteria listed
- Reject any and all non-responsive proposals
- Waive minor irregularities in any proposal
- Issue addenda or otherwise revise the requirements in this RFQ
- Reject all proposals, with or without cause
- Issue requests for new proposals
- Cancel this RFQ

The City may reject a proposal for any reason that the City deems sufficient. For example, the City may reject one or more proposals if (1) the Proposer misstates or conceals any material fact in their proposal; (2) the proposal does not conform to the requirements of applicable Law; (3) the proposal is subject to conditions or qualifications; (4) a change occurs that makes this RFQ unnecessary for the City; (5) any Proposer submits more than one proposal under the same or different names; (6) a Proposer has failed to perform satisfactorily or meet its financial obligations on previous contracts; (7) the Proposer employs unauthorized aliens in violation of Section 274(A)(e) of the Immigration and Naturalization Act; and/or (8) or the Proposer is listed on the U.S. Comptroller General's List of Ineligible Companies for Federally Financed or Assisted Projects.

Any or all proposals may be rejected if the City concludes that collusion existed among two or more of the Proposers. Proposals received from the participants in such collusion will not be considered for the same work in this RFQ if re-advertised.

The City may reject proposals if two (2) or more Proposers are planning a merger, or are in the process of merging with or acquiring other Proposers, and the City concludes that the Proposers are not submitting bona fide or uncompromised proposals. In such cases, the City may reject all proposals in which such Proposers are involved.

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

5. Protest Procedures

As noted above, proposals will be evaluated in two phases. If the Proposer is deemed non-responsive or non-responsible during Phase One, the CPO shall provide notice to the affected Proposer. The CPO shall also post notice on BidSync (www.bidsync.com) and the bulletin board located in the lobby of City Hall after the Selection Committee provides a recommendation for award at the conclusion of Phase Two.

Any Proposer who is aggrieved by these decisions or a decision of the City Commission may file a protest pursuant to Section 36.04 (entitled "Protest Procedures") of the Delray Beach Code of Ordinances. However, nothing contained in this RFQ shall be deemed to limit the authority of the City Commission under special or general law.

Any Proposer filing a protest shall submit with its protest a Protest Bond, payable to the City, in the amount of fifteen thousand dollars (\$15,000). If the protest is decided in the protester's favor the entire protest bond is returned. If the protest is not decided in the protester's favor the protest shall be forfeited to the City. The protest bond shall be in the form of a cashier's check.

6. Changes and Alterations

Proposers may change or withdraw a Proposal at any time prior to the proposal Due Date and Time; however, no oral modifications will be allowed. Modifications shall not be allowed following the proposal Due Date and Time.

7. Proposer's Costs

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

8. Invoices/Payment

The City will accept invoices no more frequently than once per month. Each invoice shall fully detail the related fees and shall specify the status of the particular task or project as of the date of the invoice with regard to the accepted schedule for that task or project. Payment will be made within forty-five (45) days after receipt of an invoice acceptable to the City, in accordance with the Florida Local Government Prompt Payment Act. If, at any time during the Agreement, the City shall not approve or accept the Proposer's work product, and agreement cannot be reached between the City and the Proposer to resolve the problem to the City's satisfaction, the City shall negotiate with the Proposer on a payment for the work completed and usable to the City.

9. Acceptance of Proposals / Minor Irregularities

The City reserves the right to accept or reject any or all proposals, part of proposals, and to waive minor irregularities or variances to specifications contained in proposals which do not make the proposal conditional in nature, and minor irregularities in the solicitation process. A minor irregularity shall be a variation from the solicitation that does not affect

the price of the contract or does not give a Proposer an advantage or benefit not enjoyed by other Proposers, does not adversely impact the interests of other firms or, does not affect the fundamental fairness of the solicitation process. The City also reserves the right to reissue a RFQ.

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

10. Modification of Services

While this Agreement is for services provided to the department referenced in this RFQ, the City may require similar work for other City departments. Successful Proposer agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Successful Proposer.

The City reserves the right to delete any portion of the work at any time without cause, and if such right is exercised by the City, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished and approved by the City on any portion of an Agreement resulting from this RFQ, the Successful Proposer shall be paid for the work completed on the basis of the estimated percentage of completion of such portion to the total project cost.

The City may require additional items or services of a similar nature, but not specifically listed in the Agreement. The Successful Proposer agrees to provide such items or services, and shall provide the City prices on such additional items or services based upon a formula or method, which is the same or similar to, that used in establishing the prices set for in the Agreement. If the price(s) offered are not acceptable to the City, the City reserves the right to procure those items or services from other suppliers, or to cancel the Agreement upon giving the Successful Proposer thirty (30) days written notice.

If the Successful Proposer and the City agree on modifications or revisions to the task elements, after the City has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Successful Proposer will submit a revised budget to the City for approval prior to proceeding with the work.

11. Non Exclusive Contract

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

12. Contract Agreement

By submitting a proposal the Proposer agrees to all terms and conditions in this RFQ, which incorporates all addenda, appendices, exhibits, attachments and sample Agreement.

The Successful Proposer will be required to execute the Agreement, a sample of which is attached hereto and made a part hereof. The Agreement will incorporate the

Successful Proposer's Proposal and any subsequent information requested from the Successful Proposer by the City during the evaluation process.

The City will transmit the Agreement to the recommended proposer for execution. Proposer agrees to deliver two duly executed copies of the Agreement to the City within five (5) calendar days of receipt.

13. Subcontractors

If the Proposer proposes to use subcontractors in the course of providing services to the City, this information shall be a part of the proposal. Such information shall be subject to review, acceptance and approval of the City, prior to any award. The City reserves the right to approve or disapprove of any subcontractor candidate in its best interest and to require Proposer to replace subcontractor with one that meets City approval.

Proposer shall ensure that all of Proposer's subcontractors perform in accordance with the terms and conditions of the Agreement. Proposer shall be fully responsible for all of Proposer's subcontractors' performance, and liable for any of Proposer's subcontractors' non-performance and all of Proposer's subcontractors' acts and omissions. Proposer shall defend, at Proposer's expense, counsel being subject to the City's approval or disapproval, and indemnify and hold harmless the City and the City's officers, employees, and agents from and against any claim, lawsuit, third-party action, or judgment, including any award of attorney fees and any award of costs, by or in favor of any Proposer's subcontractors for payment for work performed for the City.

Successful Proposer shall require all of its subcontractors to provide the required insurance coverage as well as any other coverage that the Proposer may consider necessary, and any deficiency in the coverage or policy limits of said subcontractors will be the sole responsibility of the Successful Proposer.

14. Insurance Requirements

The Successful Proposer shall supply proof of insurance, detailing terms and provisions of coverage. Coverage must be received by the Purchasing Department within 10 days of final execution of the Agreement.

Selected Proposer shall carry the following minimum types of insurance:

- A. Workers' Compensation Insurance: with the statutory limits.
- B. Employers' Liability insurance with a limit of not less than \$100,000 for each accident, \$100,000 for each disease, and \$500,000 for aggregate disease.
- C. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office and must include:

- a. Premises and/or Operations
 - b. Independent Contractors
 - c. Products and Completed Operations - Consultant shall maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.
 - d. Broad Form Property Damage
 - e. Contractual Coverage applicable to this specific Agreement.
 - f. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.
- D. Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:
- a. Owned Vehicles
 - b. Hired and Non-Owned Vehicles
 - c. Employers' Non-Ownership
- E. Professional Liability Insurance with minimum limits per occurrence applicable to City projects as follows:

	Construction Cost Range	Limit
a.	0 - 99,000	\$250,000
b.	100,000 - 299,000	\$500,000
c.	300,000 - 499,000	\$750,000
d.	500,000 - Above	\$1,000,000

All insurance policies shall be issued by companies that (a) are authorized to do business in the State of Florida; (b) have a Best's rating of A- VII or greater insured. All general liability and motor vehicle insurance policies shall name the City of Delray Beach as an additional insured. The Successful Proposer agrees to notify the City within (5) business days of coverage cancellation, lapse or material modification. All renewal or replacement certificates of insurance shall be forwarded to the Purchasing Department located at 100 N.W. 1st Ave., Delray Beach, FL 33444.

15. Award of Agreement

An Agreement may be awarded by the City Commission. The City reserves the right to execute or not execute, as applicable, an Agreement with the Successful Proposer(s) that is determined to be in the City's best interests. The City reserves the right to award an Agreement to more than one Proposer, at the sole and absolute discretion of the in the City.

16. Unauthorized Work

The Successful Proposer(s) shall not begin work until an Agreement has been awarded by the City Commission and a purchase order and/or task order has been issued. Successful Proposer(s) agree and understand that the issuance of a purchase order

and/or task order shall be issued and provided to the Successful Proposer(s) following Commission award; however, non-receipt of a purchase order and/or task order shall not prevent the Successful Proposer(s) from commencing the work once the City Commission has awarded the Agreement.

17. Uncontrollable Circumstances (Force Majeure)

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

- A. The non-performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Proposer will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

18. News Releases/Publicity

News releases, publicity releases, or advertisements relating to the Agreement or the tasks or projects associated with the project shall not be made by Proposers without prior City approval.

19. Agreement Period

The initial Agreement term shall commence on the date specified in the Agreement and shall expire five (5) years from that date. The City reserves the right to extend the Agreement for one, two-year term, providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

At the City's request, the Successful Proposer shall continue services beyond the final expiration date. This extension period shall not extend for more than one year beyond the final expiration date of the Agreement. The Successful Proposer shall be compensated at the rate in effect when this extension period is invoked by the City.

20. Agreement Coordinator

The City may designate an Agreement Coordinator whose principal duties shall be:

- Liaison with Successful Proposer.
- Coordinate and approve all work under the Agreement.
- Resolve any disputes.
- Assure consistency and quality of Successful Proposer's performance.
- Schedule and conduct Successful Proposer performance evaluations and document findings.
- Review and approve for payment all invoices for work performed or items delivered.

21. Substitution of Personnel

It is the intention of the City that the Successful Proposer's personnel proposed for the Agreement will be available for the Agreement Period. In the event the Successful Proposer wishes to substitute personnel, Successful Proposer shall propose personnel of equal or higher qualifications and all replacement personnel are subject to City approval. In the event substitute personnel are not satisfactory to the City and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel the Agreement for cause.

22. Public Records

IF THE SUCCESSFUL PROPOSER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUCCESSFUL PROPOSER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT PUBLICRECORDSREQUEST@MYDELRAYBEACH.COM.

Successful Proposer shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Successful Proposer does not transfer the records to the City.

- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Successful Proposer or keep and maintain public records required by the City to perform the service. If the Successful Proposer transfers all public records to the City upon completion of the Agreement, the Successful Proposer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Successful Proposer keeps and maintains public records upon completion of the Agreement, the Successful Proposer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Successful Proposer does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

23. REQUEST FOR RECORDS; NONCOMPLIANCE

All requests to inspect or copy public records relating to a City Agreement for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Successful Proposer of the request, and the Successful Proposer must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

If Successful Proposer does not comply with the City's records request for records, the City shall enforce the Agreement provisions in accordance with the Agreement. If Successful Proposer fails to provide the public records to the City within a reasonable time may be subject to penalties under Florida Statute Chapter 119.10.

If a civil action is filed against Successful Proposer to compel production of public records relating to a City Agreement for services, the court shall assess and award against the Successful Proposer the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the Successful Proposer unlawfully refused to comply with the public records request within a reasonable time; and
2. At least eight business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Successful Proposer has not complied with the request, to the public agency and to the contractor. A notice complies if it is sent to the City's custodian of public records and to the Successful Proposer at the Successful Proposer's address listed on its Agreement with the City or to the Successful Proposer's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format. A Successful Proposer who complies with a public records request within eight business days after the notice is sent is not liable for the reasonable costs of enforcement.

24. Limitations on Communication-Cone of Silence: Proposers are advised that a Cone of Silence will be in effect during this RFQ. The Cone of Silence is effective from the Due Date and Time until award is made by the City Manager and/or Commission. The Cone

of Silence prohibits any communications, regarding this RFQ, between the Proposers or any Person representing the Proposers, and any member of the City Commission, the Commission's staff, any City employee authorized to act on behalf of the City to award the Agreement under this RFQ, or any member of the Selection Committee. All correspondence regarding this RFQ must be in writing and must be directed to the Chief Purchasing Officer, who is the only Person authorized to receive such documents.

Section 36.13 of the City Code provides "any person participating in a competitive solicitation issued by the City shall comply with Section 2-355 of the Palm Beach County Code of Ordinances." The County Code provides as follows:

- A. 'Cone of Silence' means a prohibition on any communication, except for written correspondence, regarding a particular request for proposals, request for qualification, bid, or any other competitive solicitation between:
 - (1) Any person or person's representative seeking an award from such competitive solicitations; and
 - (2) Any county commissioner or commissioner's staff, any member of a local governing body or the member's staff, a mayor or chief executive officer that is not a member of a local governing body or the mayor or chief executive officer's staff, or any employee authorized to act on behalf of the commission or local governing body to award a particular Agreement.
- B. For the purposes of this section, a person's representative shall include but not be limited to the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.
- C. The Cone of Silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. The Cone of Silence applies to any person or person's representative who responds to a particular request for proposals, request for qualification, bid, or any other competitive solicitation, and shall remain in effect until such response is either rejected by the county or municipality as applicable or withdrawn by the person or person's representative. Each request for proposals, request for qualification, bid or any other competitive solicitation shall provide notice of cone of silence requirements and refer to this article.
- D. The provisions of this article shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, Bidder negotiations during any public meeting, presentations made to the board or local municipal governing body as applicable, and protest hearings. Further, the Cone of Silence shall not apply to Bidder negotiations between any employee and the intended awardee, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, county commissioner, member of a local municipal governing body, mayor or chief executive officer that is not a member of the local municipal governing body, or advisory board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.
- E. The Cone of Silence shall not apply to any purchases made in an amount less than the competitive solicitation threshold set forth in the county purchasing ordinance (County Code, chapter 2, article III, division 2, part A, section 2-51 et seq.) or municipal ordinance as applicable.

- F. The Cone of Silence shall terminate at the time the board, local municipal governing body, or a county or municipal department authorized to act on behalf of the board or local municipal governing body as applicable, awards or approves an Agreement, rejects all Bids or responses, or otherwise takes action which ends the solicitation process.
- G. Any Agreement entered into in violation of the Cone of Silence provisions in this section shall render the transaction voidable.

25. OFFICE OF THE INSPECTOR GENERAL: Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed city contracts, transactions, accounts and records. The City has entered into an Inter-local Agreement with Palm Beach County for Inspector General Services. This agreement provides for the Inspector General to provide services to the City in accordance with the City functions and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the City and receiving City funds shall fully cooperate with the Inspector General, including providing access to records relating to the Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the parties doing business with the City, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud.

Proposer agrees that it is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of purchases and Agreements, and may demand and obtain records and testimony from Proposer and its sub licensees and lower tier sub licensees. Proposer understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Proposer or its sub licensee or lower tier sub licensees to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of any order.

Failure to cooperate with the Inspector General, or interference with or impeding any investigation shall be a violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. PUBLIC ENTITY CRIMES: Pursuant to Florida Statutes 287.133, as amended, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on an Agreement to provide any goods or services to a public entity, may not submit a proposal on an Agreement with a public entity for the construction or repair of a public building or public work, may not submit a proposal on leases of real property to a public entity, may not be awarded or perform work as an Agreement or, supplier, subcontractor or consultant under an Agreement with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. Each Proposer must certify that the Proposer is not subject to these prohibitions regarding public entity crimes.

31. SCRUTINIZED COMPANIES: This Section applies to any Agreement for goods or services of \$1 million or more. The Proposer certifies that it is not on the Scrutinized Companies with

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

32. **DEBARRED OR SUSPENDED PROPOSERS:** The Proposer certifies, by submission of a response to this solicitation, that neither it nor its principals or subcontractors are presently debarred or suspended by any Federal, State or City department or agency.
33. **LOBBYING ACTIVITIES:** All Proposers are advised that the Palm Beach County Lobbyist Registration Ordinance (Section 2 - 351 of the Palm Beach County Code of Ordinances) applies to the City and this solicitation. Any violation of this requirement may cause the Proposer to be disqualified and prohibited from participating further in the RFQ process.
34. **COMPLIANCE WITH LAWS:** Proposer shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant any order.
35. **NON-DISCRIMINATION:** The Proposer shall not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, handicapped status, disabilities, or national origin. The Proposer will endeavor to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, color, religion, sex, age, handicapped status, disabilities, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. These provisions apply to all subcontractors and it is the responsibility of the subcontractor to be in compliance.
36. **CONFLICT OF INTEREST:** By submitting a Proposal, Proposer declares and certifies that no officer, employee or person whose salary is payable in whole or part from the City is directly or indirectly interested in this Proposal or in the supplies, materials, equipment or services to which it relates or in any portion of the profits thereof; or

The award is subject to provisions of State Statutes and City Ordinances. All Proposers must disclose with their Proposal the name of any officer, director or agent who is also an employee of the City. Further, all Proposers must disclose the name of any City employee who owns, directly or indirectly, any interest in the Proposer's firm or any of it's' branches.

37. **ANTI-COLLUSION:** Proposer certifies that its Proposal is made without prior understanding, agreement, or connection with any other corporation, firm or person submitting a Proposal for the same materials, services, supplies, or equipment and is in all respects fair and without collusion or fraud.

Any such violation may result in Agreement cancellation, return of materials or discontinuation of services and the possible removal of Proposer from participation in future City solicitations for a specified period.

38. **CITY POLICIES:** Successful Proposer shall comply with the City Equal Employment Opportunity Policy, Violence in the Workplace Policy, Drug and Alcohol Free Workplace Policy, General Complaint Policy and Sexual Harassment Policy. Copies of these policies may be obtained from the City Human Resources Division. Violations of these policies may result in cancellation/termination of the Agreement.
39. **TRADE SECRET:** Any language contained in the Proposer's Proposal purporting to require confidentiality of any portion of the Proposal, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 (Public Records Laws), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's Proposal constitutes a Trade Secret. The City's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the City its officers, employees, volunteers, 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. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

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

40. **VENUE:** Proposers waive the privilege of venue and agree that any legal action brought pursuant to this RFQ or any resulting Agreement between Proposer and the City will be in Palm Beach County, Florida and that all litigation between Proposer and the City in the federal courts shall take place in the U.S. District Court for the Southern District of Florida.

Proposer hereby waives any claim against City and its officers, employees, volunteers or agents for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of the Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring the Agreement null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

41. **INDEMNITY/HOLD HARMLESS AGREEMENT:** Proposer shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Proposer, its employees, agents, servants, or officers, or accruing, resulting from, or related

to the subject matter of any order including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action, or demand, Proposer shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by the City Attorney to defend City. The obligations of this section shall survive the expiration or earlier termination of any order. To the extent considered necessary by the Chief Purchasing Officer and the City Attorney, any sums due Proposer under any order may be retained by City until all of City's claims for indemnification pursuant to any order have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by the City.

43. SPECIFICATIONS: The specifications contained in the Scope of Services may include items that are considered minimum, mandatory, or required. If any Proposer is unable to meet or exceed these items and feels that the specifications are overly restrictive, the Proposer must notify the Purchasing Department prior to the Deadline for Delivery of Written Questions and Objections. If no such notification is received prior to the Deadline for Delivery of Written Questions, the City will consider the specifications to be acceptable to all Proposers.

44. PROTEST PROCEDURES: Parties that are not actual proposers including, but not limited to, subcontractors, material and labor suppliers, manufacturers and their representatives, shall not have standing to protest or appeal any determination made pursuant to this Section.

Upon notification by the City that a proposer is deemed non-responsive and/or non-responsible, the, proposer or responder who is deemed non-responsive and/or non-responsible may file a protest with the Chief Purchasing Officer by close of business on the third business day after notification (excluding the day of notification) or any right to protest is forfeited.

Likewise, after a Notice of Intent to Award an Agreement is posted, any actual proposer who is aggrieved in connection with the pending award of the agreement or any element of the process leading to the award of the agreement may file a protest with the Chief Purchasing Officer by close of business on the third business day after posting (excluding the day of posting) or any right to protest is forfeited.

Any proposer filing a protest shall simultaneously provide a Protest Bond to the City in the amount of \$15,000. If the protest is decided in the protester's favor, the entire Protest Bond shall be returned to the protester. If the protest is not decided in the protester's favor, the Protest Bond shall be forfeited to the City. The Protest Bond shall be in the form of a cashier's check, and shall be in the amount specified in the Sealed Competitive Method documents.

Any actual proposer that does not formally protest or appeal in accordance with this City Code Ordinance 36.04 shall not have standing to protest the City Commission's award.

Proposal protests will follow the procedures set forth in City Code Ordinance 36.04.

- 45. ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City encourages Proposers to submit a Proposal or, if requested an alternate proposal, containing items and/or the use of items with recycled content. When submitting a Proposal with recycled content items, Proposer shall provide documentation to the City to support their claim of the recycled content. The City prefers packaging consisting of materials that are degradable or that able to be recycled. When specifically stated in the RFQ, the City may give preference to proposals containing items and/or the use of items manufactured with recycled material or packaging that is recyclable.
- 46. USE OF OTHER GOVERNMENTAL AGREEMENTS:** The City reserves the right to reject any part or all of any proposal received and utilize other available governmental agreements, if such action is in its best interest.
- 47. PROHIBITION OF INTEREST:** No Agreement will be awarded to a Proposer who has City elected officials, officers or employees affiliated with it, unless the Proposer has fully complied with current Florida State Statutes, City Ordinances, the Palm Beach County Code of Ethics, and all other applicable rules and regulations relating to this issue. Proposers must disclose any such affiliation in their Proposal. Failure to disclose any such affiliation will result in disqualification of the Proposer, removal of the Proposer from the City's Proposer lists, and prohibition of the Proposer from engaging in any business with the City for a specified period.
- 48. LEGAL REQUIREMENTS:** Applicable provisions of all federal, State of Florida, and Palm Beach County laws, local ordinances, rules and regulations shall govern development, submittal and evaluation of Proposals submitted in response to this RFQ and shall govern any and all claims and disputes which may arise between Proposers and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.
- 49. PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this RFQ, will be considered to be net 30 days after the date of receipt of a correct invoice by the City Finance Department. Proposer may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Proposer offers a discount, it is understood that the discount time will be computed from the date of receipt of correct invoice by the City Finance Department.
- 50. PROPOSAL FIRM FOR ACCEPTANCE:** Proposer warrants that by virtue of submitting a Proposal, the Proposal will be firm for acceptance by the City for a period of one hundred fifty days from the Due Date and Time.
- 51. COMMUNICATIONS:** Only written communications from Proposer, which are signed by a person authorized to bind the Proposer will be recognized by the City as duly authorized expressions on behalf of Proposer.

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SECTION 2: PROPOSAL RESPONSE REQUIREMENTS

1. HISTORY AND BACKGROUND

The City of Delray Beach is soliciting proposals from qualified firms for Engineering, Surveying and Landscaping Architecture disciplines to contract with in accordance with Florida Statute 287.055, Consultants' Competitive Negotiation Act (CCNA) to provide services for various projects. Services shall also include the following sub-disciplines: civil, mechanical, electrical, and plumbing, structural, transportation, environmental and natural resources, water resources and stormwater management (e.g., stormwater, potable water, reuse water, conveyance, supply, transmission, treatment, storage), coastal marine engineering (collectively referred to as Professional Services).

The City's goal in this RFQ is to award to multiple Proposers each with expertise in varying disciplines and sub-disciplines to create a library of consultants (Library) to support and supplement professional in-house staff. The Agreement(s) resulting from this solicitation will be limited to Service Authorizations of no more than \$200,000 each.

Proposers may submit a Proposal for one or multiple disciplines and/or sub-disciplines as applicable to Proposer's qualifications and expertise.

2. PROPOSER STATEMENT OF ORGANIZATION

Provide information on Proposer as follows:

- A. Legal contracting name including any dba.
- B. State of organization or incorporation.
- C. Ownership structure of Proposer's company.
(e.g., Sole Proprietorship, Partnership, Limited Liability Corporation, Corporation)
- D. Provide a completed W-9, with the full legal name of Proposer, Employer Identification Number, and company address. W-9 must be signed by an authorized official and dated.
- E. Contact information for Proposer's Corporate headquarters.
Address
City, State, Zip
Phone
- F. Contact information for Proposer's Local office (if any).
Address
City, State, Zip
Phone
- G. Contact information for Proposer's primary representative during this RFQ process.
Name

Phone
E-mail
Mailing Address
City, State, Zip

- H. Contact information for Proposer's secondary representative during this RFQ process.

Name
Phone
E-mail
Mailing Address
City, State, Zip

- I. List of officers, owners and/or partners, or managers of the firm. Include names, business addresses, and phone numbers
- J. Briefly summarize any current or pending litigation in which Proposer is a part to.
- K. Provide details of any ownership changes to Proposer's organization in the past two years or changes anticipated within six months of the Due Date and Time (e.g., mergers, acquisitions, changes in executive leadership).

3. MINIMUM QUALIFICATION REQUIREMENTS

Each proposer shall submit information and documentation requested that confirms it meets the following qualification requirement(s):

- A. Must be registered with the State of Florida. Division of Corporations to do business in Florida.

No documentation is required. The City will verify registration.

- B. Must have been in business for a minimum of twenty-four (24) months prior to the Due Date and Time.

Provide supporting documentation (e.g. state, county, city business license; occupational license) that confirms Bidder has been in business for a minimum of twenty-four (24) month prior to the Due Date and Time.

- C. Must hold a current, valid license to provide engineering, surveying and/or landscaping architectural services in the State of Florida as is applicable to the discipline(s) Proposer is submitting as follows:
- i. Engineering – Florida Department of Business & Professional Regulation
 - ii. Surveying – Florida Board of Professional Surveyors and Mappers - LB
 - iii. Landscape Architectural – Florida Department of Business & Professional Regulation

Provide a copy of Proposer's license issued by the Florida Board of Professional Engineers, Florida Board of Professional Surveyors and Mappers, and/or Florida Board of Landscape Architecture as is applicable.

- D. Must employ a minimum of two individuals who holds a current, valid Florida license in engineering, surveying and/or landscaping architecture as is applicable to the discipline(s) Proposer is submitting as follows:
- iv. Engineering – Florida Board of Professional Engineers
 - v. Surveying – Florida Department of Agriculture and Consumer Services - LS
 - vi. Landscape Architectural - Florida Board of Landscape Architecture

Provide a copy of the individual's license issued by the Florida Board of Professional Engineers, Florida Board of Professional Surveyors and Mappers, and/or Florida Board of Landscape Architecture as is applicable.

- vii. Has no reported conflict of interests in relation to this RFQ.

Disclose the name of any officer, director or agent who is also an employee of the City. Disclose the name of any City employee who owns, directly or indirectly, any interest in the Proposer's firm or any of its branches. If no conflicts of interests are present, Proposer must submit a statement to that affect.

4. PROPOSAL RESPONSE REQUIREMENTS

Submit the following information and documentation.

A. EXPERIENCE, BACKGROUND, REFERENCE FEEDBACK

- i. Identify each Professional Service discipline and/or sub-discipline in which Proposer wishes to be considered for award of an Agreement.
- ii. Submit a separate detailed narrative description documenting Proposer's overall Professional Services background and experience in each Professional Service discipline or sub-discipline in which Proposer wishes to be considered for award of an Agreement as follows (NOTE: each narrative should clearly identify the Professional Service the experience is referencing):
 - a. Experience in the following:
 - (1) Engineering
 - (2) Surveying and Mapping
 - (3) Landscaping architectural design services
 - (4) Civil
 - (5) Mechanical / Electrical / Plumbing
 - (6) Structural
 - (7) Transportation
 - (8) Environmental / Natural Resources
 - (9) Water Resources/Stormwater Management (includes stormwater, potable water, reuse water, conveyance, supply, transmission, treatment, storage)
 - (10) Coastal and Marine Engineering
 - b. Experience in other related services that compliment the above referenced Professional Services.
 - c. Awards, certifications, or other recognition received by Proposer relative to work on projects in the designated Professional Services.

- iii. Submit up to ten client references for whom Proposer has provided Professional Services similar to those specified in this RFQ in the past five years and who are agreeable to respond to a request from the City regarding proposer's experience. Each client reference should include the following:
 - a. Organization name
 - b. Contact name(s)
 - c. Contact email address
 - d. Address
 - e. Telephone and fax numbers
 - f. Dates of service (start/end)
 - g. Scope (Type of Professional Service provided)
- iv. Submit the following information documenting experience of the key personnel proposed by Proposer to include, but not limited to the following:
 - a. List of up to ten (10) key personnel who are proposed for work on this project to include any subcontractors.
 - b. Provide the role of each of the above referenced personnel within the provision of services.
 - c. For each key personnel listed above, provide a resume/bio of the individuals experience, qualifications, work history, education and any related licenses and certifications.

B. APPROACH TO PROJECT MANAGEMENT

- i. Provide a detailed narrative description of the proposed approach and methodology for engaging with City representatives while in the course of performing the duties.
- ii. Describe in detail Proposer's approach to the design of projects.
- iii. Narrative that demonstrates working knowledge and understanding of the Professional Services requirements in this RFQ.
- iv. Details of how work under a Service Authorization will be implemented and services provided.
- v. Specify the location(s), including the complete physical address, where the work will be performed, including work performed by subcontractors, if applicable.
- vi. Proposer shall thoroughly explain:
 - (1) Its accessibility in the areas of availability for meetings, general communications, coordination, and supervision.
 - (2) Primary method for attending meetings and how much advance notice is required.
 - (3) How the Proposer physically plans on attending pre-schedule meetings.
 - (4) How the Proposer plans on ensuring accessibility and availability during the term of the Agreement.

C. PROJECTS FOR SIMILAR SERVICES

List up to ten projects that Proposer has provided Professional Services since September 1, 2013 to include the following information:

- i. Organization/Owner name
- ii. Address (City/State)

- iii. Project date (Start/End)
- iv. Status of project (Design, Construction, Substantial Completion, Complete)
- v. Scope (Type of Professional Service provided)

NOTE: Representative photographs and exhibits supporting the above projects are permitted as an attachment to this section. (limit five pages).

D. ORGANIZATIONAL STRUCTURE

- i. Submit details of Proposer's staffing resources, at the location that will provide services to the City as well as corporately; by discipline and the number of personnel within each discipline.
- ii. If Proposer's staffing resources includes sub-consultants, submit the name of the firm(s) who will perform each discipline. If more than one firm is listed for a discipline, then label which firm is the primary firm for that discipline. Firms may perform more than one discipline.
- iii. Submit an organizational diagram clearly identifying key personnel as well as other staffing resources who are designated to provide services to the City. For each individual in the organization diagram, include each individual's name, title, firm and indicate their functional relationship to each other.
- iv. Provide a written response clearly defining responsibilities, contractual relationships and roles of all individual in the organizational diagram.
- v. Provide a narrative detailing Proposer's recent, current, and projected workloads at the time of submission and provide a statement of Proposer's commitment of personnel and other resources for the City project by providing a signed letter of commitment.
- vi. Provide a narrative detailing all key personnel's recent, current and projected workloads at the time of submission and provide a statement of the availability of each for the City's project.

[Remainder of page intentionally left blank]

SECTION 3: SCOPE OF SERVICES

- A. **SCOPE:** Successful Proposer (hereinafter in this Scope referred to as Consultant) shall provide all labor, materials, equipment, supplies and travel to provide Professional Services to include, but not be limited to, the following disciplines and sub-disciplines:

1. Engineering
2. Surveying and Mapping
3. Landscaping architectural design
4. Civil
5. Mechanical
6. Electrical
7. Plumbing
8. Structural
9. Transportation
10. Environmental / Natural Resources
11. Water Resources / Stormwater Management (includes stormwater, potable water, reuse water, conveyance, supply, transmission, treatment, storage, etc.)
12. Coastal and Marine Engineering

- B. **ASSIGNMENT OF PROJECTS:** As projects arise and are funded during the Agreement term that requires Professional Services, the City will select a Consultant from the Library with the requisite expertise and negotiate the scope of services and basis of compensation for a Service Authorization for the specific project.

Selection and rotation of firms selected from the Library will be in direct accordance with Florida Statute 287.055, Consultants' Competitive Negotiation Act. Proof of insurance from all proposers is required at the time of issuance and award of a (CSC) Continuing Services Contract and must be maintained throughout the contract period.

The City does not guarantee any minimum or maximum services to be ordered during the Agreement term from any Consultant. Service Authorization assignments shall be at the sole discretion of the City.

- C. **GENERAL DUTIES OF CONSULTANT:** The relationship of the Consultant to the City will be that of a professional Consultant, and the Consultant will provide the professional and technical services required under this Agreement and any subsequent Service Authorization in accordance with professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the consultant, its agents, subcontractors, and employees shall be independent contractors at all times.

It shall be the responsibility of the Consultant to work with the City and apprise it of solutions to problems and the approach or technique to be used towards accomplishment of the City objectives as set forth in the Service Authorization, which will be made a part of this Agreement upon execution by both parties.

The City will establish a budget for each Service Authorization. The Consultant shall be responsible for providing, at no additional cost to the City, new designs, drawings, specifications, reports and other applicable services if Contractor exceeds the budget for the entire project through completion of the design phase of the project; however, nothing

contained herein shall require the Consultant to bear additional costs if the additional costs are a result of a change in the Service Authorization scope of services directed by the City.

The Consultant shall be responsible for the professional quality, technical accuracy, timely completion, compliance with laws, regulations and rules, and the coordination with all appropriate agencies of all designs, drawings, specifications, reports and other Professional Services provided by the Consultant. If the City, in its sole discretion, determines there are errors, omissions or other deficiencies in the Consultant's designs, drawings, specifications, reports and other services, the Consultant shall, without additional compensation, correct or revise said errors or omissions to the satisfaction of the City.

[Remainder of page intentionally left blank]

SECTION 4: FORMS AND INSTRUCTIONS

A. AUTHORIZATION TO BIND PROPOSER

Each proposal must be signed by a representative of Proposer who is legally authorized to bind the Proposer (See Form A, Signature Authority). Each proposal shall remain valid for at least one hundred and fifty (150) days after the Due Date.

B. PROPOSAL FORMAT

Each proposal shall include all the requested information and documentation. Proposals shall be organized in chapters, as indicated in the table below. Proposals should be on 8-1/2x11 paper, with the exception of drawings, plans, renderings and other specialized documents). All pages are to be consecutively numbered. If a form is provided and there is insufficient space for a complete response on the form, the response may be continued on an additional separate page immediately following the form. The additional separate pages must identify the form it represents (e.g., Form A - Proposal Submittal Signature Page cont'd) and shall be consecutively numbered. If a form is provided and additional copies of the form are needed, the form may be copied by the Proposer. The copied pages shall be consecutively numbered.

Proposals in response to this RFQ should contain all of the forms, documentation, and information requested in Section 2. In instances where a response is not required or a question is not applicable to the proposal, a response such as "no response required" or "not applicable" should be provided.

Proposal Format

Chapter 1	Letter of Intent: Briefly state the Proposer's understanding of the services to be rendered, and commitment to perform according to the requirements noted in this RFQ (limit two (2) pages). Proposal Submittal Signature Page
Chapter 2	Proposer's Statement of Organization W-9
Chapter 3	Minimum Qualifications documentation
Chapter 4	Proposal Response Requirements information
Chapter 5	Public Entity Form, Drug Free Workplace Form, Conflict of Interest Form, Acknowledgement of Addenda Form
Chapter 6	Evidence of Insurance: Certificate of current insurances showing coverage, forms, limits. NOTE: Actual insurance certificates will be required from successful Proposer upon award.

[Remainder of page intentionally left blank]

RESPONSE CHECKLIST

A responsive Proposer means a Proposer that has submitted a proposal that conforms in all material respects to the requirements in the RFQ. The CPO or designee will determine whether each Proposer correctly submitted all of the necessary forms and documents. The purpose of this checklist is to assist Proposers in completing their Proposals and ensuring that all required forms and information is submitted. Do not include checklist with your Proposal submittal.

- ☐ Letter of Intent
- ☐ Proposal Submittal Signature Page
- ☐ Proposer's Statement of Organization and W-9
- ☐ Minimum Qualifications documentation
- ☐ Proposal Requirements information
 - ☐ Section A, Experience, Background, Reference Feedback
 - ☐ Section B, Approach to Project Management
 - ☐ Section C, Projects for Similar Services
 - ☐ Section D, Organizational Structure
- ☐ Public Entity Crimes Form
- ☐ Drug Free Workplace Form
- ☐ Conflict of Interest Form
- ☐ Acknowledgement of Addenda Form
- ☐ Evidence of Insurances

Form A - Proposal Submittal Signature Page

By signing this Proposal, the Proposer certifies that it satisfies all legal requirements as an entity to do business with the City, including all Conflict of Interest and Code of Ethics provisions.

Firm Name: _____

Street Address: _____

Mailing Address (if different from Street Address): _____

Telephone Number(s): _____

Fax Number(s): _____

Email Address: _____

Federal Identification Number: _____

Acknowledged by:

Firm Name

Signature

Date

Printed Name and Title

By signing this document, the Proposer agrees to all terms and conditions of this RFQ which includes the Sample Agreement.

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

(Remainder of page intentionally left blank)

Form A - Signature Authority

Indicate below Proposer's type of organization and provide the required documentation as applicable to demonstrate that the executor of Proposer's Proposal is duly authorized to execute on behalf of, and as the official act of, Proposer.

Select	Type of Organization	Officer Who Signed Proposal Submittal Signature Page	Required Authorizing Documentation
☐	Corporation	President, Vice President, or Chief Executive Officer	None
☐	Corporation	Director, Manager, or other title	Corporate resolution
☐	Limited Liability Company (LLC) – Member-Managed	Member	Articles of Organization or Operating Agreement
☐	Limited Liability Company (LLC) – Manager-Managed	Manager	Articles of Organization or Operating Agreement
☐	Limited Partnership	General Partner	Document demonstrating the legal authority to bind the Limited Partnership
☐	Partnership	Partner	None
		CEO, Director, Manager or other title	Authorizing documentation
☐	Individual	Individual	None

☐ Documentation is not required.

☐ The required authorizing documentation is included with Proposal.

Form B - Public Entity Crimes

NOTIFICATION OF PUBLIC ENTITY CRIMES LAW

Pursuant to Section 287.133, *Florida Statutes*, you are hereby notified that a person or affiliate who has been placed on the convicted contractors list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases or real property to a public entity; may not be awarded or perform work as a contractor, supplier, sub-Proposer, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 [F.S.] for Category Two [\$35,000.00] for a period of thirty-six (36) months from the date of being placed on the convicted contractors list.

Acknowledged by:

Firm Name

Signature

Date

Printed Name and Title

Form C - Drug-Free Workplace

In the event a tie exists at the conclusion of evaluations, preference will be given to the supplier(s) who certifies it has a drug-free workplace program in accordance with Section 287.087, Florida Statutes. The drug-free workplace preference is applied as follows:

TIE: Whenever two or more proposals are equal with respect to scoring for the evaluation criteria (e.g., price, experience, quality, service) are received for the procurement of commodities or contractual services, a proposal received from a supplier that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing a tie will be followed if none of the tied suppliers have submitted this Form C and/or have a drug-free workplace program.

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

- 1) This firm publishes 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) This firm informs 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) This firm gives 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), this firm notifies 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 abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) This firm imposes a sanction on or requires 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) This firm will continue to make a good faith effort to maintain a drug-free workplace through implementation of this section.

Acknowledged by:

Firm Name

Signature

Date

Printed Name and Title

Form D - Conflict of Interest Disclosure

The award of the agreement is subject to the provisions of Chapter 112, Florida Statutes. All Proposers must disclose within their Proposal, the name of any officer, director, or agent who is also an employee or relative of an employee of the City of Delray Beach.

Furthermore, all Proposers must disclose the name of any City employee or relative(s) of a City employee who owns, directly or indirectly, an interest in the Proposers firm or any of its branches.

The purpose of this disclosure form is to give the City the information needed to identify potential conflicts of interest for key personnel involved in the award of this contract.

The term "conflict of interest" refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee's professional judgment in exercising any City duty or responsibility in administration, management, instruction, research, or other professional activities.

Please check one of the following statements and attach additional documentation if necessary:

☐ To the best of our knowledge, the undersigned firm has no potential conflict of interest as defined in Chapter 112, Florida Statutes and Section 2-443, Palm Beach County Code of Ordinances.

☐ The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other Cities, Counties, contracts, or property interest for this RFQ.

Acknowledged by:

Firm Name

Signature

Date

Printed Name and Title

Form E - Acknowledgment of Addenda

The Proposer hereby acknowledges the receipt of the following addenda, which were issued by the City and incorporated into and made part of this RFQ. It is the sole responsibility of the Proposer to ensure that all addenda have been received and receipt of each has been acknowledged. Failure to submit acknowledgement of each addendum issued may result in the Proposer being deemed non-responsive.

ADDENDA NUMBER	ADDENDA DATE

Signature of Proposer's Agent

Title

Printed Name

Date

APPENDIX A

Agreement FOR GENERAL CONSULTING SERVICES

THIS Agreement, made and entered into this ____ day of _____, 20____, by and between the City of Delray Beach, Florida (hereinafter referred to as City), and, _____ a _____ company authorized to do business in the State of Florida (hereinafter referred to as Consultant), (collectively hereinafter referred to as the Parties). The Scope of Work is to be implemented as set forth by this Agreement and by Service Authorizations as may be added by the City which shall be attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, the City has provided notice of the desired professional services and carried out the proper selection process pursuant to and in accordance with the Consultant's Competitive Negotiation Act; and,

WHEREAS, the City represents that it is a Florida municipal corporation with the authority to engage the Consultant and accept the obligation for payment for the services desired; and,

WHEREAS, the City desires to engage the Consultant to perform certain professional services pertinent to such work in accordance with this Agreement and with Service Authorizations to be issued at the time of or subsequent to execution of this Agreement; and

WHEREAS, this Agreement does not entitle the Consultant to any fees for any particular project without first receiving a Service Authorization; and

WHEREAS, the Consultant desires to provide such professional services in accordance with this Agreement and resulting Service Authorizations.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this Agreement, it is mutually understood and agreed as follows:

I. DEFINITIONS

1. **SERVICE AUTHORIZATION:** A Service Authorization is a form to be used to authorize work, projects, and services. A City purchase order number shall be identified on the form. A sample Service Authorization is attached as Exhibit A to this Agreement. The projects, work, and services to be performed by the Consultant, and time for completion of any Phase of the work by Consultant, shall be authorized by a Service Authorization.

The Service Authorization shall include the scope of work to be performed;

the budget cost, complete with an itemization of man-hours, wage rates, reimbursable expenses, and other related costs; schedule for completion and name of project manager. The Service Authorization shall be executed by the City and Consultant's authorized representatives. A City purchase order shall be issued with authorization identifying funds and amount of expenditures. The terms of this Agreement supersede the terms stated on the purchase order.

2. CONTRACTOR(S): Those firms who have been contracted by the City to perform construction work.
3. PHASE(S): An approach that divides the work of a Service Authorization into Phases may be utilized. The City and the Consultant shall have the right to negotiate the terms of each Phase within each Service Authorization.

The City has the right to reject the terms of a proposed Service Authorization or of a Phase within a Service Authorization, if the parties cannot reach agreement to the terms of the Service Authorization. In the event the parties cannot reach agreement, the City, at its sole discretion, may solicit proposals from other providers in order to complete the work.

This approach that Phases work shall not waive the City's right to terminate this Agreement during any Phase of work.

II. GENERAL REQUIREMENTS

1. The relationship of the Consultant to the City will be that of a contracted Consultant. The Consultant will provide the professional and technical services required under this Agreement in accordance with generally accepted professional practices and ethical standards. No employer/employee relationships shall be deemed to be established and the Consultant, its agents, subcontractors, and employees shall be independent contractors at all times.
2. It shall be the responsibility of the Consultant to work with the City and apprise it of solutions to problems and the approach or technique to be used towards accomplishment of City objectives as set forth in Service Authorizations, which will be made a part of this Agreement upon execution by both parties.
3. The scope of services to be provided shall be covered in detail in Service Authorizations.
4. The Consultant and its sub-consultants shall have no responsibility for the discovery, presence, handling, removal, disposal of, or exposure of persons to hazardous materials in any form existing prior to construction at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or any other toxic substances.
5. The Consultant designates _____, as its representative to act as liaison with the City. This representative shall

manage and coordinate City projects and is hereby authorized to act on behalf of the Consultant to negotiate and approve Service Authorizations and act on any other related matter with respect to performance of services for the City in accordance with this Agreement. Any change to name another person as Consultant's representative shall be requested in writing to the City, and must be pre- approved by the City.

6. A specified or as defined in each Service Authorization, Consultant shall attend meetings of the City Commission or other City approval Board where the project is discussed, unless the City otherwise informs Consultant that such attendance and participation is not required. In addition, the Consultant shall attend all additional meetings as may be required to facilitate the project.

III. DUTIES OF CONSULTANT

The following Duties of Consultant are separated into phases of the project, which if approved via Service Authorizations shall be performed by the Consultant. The City may require Service Authorizations, which contain additional requirements applicable to the project. The City must authorize through service authorizations, the commencement of each phase of the work.

1. Phase I – Study and Report Phase.

If the Study and Report Phase is authorized, the following requirements shall apply.

- A. The Consultant shall consult with the City to clarify and define the City's requirements for the Project and review available data.
- B. The Consultant shall advise the City as to the necessity of the City's providing or obtaining from others, data or services.
- C. The Consultant shall identify and analyze permit and approval requirements of all governmental authorities having jurisdiction to approve either the design of the Project and participate in consultations with such authorities.
- D. The Consultant shall provide analyses of the City's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- E. The Consultant shall provide a general economic analysis of Owner's requirements applicable to various alternatives.
- F. The Consultant shall prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to the City and setting forth Consultant's findings and recommendations. This Report will be accompanied by Consultant's pre-design estimate of probable costs for the Project, including, but not limited to the following, which will be separately itemized: Construction Cost, allowance for engineering costs and contingencies allowances for such other items, such as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, and for permit, review and/or approval fees by other governmental agencies, if required. The Consultant shall also provide a preliminary evaluation of the City's Project

Schedule. The City's Project Schedule and probable construction costs shall be evaluated and updated throughout subsequent phases of the work.

- G. The Consultant shall furnish the number of copies of the Study and Report documents as provided in the SERVICE AUTHORIZATION and review them with the City.
2. Phase II – Preliminary Design Phase.
- A. The Consultant, in consultation with the City shall determine the general scope, extent and character of the Project.
 - B. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.
 - C. Advise the City if additional data or services are necessary and assist the City in obtaining such data and services.
 - D. Furnish the specified number of copies of the above Preliminary Design documents as contained within the SERVICE AUTHORIZATION and present and review them with the City.
 - E. The Consultant shall submit to the City a preliminary estimate of construction costs based on current area, volume or other unit costs, which shall be updated throughout the design development phase.
 - F. The Consultant shall prepare a development schedule, which shall include, but shall not be limited to, the review and approval times by all governmental agencies as may be required.
 - G. The Consultant shall make available all design calculations and associated Data, and participate in meetings in which Value Engineering Analysis of the project takes place, at such times and places as shall be determined by the City.
3. Phase III. Final Design Phase.
- A. The Consultant shall prepare construction documents which shall include but not be limited to drawings and technical specifications, general and supplementary conditions, bid forms, invitations to bid, instructions to bidders, with technical criteria, descriptions and design data necessary for permitting by governmental authorities, and shall include any further adjustments in the scope or quality of the project or in the construction budget authorized by the City.
 - B. The Consultant shall, in the preparation of construction documents, technical criteria, written descriptions and design data, take into account all currently prevailing codes and regulations governing construction in the City of Delray Beach, Florida, and shall meet the requirements of all other agencies or governmental authorities having jurisdiction over the project.
 - C. The Consultant shall provide the required documents and attend meetings as necessary, for the approval of governmental boards, agencies or authorities having jurisdiction over the project.
 - D. The Consultant shall use bid documents provided by the City including bidding forms, conditions of the contract, and form of Agreement between the City and Contractor.
 - E. The Consultant shall prepare all documents including design and plan revisions required for the approval of governmental authorities having jurisdiction over the project. Said approvals are required prior to the public notice for the Invitation to Bid and submission of applications, therefore are the responsibility of the Consultant.

- F. The Consultant shall provide the City the number of copies of contract documents as specified in the service authorization.
4. Phase IV – Bidding/Negotiation Phase.
If the bidding phase is authorized, the following requirements shall apply:
- A. The Consultant shall assist the City in obtaining the bids or negotiated proposals, assist in awarding and preparing contracts for construction, attend pre-bid conferences, prepare addenda, provide written recommendation of award, assist in the compilation/preparation of contract documents, and after the award assist the City in securing the required bonds and certificates of insurance, and in the review of the contract documents for completeness.
 - B. The Consultant shall attend the bid opening, prepare bid tabulation sheets and assist the City in evaluating Bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.
 - C. The Consultant shall issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.
 - D. The Consultant shall consult with and advise the City as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called CONTRACTOR(S) for those portions of the work as to which such acceptability is required by the Bidding Documents.
 - E. Consult with the City concerning and determine the acceptability of substitute materials and equipment prior to the award of contracts is allowed by the Bidding Documents.
5. Phase V – Construction Phase.
If Contract Administration is authorized, the following requirements shall apply:
- A. The Consultant shall provide administration of the contract for construction as set forth herein and as contained within the general conditions of the contract for construction.
 - B. The Consultant shall be a representative of and shall advise and consult with the City during construction and until final payment to the contractor is due. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Agreement and as provided in the contract for construction unless otherwise modified by written instrument.
 - C. The Consultant shall visit the site at regular intervals appropriate to the stage of construction or as otherwise agreed to by the City and the Consultant, in writing, to become generally familiar with the progress and quality of the work completed and shall determine in general if the work is being performed in a manner indicating that the work when completed will be in accordance with the contract documents. The Consultant shall be required to make on-site observations to review the work. The Consultant shall keep the City informed of the progress and quality of the work and shall provide certification to the City of satisfactory completion of all phases of the work in compliance with the plans, specifications thereto.
 - D. The Consultant shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures of construction or for safety precautions and programs in connection with the work, since these are solely the Contractor's responsibility under the contract for construction. The Consultant shall make every reasonable effort to ensure that the Contractor completes the work in accordance with the

- current approved schedule and carries out the work in accordance with the Contract documents.
- E. The Consultant based on observations and evaluations of Contractor's applications for payment shall review and certify the amounts due the Contractor.
 - F. The Consultant's certification for payment shall constitute a representation to the City, based on the Consultant's observations at the site as provided herein and on the data comprising the Contractor's application for payment, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information, and belief, the quality and quantity of the work is the accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents, correctable prior to completion and to specific qualifications expressed by the Consultant. The issuance of the certificate of payment shall further constitute a representation that the Consultant has made observations to review the quality or quantity of the work.
 - G. The Consultant shall recommend disapproval or rejection of Contractor's work to the City, which does not conform to the contract documents. The Consultant will have authority to require additional inspection or testing of the work in accordance with the provisions of the contract documents, whether or not work is fabricated, installed or completed.
 - H. The Consultant shall review and approve or take other appropriate action upon Contractor's submittals, such as shop drawings, product data, and samples for the purpose of checking for conformance with information given and the design concept expressed in the contract documents. The Consultant shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor.
 - I. The Consultant shall prepare change orders and construction change directives with supporting documentation and data if deemed necessary by the Consultant, for the City's approval and execution in accordance with the contract documents, and may authorized minor changes in the work not involving an adjustment in the contract time, which is consistent with the intent of the contract documents.
 - J. The Consultant shall conduct inspections to determine the date or dates of substantial completion and the date of final completion, shall receive and forward to the City for the City's review and records, written warranties and related documents required by the contract documents and assembled by the Contractor and shall issue a final certificate for payment upon compliance with the requirements of the contract documents.
 - K. The Consultant shall interpret matters concerning performance of the City and Contractor under the requirements of the contract documents on written request of either the City or Contractor. The Consultant's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.
 - L. Interpretations of the Consultant shall be consistent with the intent of and reasonably inferable from the contract documents and shall be in writing or in the form of drawings. When making such interpretations, the Consultant shall endeavor to secure faithful performance by both the City and the Contractor.
 - M. The City shall be the final arbiter on matters relating to aesthetics.

- N. The Consultant shall render written interpretations within a reasonable time on all internal disputes between the City and Contractor relating to the execution of the progress of the work as provided in the contract documents.
- O. The Consultant's interpretations on internal disputes are not binding on the City and Contractor relating to the execution of the progress of the work as provided in the contract documents.
- P. The Consultant shall provide the number of sets of the construction documents to the Contractor as specified in the Service Authorization.
- Q. Upon completion of construction the Consultant shall provide to the City, three sets of record drawings, signed and sealed, plus one set of drawings on polyester film or plastic sheets such as Dupont Mylar[®] incorporating as built conditions and other data furnished by contractor(s) to Consultant.
- R. In company with the City, the Consultant shall visit the Project to observe any apparent defects in the completed construction, assist the City in consultations and discussions with CONTRACTOR(S) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defection work.
- S. If Contract Administration is authorized, the following requirements shall apply:
- (1) The Consultant shall provide administration of the contract for construction as set forth herein and as contained within the general conditions of the contract for construction and as contained within Exhibit A.
 - (2) The Consultant shall be a representative of and shall advise and consult with the City during construction until final payment to the contractor is due. The Consultant shall have authority to act on behalf of the City only to the extent provided in this Agreement and as provided in the contract for construction unless otherwise modified by written instrument.
 - (3) The Consultant shall visit the site at regular intervals appropriate to the stage of construction or as otherwise agreed to by the City and the Consultant in writing to make observations and review the work. Consultant shall use the site visit to become familiar with the progress and quality of the work completed and shall determine if the work is being performed in a manner indicating that the work, when completed, will be in accordance with the contract documents. The Consultant shall keep the City informed of the progress and quality of the work and shall provide certification to the City of satisfactory completion of all phases of the work in compliance with the plans and specifications thereto.
 - (4) The Consultant shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures of construction or for safety precautions and programs in connection with the work. These are solely the Contractor's responsibility under the contract for construction.
 - (5) The Consultant shall make every reasonable effort to ensure that the Contractor completes the work in accordance with the current approved schedule and carries out the work in accordance with the Contract

documents.

- (6) The Consultant shall review, and based on observations and evaluations of Contractor's applications for payment, certify the amounts due the Contractor.
- T. Consultant's certification for contractor payment shall constitute a representation to the City, based on the Consultant's observations at the site as provided herein and on the data comprising the Contractor's application for payment, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information, and belief, the quality and quantity of the work is the accordance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the contract documents, correctable prior to completion and to specific qualifications expressed by the Consultant. The issuance of the certificate of payment shall further constitute a representation that the Consultant has made observations to review the quality or quantity of the work.
- U. The Consultant shall recommend disapproval or rejection to the City of Contractor's work which does not conform to the contract documents. The Consultant will have authority to require additional inspection or testing of the work in accordance with the provisions of the contract documents, whether or not work is fabricated, installed or completed.
- V. The Consultant shall review and approve or take other appropriate action upon Contractor's submittals, such as shop drawings, product data, and samples for the purpose of checking for conformance with information given and the design concept expressed in the contract documents. The Consultant shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor.
- W. If deemed necessary by the Consultant, the Consultant shall prepare change orders and construction change directives with supporting documentation and data in accordance with the contract documents for City approval and execution. Consultant may authorize minor changes in the work not involving an adjustment in the contract time, which is consistent with the intent of the contract documents.
- X. The Consultant shall conduct inspections to determine the date or dates of substantial completion and the date of final completion shall receive and forward to the City for the City's review and records, all written warranties and related documents required by the contract documents and assembled by the Contractor. Consultant shall issue a final certificate for payment upon compliance with the requirements of the contract documents.
- Y. Upon written request of the City or Contractor, the Consultant shall interpret matters concerning performance of the City and Contractor under the requirements of the contract documents. The Consultant's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.
- Z. Interpretations of the Consultant shall be consistent with the intent of and reasonably inferable from the contract documents and shall be in writing or in the form of drawings. When making such interpretations, the Consultant shall endeavor to secure faithful performance by both the City and the Contractor.
- AA. The City shall be the final arbiter on matters relating to aesthetics.
- BB. The Consultant shall review the plans and specifications. The Consultant shall continuously provide feedback to the City on any potential constructability issues

and provide solution recommendations, to ensure the design minimizes construction and long term maintenance costs throughout the entire course of construction.

- CC. Within a reasonable time, the Consultant shall render written interpretations on all internal disputes between the City and Contractor relating to the execution of the progress of the work as provided in the contract documents.
- DD. The Consultant's interpretations on internal disputes are not binding on the City and Contractor relating to the execution of the progress of the work as provided in the contract documents.
- EE. Upon completion of construction the Consultant shall provide to the City, three sets of record drawings, signed and sealed, plus one set of drawings on polyester film or plastic sheets such as Dupont Mylar®, incorporating as built conditions and other data furnished to Consultant by contractor(s).
- FF. In company with the City, the Consultant shall visit the Project to observe any apparent defects in the completed construction, assist the City in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

6. Phase VI – Resident Project Representative Services Phase

If the Resident Project Representative Services Phase is authorized the following requirements shall apply:

- A. A Resident Project Representative will be assigned to assist Consultant in carrying out his responsibilities to City at the site. Resident Project Representative is Consultant's agent at site, will act as directed by and under the supervision of Consultant, and will confer with Consultant regarding Resident Representative's actions. Resident Representative's dealing in matters pertaining to the on-site work shall in general be with Consultant and Contractor keeping the City advised as necessary. Resident Project Representative's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident Project Representative shall generally communicate with the City with the knowledge of and under the direction of Consultant.
- B. Resident Project Representative shall where applicable:
- C. Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Consultant concerning its general acceptability.
- D. Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
- E. Working principally through Contractor's superintendent, assist Consultant in serving as the City's liaison with Contractor, when Contractor's operations affect the City's on-site operations.
- F. Assist in obtaining from the City additional details or information, when required for proper execution of the Work.
- G. Record date of receipt of Shop Drawings and samples.
- H. Receive samples, which are furnished at the site by Contractor, and notify the Consultant of availability of samples for examination.
- I. Advise the Consultant and Contractor of the commencement of any Work requiring a Shop Drawing, if the submittal has not been approved by the Consultant.
- J. Conduct on-site observations of the Work in progress to assist the Consultant in determining if the Work is, in general, proceeding in accordance with the Contract

Documents.

- K. Report to the Consultant whenever Residential Project Representative believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents; or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise the Consultant of Work that Resident Project Representative believes should be uncovered for observation, or requires special testing, inspection or approval. Nothing herein shall relieve the Contractor or the Consultant from the duties imposed by the contract.
- L. Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel and that Contractor maintains adequate records thereof; and observe, record and report to the Consultant appropriate details relative to the test procedures and startups.
- M. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the Consultant.
- N. Report to Consultant when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by the Consultant.
- O. Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with Resident Project Representative's recommendations to the Consultant. Transmit to Contractor decisions as issued by the Consultant.
- P. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents, including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, Consultant's clarifications and interpretations of the Contract Documents, progress reports, and other Project related document.
- Q. Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to the Consultant.
- R. Record all names, addresses and telephone numbers of the Contractor, all subcontractors and major suppliers of material and equipment.
- S. Furnish the Consultant periodic reports as required of progress of the Work of the Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
- T. Consult with the Consultant in advance of schedule major tests, inspections or start of important phases of the Work.
- U. Draft proposed Change Orders and Work Directive Changes, obtaining backup materials from Contractor and recommend to the Consultant, Change Orders, Work Directive Changes, and Field Orders.
- V. Report immediately to the Consultant and the City upon the occurrence of any accident.
- W. Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to the Consultant noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site, but not incorporated in the Work.
- X. During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are

applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the Consultant for review and forwarding to City prior to final payment for the Work.\

- Y. Before the Consultant issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- Z. Conduct final inspection in the company of the Consultant, the City and the Contractor and prepare a final list of items to be completed or corrected.
- AA. Observe that all items on final list have been completed or corrected and make recommendations to the Consultant concerning acceptance.
- BB. The Resident Project Representative shall not:
 - i. Authorize any deviation from the Contract Documents or substitution of materials or equipment.
 - ii. Exceed limitations of the Consultant's authority as set forth in the Contract Documents.
 - iii. Undertake any of the responsibilities of Contractor, subcontractors, or Contractor's superintendent.
 - iv. Advise on, issue directions regarding or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
 - v. Advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
 - vi. Accept Shop Drawing or sample submittals, from anyone other than Contractor.
 - vii. Authorize the City to occupy the Project in whole or in part.
 - viii. Participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by the Consultant.

IV. DATA AND SERVICES TO BE PROVIDED BY THE City

The City shall provide the following:

1. Furnish or cause to be furnished such reports, studies, instruments, documents, and other information as the Consultant and City mutually deem necessary and which are under control of the City.
2. Other data and services to be agreed upon in subsequent Service Authorizations.
3. Pay for all legal advertisements incidental to obtaining bids or proposals from contractors.
4. The City Manager or his designee shall act as the City's representative with respect to the work to be performed under this Agreement. The City Manager or his designee shall have the authority to the extent authorized by the City Charter and Code of Ordinances to exercise the rights and responsibilities of the City provided in this contract. Said authority may include but is not limited to: transmit instructions, stop work, receive information, interpret City's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the services covered by this Agreement.
5. Pay all permit application filing fees.

6. Provide access to City facilities.

V. TIME OF PERFORMANCE

1. The Consultant will begin work promptly after issuance of a Notice to Proceed.
2. The Consultant's services called for under this Agreement shall be completed in accordance with the schedule contained in each Service Authorization. If the Consultant's services are unreasonably delayed by the City in excess of 180 days, the time of performance and compensation shall be renegotiated, provided; however, the Consultant as a condition precedent to renegotiations shall notify the City within fifteen (15) calendar days at the end of the delay of Consultant's proposed additional costs incurred by reason of said delay.

VI. AGREEMENT PERIOD

This Agreement shall be for the duration of ____ years from ____ to ____ with two, one-year options to renew. Renewal will be at the City's discretion. However, this Agreement shall extend until construction for any active Service Authorization is complete. The Service Authorization Agreement shall delineate a time for completion of the services to be rendered.

VII. COMPENSATION

1. METHOD I – LUMP SUM PAYMENT

The City will compensate the Consultant for the services performed on each Service Authorization in accordance with a negotiated lump sum;

OR

2. METHOD II - TIMES CHARGES/ NOT TO EXCEED BUDGETED AMOUNT

The City will compensate the Consultant for the services performed on a not to exceed budgeted amount based on time charges which are based upon hourly rates, plus reimbursable expenses and other related costs as are specified in the Service Authorization

When a service is to be compensated for on a time charge/not to exceed basis, the Consultant will submit a not to exceed budget cost to the City for prior approval based on actual time charges which shall not exceed established hourly rates as shown in Exhibit D attached hereto, plus reimbursable expenses and other related costs. The City shall not be obligated to reimburse the Consultant for costs incurred in excess of the not to exceed cost amount.

- a. The City agrees to pay the Consultant compensation for services rendered based upon the established raw hourly salary rates as shown in Exhibit B

for services rendered on City projects multiplied by an overhead factor not to exceed 3.0, which includes profit not to exceed ten percent (10%) and may be subject to audit. The Schedule of hourly rates as set forth in Exhibit D will not be adjusted.

b. In addition, the City shall pay for reimbursable expenses invoiced at the actual cost of expenditures incurred by the Consultant if provided in the Service Authorization as follows:

- (1) Actual expense of transportation and lodging in accordance with City policy in effect at the time of travel when traveling in connection with each Service Authorization, express courier charges, and permit fees paid for securing approval of authorities having jurisdiction over the project.
- (2) Actual expense of reproductions, of Drawings and Specifications including duplicate sets of the completion of each Service Authorization for the City's review and approval.
- (3) Actual expenses of testing, laboratory services, and field equipment. By consultants.
- (4) Actual expense of overtime work requiring higher than regular rates, when authorized by the City.
- (5) Actual expense of Auto Travel at the established City rate per mile for travel outside Palm Beach County.

3. Service shall be invoiced at the actual fees paid by the Consultant, plus an additional ten percent (10%) of the cost of these services to compensate Consultant, for the procuring and management of the sub-consultant, and for the other financial and administrative costs. services shall be approved by the City in writing prior to performance of the work.
4. Total Compensation (including, but not limited to compensation for sub-consultants) for all services and expenses shall not exceed the budget cost listed upon each Service Authorization, without written approval.
5. If the City determines that any price for services, however calculated provided by the Consultant, including profit, negotiated in connection with this Agreement or any cost reimbursable under this Agreement was increased by any significant sums because the Consultant or any subcontractor furnished incomplete or inaccurate costs or pricing data, then such price or cost or profit shall be reduced accordingly and the Service Authorization shall be reduced accordingly and the Service Authorization shall be modified in writing to reflect such reduction.

VIII. PAYMENT

The City agrees that it will use its best effort to pay the Consultant within thirty (30)

calendar days from presentation of the Consultant's itemized report and invoice and approval of the City representative, unless additional time for processing is required for payments for basic services, services, and reimbursable expenses as defined in Section VII. The Consultant shall submit monthly invoices, as required in the Service Authorization, which shall include a report of work completed during the respective invoice period. Invoices shall be in a format consistent with those shown in Exhibit C. The report shall be adequate in detail to describe work progress (% complete for each task) and written summaries of work completed. No payment request shall exceed the value of work and services performed by the Consultant under the Service Authorization. Payment to the Consultant will be based on the percent of construction completed.

IX. E-VERIFY

In accordance with the State of Florida, Office of the Governor, Executive Order Number 11- 116 (Verification of Employment Status), all agencies under the direction of the Governor are to include as a condition of all state contracts for the provision of goods or services to the state in excess of nominal value, an express requirement that contractors utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term, and an express requirement that contractors include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Any projects with Florida Department of Transportation (FDOT) funding will contain this assurance as a condition for any new Joint Participation Contracts dated after January 4, 2011. The Consultant will verify all of their new employees and will require that their subcontractors verify all of their new employees in accordance with the E-Verify requirements set out above.

X. MISCELLANEOUS PROVISIONS

1. Copies of Documents:

The Consultant shall prepare sufficient copies of all documents necessary to obtain approval through the City's processes, as well as other governmental authorities.. The City acknowledges that data provided in connection with this Agreement which are provided by the Consultant are not intended for use in connection with any project other than the project for which such materials are prepared. Any use by the City of such materials in connection with a project other than that for which such materials were prepared without prior written consent and adaptation by the Consultant shall be at the City's sole risk, and the Consultant shall have no responsibility or liability therefore.

2. Insurance:

Without limiting any of the other obligations or liabilities of the Consultant, the Consultant shall, at his own expense, provide and maintain in force, until all of its services to be performed under this Agreement have been completed

and accepted by the City (or for such duration as it otherwise specified hereinafter), the following insurance coverages:

- (1) Worker's Compensation Insurance to apply to all of the Consultant's employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal Laws.
 - A. Employer's Liability with limits of \$100,000 per person, \$500,000 per occurrence and \$100,000 per each disease.
- (2) Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements other than ISO Endorsement GL 21 06 (Engineers, Architects, or Surveyors Professional Liability exclusion), as Filed by the Insurance Services Office and must include:
 - a. Premises and/or Operations
 - b. Independent Contractors
 - c. Products and Completed Operations - Consultant shall maintain in force until at least three years after completion of all services required under this Agreement, coverage for Products and Completed Operations, including Broad Form Property Damage.
 - d. Broad Form Property Damage
 - e. Contractual Coverage applicable to this specific Agreement.
 - f. Personal Injury Coverage with minimum limits of coverage equal to those required for Bodily Injury Liability.
- (3) Business Automobile Liability with minimum limits of three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:
 - a. Owned Vehicles
 - b. Hired and Non-Owned Vehicles
 - c. Employers' Non-Ownership
- (4) Professional Liability Insurance with minimum limits per occurrence applicable to City projects as follows:

	Construction Cost Range	Limit
a.	0 - 99,000	\$250,000
b.	100,000 - 299,000	\$500,000
c.	300,000 - 499,000	\$750,000
d.	500,000 - Above	\$1,000,000

Coverage shall be afforded on a form acceptable to the City. Consultant shall maintain such professional liability insurance until at least one year after a Certificate of Occupancy is issued. Consultant shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

Coverage shall be afforded on a form acceptable to the City. Consultant shall maintain such professional liability insurance until at least one year after a Certificate of Occupancy is issued. Consultant shall insure that sub-consultants used for any portion of the project, maintain adequate levels of Professional Liability Insurance.

Prior to commencement of services, the Consultant shall provide to the City Certificates of Insurance evidencing the insurance coverage specified above. All policies shall be endorsed to provide the City with thirty (30) days' notice of cancellation and/or restriction. The City shall be named as an additional insured as to Consultant's general liability and automobile liability insurance policies. The required Certificates of Insurance shall not only name the types of policies provided, but also shall refer specifically to this Agreement and section and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this Agreement. The Consultant shall also make available to the City a certified copy of the professional liability insurance policy required by paragraph 4 above for the City's review. Upon request, the Consultant shall provide copies of all other insurance policies.

If the initial insurance policies required by this Agreement expire prior to the completion of the services, renewal Certificates of Insurance of policies shall be furnished thirty (30) days prior to the date of their expiration. For Notice of Cancellation and/or Restriction; the policies must be endorsed to provide the City with thirty (30) days' notice of cancellation and/or restriction.

The Consultant's insurance, including that applicable to the City as an Additional Insured, shall apply on a primary basis.

D. Litigation Services:

It is understood and agreed that Consultant's services include reasonable participation in litigation or dispute resolution arising from this Agreement. Consultant's participation shall include up to 30 hours of services related to litigation or dispute resolution. Any such services in excess of 30 hours shall be an extra service.

E. Inspector General:

Consultant is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Consultant and its subcontractors and lower tier subcontractors. Consultant understands and agrees that in addition to all other remedies and consequences

provided by law, the failure of Consultant or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

F. Public Records:

IF THE SUCCESSFUL CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUCCESSFUL PROPOSER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT City OF DELRAY BEACH, City CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE City CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT PUBLICRECORDSREQUEST@MYDELRAYBEACH.COM.

Consultant shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Consultant does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Successful Proposer or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Consultant does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

G. Authority to Contract:

The City represents that it is a Florida Municipal Corporation with the authority to engage the Consultant for professional services described in the Service Authorizations and to accept the obligation for payment for the services described in the Service Authorizations.

H. Assignment:

The City and the Consultant each binds itself and its successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives, and assigns of such other party, in respect to all covenants of this Agreement subject to budget considerations and requirements of law; and, neither the City nor the Consultant will assign or transfer their interest in this Agreement without the written consent of the other.

I. Confidential Information:

During all times that the Consultant is employed on behalf of the City and at all times subsequent to the date of this contract, all discussions between the City and the Consultant and all information developed or work products produced by the Consultant during its employment and all matters relevant to the business of the City not otherwise being a matter of public record shall be deemed to be confidential. All such information and work product shall be protected by the Consultant and shall not be revealed to other persons without the express written permission of the City, unless mandated by order of the court.

J. Non-Exclusive Contract:

The City reserves the right to award projects to other firms pursuant to the Florida Statutes Consultant's Competitive Negotiations Act during the period of service of the Consultant. The Consultant agrees to cooperate with the City and other firms in accomplishing work that may require joint efforts to accomplish the City's goals. This cooperation, when requested by the City, will include but not be limited to:

1. Sharing technical information developed under contract with the City.
2. Joint meetings for project coordination.
3. Establish lines of communication.

K. Sub consultants:

In the event the Consultant, during the course of the work under this Agreement requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, Consultant must secure the prior written approval of the City.

L. Notices:

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt

requested, addressed to the party for whom it is intended at the place last written, as the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places of giving of notice to wit:

SAMPLE

City of Delray Beach
City of Delray Beach, Florida
100 NW 1st Avenue
Delray Beach, Florida 33444
ATTN: City Manager

M. Attachments:

Request for Proposals is hereby incorporated within and made an integral part of this Agreement.

N. Truth-In-Negotiation Certificate:

Signature of this Agreement by Consultant shall act as the execution of a truth in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

O. Records:

Records of all expenses relative to each Service Authorization shall be kept on a generally recognized accounting basis and shall be available to the City or its authorized representative at mutually convenient times.

P. Personnel:

The Consultant represents that it has or will secure, at its own expense, qualified personnel required in performing the services under this Agreement. All work shall be performed under the direction of a professional, registered under the State of Florida in the field for which he is responsible for performing such services.

The project manager shall be approved by the City under each Service Authorization. Key project personnel will be identified for each project and expected to perform the work assignment as can reasonably be expected.

Q. Equal Opportunity Employment:

Consultant agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth this non-discrimination clause. This provision applies to all of

Consultant's subcontractors and it is the responsibility of Consultant to ensure subcontractor's compliance.

R. Prohibition Against Contingent Fees:

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

S. Termination:

This Agreement may be terminated by either party by seven (7) calendar day's prior written notice, in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. The City shall have the right to terminate this Agreement for convenience at any time by thirty (30) calendar day's written notice to the consultant. In the event the project described in any Service Authorization, or the services of the Consultant called for under any Service Authorization, is or are suspended, canceled, or abandoned by the City, the Consultant shall be given five days prior written notice of such action and shall be compensated for the professional services provided and reimbursable expenses incurred up to the date of suspension, cancellation or abandonment. The Consultant agrees to provide all documents to the City. Further, prior to the Consultant's destruction of any of the above referenced documents, the City shall be notified and allowed a reasonable period to gain access to and make copies of any such documents. Upon any termination of this Agreement, the Consultant agrees that it shall use its best efforts to work harmoniously with any successor who enters an Agreement to provide services for the City in order to provide for a smooth transition period.

T. Indemnification:

In consideration of Ten Dollars (\$10.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, Contractor agrees to defend, indemnify and hold harmless the City, their agents and employees in accordance with paragraph 7.28 of the General Conditions which is incorporated herein and made a part hereof as if fully set forth herein. It is the specific intent of the parties hereto that the foregoing indemnification complies with Florida Statutes 725.06, as amended. It is further the specific intent and agreement of said parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.

**PURSUANT TO SECTION 558.0035, FLORIDA STATUTES,
AN INDIVIDUAL EMPLOYEE OR AGENT OF SECOND
PARTY MAY NOT BE HELD INDIVIDUALLY LIABLE FOR**

NEGLIGENCE.

U. Interest of the Consultant:

The Consultant covenants that it, nor its employees, presently has no interest and shall not acquire any interest, direct or indirect, in any Project to which this Agreement pertains or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed.

None of Consultant's officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he, she, or Consultant is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Second Party or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event Consultant is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Consultant shall require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as Consultant.

V. Compliance with Laws:

- a. The Consultant shall comply with the applicable requirements of State and applicable County laws and all Codes and Ordinances of the City Of Delray Beach as amended from time to time, and that exist at the time of building permit issuance.
- b. For Service Authorizations involving work under Federal or State Grantors or Approving Agencies, the City and the Consultant shall review and approve the applicable required provisions or any other supplemental provisions as may be included in each Service Authorizations.

W. Jurisdiction; Venue:

The Consultant hereby covenants, consents and yields to the jurisdiction of the State Civil Courts of Palm Beach County, Florida. Any dispute between Consultant and the City shall be governed by the laws of Florida with venue in Palm Beach County.

XI. Internal Dispute Between Owner and Consultant:

The City Manager shall be the final decision maker regarding internal disputes

between City and Consultant.

Y. Extent of Agreement:

This Agreement represents the entire integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations or Agreements, written or oral. This Agreement does not entitle the Consultant to receive any fee unless first being issued a Service Authorization. This Agreement does not provide that a Consultant is entitled to receive any Service Authorization. This Agreement may not be amended, changed, modified, or otherwise altered in any way, at any time after the execution hereof, except by approval of the City Commission.

Z. Order of Precedence:

The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- A. Terms and conditions as contained in this Agreement;
- B. RFQ No. 2017-048, Continuing Engineering, Surveying, and Landscaping Architectural Consulting Services, dated _____, and all its addenda;
- C. Consultant's response to RFQ No. 2017-048, Continuing Engineering, Surveying, and Landscaping Architectural Consulting Services and any subsequent information submitted by Consultant during the evaluation process.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement:
City through its Board, signing by and through its Mayor or Vice-Mayor, authorized to execute
same by Board action on the ____ day of _____, 20__, and Second Party,
signing by and through its _____, duly authorized to execute same.

ATTEST:

City OF DELRAY BEACH, FLORIDA

Kimberly Wynn, Acting City Clerk

By _____
Cary D. Glickstein, Mayor

____ day of _____, 20__.

APPROVED AS TO FORM:

R. Max Lohman, City Attorney

Agreement BETWEEN DELRAY BEACH, FLORIDA

AND

SECOND PARTY

By _____

(Signature)

WITNESS:

(Printed name, Title)

(Signature)

____ day of _____, 20____

(Printed name)

WITNESS:

(Signature)

(Printed name)

(SEAL)

ACKNOWLEDGEMENT IF CORPORATION

State of Florida

SS

County of Palm
Beach

BEFORE ME, the foregoing instrument, this _____ day of _____
_____, 2016, was acknowledged by
_____, on behalf of the
Corporation and said person executed the same freely and voluntarily for the purpose therein
expressed.

WITNESS my hand and seal in the County and State aforesaid this _____ day of _____
_____ 2016.

Notary Public:

My Commission Expires:

(SEAL)

ACKNOWLEDGEMENT IF AN INDIVIDUAL

State of Florida

SS

County of Palm Beach

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, personally appeared and is personally known to me to be the person in and who executed the foregoing instrument, and acknowledged before me that he/she executed the same.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20____.

Notary Public:

My Commission Expires:

(SEAL)

ACKNOWLEDGEMENT IF A PARTNERSHIP

State of Florida

ss

County of Palm Beach

I HEREBY CERTIFY that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, personally appeared and is known to me to be the person in and who executed the foregoing instrument as a partner of _____, a partnership. He/She acknowledged before that he/she executed the same as the act and deed of said partnership for the uses and purposes therein mentioned.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20__.

Notary Public:

My Commission Expires:

(SEAL)

Appendix B

Potential Projects

Below is a list of potential upcoming projects that may be released during the Agreement period and that may require engineering, surveying and/or landscape architectural services:

- Reclaimed Water Transmission and Distribution System Expansion/Improvements
- Potable Water Distribution System Improvements/Replacements
- Wastewater Collection and Distribution System Improvements/Replacements
- Utility Master Plan
- Stormwater Master Plan
- Parks Master Plans
- Park Design, Permitting, CEI
- Seawall Vulnerability Analysis
- Sea Level Rise Adaptation and Resilience
- Complete Neighborhoods Design, permitting, CEI (Includes road resurfacing and/or reconstruction, utilities, multimodal transportation planning, lighting, landscaping, traffic calming, stormwater management, etc.)
- Water Treatment Plant Replacement Planning, permitting
- Pump Station Improvements
- Water Treatment Plant Improvements, Replacements, and/or Expansions
- Stormwater Management System Design, permitting, CEI
- Pump Station Design, permitting, CEI
- Bridge inspections, evaluations, design, permitting and CEI
- Living Shoreline design, permitting and CEI
- Coastal Dune Management, Restoration, Design, Permitting
- Seawall, dock permitting and design
- Transportation & Traffic Studies, Warrant Studies for Traffic Calming, Traffic Signals and Stop Signs
- Traffic Signal Mast Arm Design
- Geographic Systems Data collection, input and management
- Phase I and Phase II Environmental Analysis
- Structural Analysis of City Facilities
- HVAC and Mechanical design
- Plumbing and Electrical evaluation and design
- Site Plan Review
- AutoCAD Services
- GIS Services
- Energy Efficiency Potential Studies and Implementation Plans
- Indoor Air Quality Studies and Recommendations
- Beach Renourishment
- Emergency Management Response
- Sustainability and Resiliency Studies and Implementation Plans