



CITY OF DELRAY BEACH

100 NW 1st AVENUE, DELRAY BEACH, FL 33444

RFP No. 2016-040 Debt Collection

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CITY OF DELRAY BEACH, FLORIDA
PURCHASING DEPARTMENT
REQUEST FOR PROPOSALS

RFP No. 2016-040
Debt Collection
Summary

ISSUE DATE: January 26, 2016

DEPARTMENT: Finance

DUE DATE: February 23, 2016

TIME: 2:00 P.M.

The objective of the RFP is to select a qualified firm to provide for the collection of the City's consumer debt. Debts may include, but are not limited to, medical collections, water and sewer charges, parking citations, fire inspection fees, third party payments, fines, fees, licenses, permits, interest income, assessments and any other type of receivable that is capable of being collected, with the exception of revenues specifically governed by separate statutes such as revenues from taxes, investments, federal grants, Medicaid vendor overpayments and debts from other government agencies. The City reserves the right to allow the Proposer to collect additional types of delinquent accounts in the future. Any Proposer wishing to submit a proposal must comply with the requirements contained in the City's RFP.

A **MANDATORY PRE-PROPOSAL** conference has been scheduled for February 9, 2016 at 2:30PM in the **City Hall 1st Floor Conference Room, 100 NW 1st Avenue**, Delray Beach, FL. Proposers are invited to attend and ask questions.

NOTIFICATION: The City of Delray Beach (City) utilizes the following procedures for notification of bid opportunities:

Bidsync – www.bidsync.com

Request via email purchasing@mydelraybeach.com

City of Delray Beach – Hard copies are available at City Hall

These are the only forms of notification authorized by the City. The City shall not be responsible for receipt of notification and information from any source other than those listed. It shall be the bidder's responsibility to verify the validity of all bid information received by sources other than those listed.

REQUIRED INFORMATION: The City proposal packets contain various sections which require completion. The proposal packet must be completed prior to the date and time set for proposal opening or the bidder may be found non-responsive.

CORRESPONDENCE: The number of this bid packet must appear on all correspondence, or inquiries, pertaining to this bid.

NOTICE OF PUBLIC DOCUMENTS: Any and all materials initially or subsequently submitted as part of the proposal process shall become the property of the City, and shall be treated as City documents subject to typical practice and applicable laws for public records.

ADDENDA: Any interpretations, corrections or changes to this bid packet will be made by addenda. Sole issuing authority shall be vested in the City of Delray Beach Purchasing Department. Addenda will be posted and available through the City notifications methods.

ELECTRONIC BIDS: Electronic bids may be submitted through a secure mailbox at BidSync (www.bidsync.com) until the date and time as indicated in this Solicitation document. It is the sole responsibility of the Proposer to ensure their bid reaches BidSync before the Solicitation closing date and time. There is no cost to the Bidder/Proposer to submit a response to a City of Delray Beach solicitation via BidSync. Electronic bid 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 files. Bids submitted via e-mail will not be considered.

PRESENTATION OF BIDS – PAPER SUBMISSION: Complete proposal packets may be presented to the Purchasing Department in a sealed envelope unless otherwise indicated. All paper submissions must be received on or before the due date and time (local time) at the City of Delray Beach, Purchasing Office, 100 NW 1st Avenue, Delray Beach, Florida 33444. Normal City business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. The Proposer's name, return address, BID number, BID title, due date and time must be noted on the envelope. It is the sole responsibility of the proposer to utilize the forms provided in the proposal package and to ensure their proposal reaches the Purchasing Office on or before solicitation due date and time (local time). Included in the envelope shall be ONE (1) unbound original, TWO (2) copies of all required information, and one (1) electronic copy of all submitted materials on CD. The original should be marked "ORIGINAL". Each copy must be identical to the original and the file format on the CD should be in Portable Document Format (pdf).

LATE BIDS – PAPER SUBMISSION: Bid packets received in the Purchasing Office after submission deadline shall be returned unopened and will be considered void and unacceptable. The City of Delray Beach is not responsible for the lateness of mail carrier, weather conditions, etc.

BID OPENINGS: All proposals submitted received shall be publicly opened at the Purchasing Office, located at 100 NW 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 bid end date and time.

MINOR DEFECT: The City reserves the right to waive any minor defect, irregularity, or informality in any bid. The City may also reject any or all bids without cause prior to award.

EVALUATION: Bids will be evaluated as outlined in the bid document.

AWARD OF BID: The City of Delray Beach reserves the right to accept any Bid or combination of Bid alternates which, in the City's judgment will best serve the City's interest, reject any and all Bids, to waive any and all informalities and/or irregularities, and to negotiate terms with the Successful Bidder, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. The City reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, and to award the purchase in the best interest of the City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit price. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

DEFINITION: Bid shall mean a bid, proposal, or quotation.

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SECTION 1: SPECIAL TERMS AND CONDITIONS

A. INTRODUCTION AND INFORMATION

1. Purpose

The objective of the RFP is to select a qualified firm to provide for the collection of the City's consumer debt. Debts may include, but are not limited to, medical collections, water and sewer charges, parking citations, fire inspection fees, third party payments, fines, fees, licenses, permits, interest income, assessments and any other type of receivable that is capable of being collected, with the exception of revenues specifically governed by separate statutes such as revenues from taxes, investments, federal grants, Medicaid vendor overpayments and debts from other government agencies. The City reserves the right to allow the Proposer to collect additional types of delinquent accounts in the future. Any Proposer wishing to submit a proposal must comply with the requirements contained in the City's RFP.

Section 1 of this RFP describes the terms and conditions that will apply to this RFP. Section 2 of this RFP describes the scope of services for any proposer wishing to submit a proposal in response to this RFP. Section 3 of this RFP provides forms and instructions for preparing a proposal in response to this RFP.

2. Submission Deadline

A summary schedule of the major activities associated with this RFP is presented in Table 1, below. The City, at its sole discretion, may modify the schedule as the City deems appropriate.

Table 1

ACTIVITY	DATE
Issue RFP	January 26, 2016
Mandatory Pre-Proposal Meeting	February 9, 2016 at 2:30PM
Deadline for Delivery of Written Questions and Objections	February 16, 2016 at 5:00PM
Deadline for Delivery of Proposals	February 23, 2016 at 2:00PM
Institute Cone of Silence	February 23, 2016 at 2:00PM

3. BidSync

The City of Delray Beach 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 decision. There is no charge to register and download the RFP from BidSync. Offerors are strongly encouraged to read the various vendor Guides and Tutorials available in BidSync well in advance of their intention of submitting a proposal to ensure familiarity with the use of BidSync. The City shall not be responsible for an Offeror's inability to submit a proposal by the end date and time for any reason, including issues arising from the use of BidSync.

4. Point of Contact

For information concerning procedures for responding to this solicitation, contact purchasing@mydelraybeach.com. Such contact shall be for clarification purposes only.

For information concerning technical specifications, please utilize the question / answer feature provided by BidSync at www.bidsync.com. Questions of a material nature must

be received prior to the cut-off date specified in the RFP Schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. Submission of a proposal will be considered evidence that the Proposer has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire proposal must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in BidSync shall become part of any contract that is created from this RFP.

B. TERMS AND CONDITIONS

1. General Conditions

RFP General Conditions are included in Exhibit C and made a part of this RFP.

2. Addenda, Changes, and Interpretations

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

3. Evaluation of Proposals by Selection Committee

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

In Phase Two of the review process, the Selection Committee will determine whether each Proposer is responsible. For the purposes of this RFP, a responsible Proposer means a Person that has the capacity in all respects to fully perform the contract requirements and has the integrity and reliability that will ensure good faith performance.

In Phase Two, each proposal will be evaluated utilizing the following weighted criteria:

Evaluation Criteria

Proposed Fees	30%
Ability of personnel to perform the required collection efficiently and professionally	15%
References	15%
System Capabilities – including Sample Reports and ability to receive and transmit data	20%
Prior relevant experience in collecting required account types	20%
Total	100%

Each Selection Committee member will rank in order of preference the proposals for each of the criteria based on the number of proposals submitted utilizing the responses in the noted sections of the RFP. The Selection Committee may create a short list from the proposals submitted.

At any time during the Selection process, the City may conduct any 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, interview some or all of the Proposers, 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 -- i.e., the Proposer does not satisfy the minimum criteria set forth in this RFP.

Please note that 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 RFP.

4. Award of Contract by City Commission

The City of Delray Beach reserves the right to accept any Bid or combination of Bid alternates which, in the City's judgment will best serve the City's interest, reject any and all Bids, to waive any and all informalities and/or irregularities, and to negotiate contract terms with the Successful Bidder, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional Bids.

The City reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, and to award the purchase in the best interest of the City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit price. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

5. The City's Acceptance or Rejection of Proposals

The City reserves its exclusive right to:

- reject any and all proposals that fail to satisfy the requirements and specifications in this RFP;
- 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 RFP;
- reject all proposals, with or without cause;
- issue requests for new proposals;
- and cancel this RFP.

The City shall decide, in its sole discretion, whether to reject a proposal as non-responsive. Among other things, a Proposal may be found to be non-responsive if the Proposer: failed to provide the information requested in the RFP; 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.

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: the Proposer misstates or conceals any material fact in their proposal; the proposal does not conform to the requirements of Applicable Law; the proposal is subject to conditions or qualifications; a change occurs that makes this RFP unnecessary for the City; any Person submits more than one proposal under the same or different names; a Proposer fails to perform satisfactorily or meet its financial obligations on previous contracts; the Proposer employs unauthorized aliens in violation of Section 274(A)(e) of the Immigration and Naturalization Act; 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 if this RFP is re-advertised.

More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. If a Proposer is involved in more than one proposal for the same work, the City may reject all proposals in which such Proposer is believed to be involved.

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. Any and all compromised proposals will be rejected if there is reason to believe that collusion exists between Proposers.

6. Protest Procedures

As noted above, the Selection Committee will review each proposal in three (3) phases. During Phase One, the Selection Committee will determine whether each Proposer is responsive. During Phase Two, the Selection Committee will determine whether each Proposer is responsible. If the Selection Committee determines that a Proposer is not responsive or not responsible, the Chief Purchasing Officer shall post notice of the Selection Committee's determination in City Hall. The Chief Purchasing Officer also shall post notice after the Selection Committee provides a recommendation for award. Any Proposer who is aggrieved by the decisions of the Selection Committee or 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 RFP shall be deemed to limit the authority of the City Commission under special or general law.

Any bidder, proposers or responders filing a protest shall simultaneously provide a Protest Bond 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.

7. Changes and Alterations

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

8. Proposer's Costs

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

9. Pricing/Delivery

All pricing should be identified on the Cost Proposal pages provided in this RFP. No additional costs may be accepted, other than the costs stated on the Cost Proposal pages. Failure to use the City's Cost Proposal pages and provide costs as requested in this RFP may deem your proposal non-responsive.

Proposer must quote a firm, fixed price for all services stated in the RFP. All costs including travel shall be included in your proposal. The City shall not accept any additional costs including any travel associated with coming to the City of Delray Beach.

All pricing must include delivery and installation and be quoted FOB: Destination.

10. Invoices/Payment

The City will accept invoices no more frequently than once per month. Each invoice shall fully detail the related costs 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 contract, 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.

11. 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 respondent an advantage or benefit not enjoyed by other respondents, does not adversely impact the interests of other firms or, does not affect the fundamental fairness of the solicitation process. The City also reserves the right to reissue a RFP.

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.

12. Modification of Services

While this contract is for services provided to the department referenced in this Request for Proposals, 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 a contract resulting from this RFP, 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 contract. 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 in their proposal. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items or services from other vendors, or to cancel the contract 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.

13. No Exclusive Contract

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

14. Contract Agreement

A sample of the formal agreement template, which may be required to be executed by the awarded vendor will be provided, when available.

15. Responsiveness

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

16. Responsibility

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

17. Subcontractors

If the Proposer proposes to use subcontractors in the course of providing these services to the City, this information shall be a part of the bid response. Such information shall be subject to review, acceptance and approval of the City, prior to any contract 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 this Contract. 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.

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 proposer.

18. Proposal Bond

Each proposal must be accompanied by a certified check, cashier's check, or a proposal bond in the amount of fifteen thousand dollars (\$15,000). The check or bond shall be made payable to the City of Delray Beach, Florida.

If the Successful Proposer fails or refuses to execute the Agreement or provide the necessary certificates of insurance, or Performance Bond following award, within the timeframes set forth herein, the City shall retain the entire proposal bond and disqualify the Proposer.

19. Award of Contract

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

20. Unauthorized Work

The Successful Proposer(s) shall not begin work until a Contract has been awarded by the City Commission and a purchase order has been issued. 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, 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 contract.

21. Uncontrollable Circumstances ("Force Majeure")

The City and Proposer will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, 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:

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;

The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

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

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.

22. News Releases/Publicity

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

23. Contract Period

The initial contract term shall commence upon execution of Agreement by the City and shall expire two years from that date. The City reserves the right to extend the contract for two additional one year terms, providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

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

24. Contract Coordinator

The City may designate a Contract Coordinator whose principal duties shall be:

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

25. Substitution of Personnel

It is the intention of the City that the Proposer's personnel proposed for the contract will be available for the contract term. In the event the Proposer wishes to substitute personnel, he 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 Contract for cause.

SECTION 2: SCOPE OF WORK

PURPOSE: The objective of the RFP is to select a qualified firm to provide for the collection of the City's consumer debt. Debts may include, but are not limited to, medical collections, water and sewer charges, parking citations, fire inspection fees, third party payments, fines, fees, licenses, permits, interest income, assessments and any other type of receivable that is capable of being collected, with the exception of revenues specifically governed by separate statutes such as revenues from taxes, investments, federal grants, Medicaid vendor overpayments and debts from other government agencies. The City reserves the right to allow the Proposer to collect additional types of delinquent accounts in the future.

See Exhibit A for additional details.

SECTION 3: FORMS AND INSTRUCTIONS

A. AUTHORIZATION TO BIND PROPOSER

Each proposal must be signed by a Person who is legally authorized to bind the Proposer to the proposal. Each proposal shall remain valid for at least one hundred and twenty (120) days after it is submitted to the City.

Proposals by corporations must be executed in the corporate name by the President or Vice-President (or other corporate officer if accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested to by the company's Secretary or an Assistant Secretary. The corporate address and state of incorporation shall be shown below the signature.

Proposals by partnerships must be executed in the partnership name and signed by a partner. His or her title must appear under his or her signature and the official address of the partnership must be shown below the signature.

B. PROPOSAL FORMAT

Each proposal shall include all the requested information. Proposals shall be organized in chapters, as indicated in Table 2. All pages are to be consecutively numbered. If a form is provided and there is insufficient space for a response on the form, the response may be continued on a blank page immediately following the form. The additional pages shall be numbered the same as the form, with the addition of the letter "a", "b", "c", etc. 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 numbered the same as the form, with the addition of the letter "a", "b", "c", etc.

Responses to this RFP must be complete and unequivocal. 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" shall be provided.

Table 2 - Proposal Format

Chapter 1	Letter of Intent and Submittal Form
Chapter 2	Proposer's Statement of Organization
Chapter 3	Public Entity Form, Drug Free Workplace Form, Conflict of Interest Form
Chapter 4	Acknowledgement of Addenda Form
Chapter 5	Proposer's Response, Schedule of Pricing

Exhibit A

PURPOSE: The objective of the RFP is to select a qualified firm to provide for the collection of the City's consumer debt. Debts may include, but are not limited to, medical collections, water and sewer charges, parking citations, fire inspection fees, third party payments, fines, fees, licenses, permits, interest income, assessments and any other type of receivable that is capable of being collected, with the exception of revenues specifically governed by separate statutes such as revenues from taxes, investments, federal grants, Medicaid vendor overpayments and debts from other government agencies. The City reserves the right to allow the Proposer to collect additional types of delinquent accounts in the future.

The intent is to award to one agency. However, the City reserves the right to award the Contract to more than one (1) successful Proposer, at its sole discretion. The collection agency is not expected to litigate on our behalf, nor will judgments be filed.

These services will maximize collection of authorized departmental delinquent accounts, thereby enhancing the City of Delray Beach's revenues, using the most cost-effective methods and the highest professional standards.

SCOPE OF WORK: The City is requesting proposals from qualified debt collection agencies to provide consumer debt collection services by locating, contacting and securing payments from debtors of the City of Delray Beach. The City's Chief Financial Officer, or designee, reserves the right to determine which delinquent accounts are to be turned over to the Proposer for collection. The Proposer shall be responsible for the following:

1. Maintain a trust account separate from the Proposer's operating account into which all debtor payments are deposited on behalf of the City. The City should have access to view this account via banking online services.
2. Remittance and Reporting requirements:
 - a) Remit weekly collections the next successive Monday (or Tuesday, if Monday is a bank holiday).
 - b) If permissible by law, proposer will add the applicable collection fee to each debt owed to the City. The City will not be responsible for paying the Proposer's fees.
 - c) A report (in Microsoft Excel) summarizing the accounts collected for the month and date of payment to the City (as listed below in Work Products Required), including Debtor's name, the City's identifying account number, the original balance, collection statistics (Number of Accounts and Dollar amounts submitted and collected), the collection fee assessed by the Proposer, the amount of payment(s) paid to the City and any remaining balance due the City.
3. Transfer of Data: The Proposer shall accept hard copy or electronic information pertaining to delinquent amounts turned over for collections. The Proposer is responsible for picking up data transferred electronically. The cost of these services will be borne by the Proposer. Proposer will also electronically transfer data to the City for purposes of updating debtor accounts.
4. Process delinquent accounts turned over by the City for collection of past due amounts.
5. Any accounts already turned over to the Proposer which are collected via the City's Immobilization of Vehicles Ordinance Sec. 71.092 or pursuant to Florida State Statutes 316.1967(6) and/or 320.03(8) will be removed from the Proposer's lists and no associated collection fees shall be assessed and collected for these accounts. Supporting documentation, such as payment receipt or other supporting correspondence, will be provided.

Exhibit A

6. City reserves the right to conduct an on-site or remote audit and may request a response to any of its findings.
7. Proposer must grant the City on-line access to all accounts turned over for collection for inspection purposes during reasonable business hours.
8. Proposer will not be allowed to settle any accounts for less than the amount submitted by the City. The City's Chief Financial Officer, or designee, may negotiate an extended payment agreement for the past due payment for a period not to exceed one year.
9. If the agreement between the City and the Proposer is terminated, Proposer shall immediately cease all collection activities and return all assigned accounts and related document to the City, regardless of any payments made on such accounts or any arrangements made with debtor(s). Upon termination, Proposer will inform any debtors in writing with whom it is dealing to make future payments directly to the City.
10. Proposer may not assign or subcontract any portion of its contract with the City without written consent of the City.
11. Contract term shall be for a period of two (2) years, renewable for two (2) additional one (1) year periods subject to the City's option, vendor acceptance, satisfactory performance and determination that renewal will be in the best interest of the City.

WORK PRODUCTS REQUIRED:

1. The Proposer is to provide both routine (which is to include phone contract and letters), skip tracing collection services in accordance with the Fair Debt Collection Practices Act and Privacy Act, and credit bureau inquiries and reporting, if authorized by the City. Proposer must inform debtors to make remittances payable to the Proposer. Proposer may accept payments by debit or credit card, cash (but only with a simultaneously-signed receipt), money order, cashier's check or wire transfer. Any costs incurred as a result of collection accounts shall be the sole responsibility of the Proposer.
2. Proposer must possess sufficient financial support, equipment and organization to insure that it can satisfactorily perform the services if awarded a contract. This should include a list of all completed and active projects that Vendor will be working on in the near future. Projected projects will be defined as a project(s) that Vendor is awarded a contract but the Notice to proceed has not been issued.
3. The Proposer will provide and remit to the City of Delray Beach, on a weekly basis, by accounts: 1) the gross amount collected for the week (past due plus collection fee); 2) the date of payments sent to the City.
4. For select accounts the Proposer may be requested by the City to report collection activity on each regular business day of accounts received on the previous day(s). This shall be done via e-mail or other acceptable form of communication so the City may clear any tag freeze with the department of Highway Safety and Motor Vehicles (DHSM) or immobilization lists.
5. The Proposer shall submit their proposed policies and procedures for processing delinquent accounts.
6. All written correspondence to debtors shall be approved by the City. Proposer is expected to act responsibly and professionally at all times when in contact with the debtor. Proposer shall maintain confidentiality of all documents and any information provided by the City, except as to any disclosure required by the state and federal laws and regulations. No legal action shall be taken

Exhibit A

against debtors on behalf of the City of Delray Beach. The City reserves the right to suspend collection on any debtor upon written notification to the Proposer.

7. Proposer shall submit a description of their data processing reports and capabilities, including the ability to transfer information between the Proposer and the City. Proposer will demonstrate its ability to interface with the City's software (ex. Sungard HTE -Citation Management, Cry Wolf Alarm System, Respond Billing, etc.)
8. Proposer shall submit a description of their method of obtaining current addresses for in-state and out-of-state accounts.
9. Proposer shall submit their firm background, principals, length of time in business. The City shall be notified within 30 days of change in ownership or management.
10. Proposer shall submit name, background, qualifications, and contact numbers (telephone, address, e-mail) for the prospective Account Manager and associated Collection Team Members.
11. Proposer shall submit their experience serving other local governments and other references.
12. Proposer shall submit their full cost of services (including fee schedules and pass-through charges).
13. Proposer shall submit a description of their workforce, including the ratio of Managers to Collectors, any ongoing training and certification requirements, and the structure of their compensation and benefits (salary vs. commissions, etc.)
14. Proposer shall submit evidence of their firm's legal status in the State of Florida.
15. Proposer shall be qualified to effect collection services in all 50 states and Canada Proposer shall submit evidence of required licenses and business permits.
16. Proposer shall provide their Federal Employer Identification Number.
17. Proposer shall submit proof of professional liability insurance and bonding amounts.
18. Proposer shall submit evidence of methods used to protect confidential and sensitive data, including SAS70 Audit Reports and proof of PCI DSS Compliance.

EVALUATION: The City will evaluate all proposals and will select the Proposer whose qualifications, experience, present capabilities and reputation best meets the needs and interests of the City. The City shall be the sole judge of its own best interests, the proposals, and the resulting negotiated agreement. The City's decision shall be final.

SCHEDULE OF PRICING
RFP 2016-040
Debt Collection

Pricing is to be all inclusive of the costs of servicing these accounts; no further charges will be accepted for postage, data transfer, or any other costs associated with this contract.

NOTE: Proposer shall state collection service fee as a percentage (%) of the monies collected from the accounts turned over by the City to the Proposer for each of the account types defined below:

Percentage Parking Tickets	:	_____	%
Percentage Ambulance Billing	:	_____	%
Percentage Utility Billing	:	_____	%
Percentage Business Tax Billing	:	_____	%
Percentage Parks and Recreation Billing	:	_____	%
Percentage Alarms Billing	:	_____	%
Percentage Miscellaneous Accounts Receivable Billing	:	_____	%

Comments	:	_____

Vendor Name	:	_____
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EXHIBIT C
CITY OF DELRAY BEACH
GENERAL TERMS AND CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Delray Beach Purchasing Department. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB), Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement. In this general conditions document, Invitation to Bid (ITB) and Request for Proposal (RFP) are interchangeable.

PART I. CONDITIONS:

- 1.1 PUBLIC ENTITY CRIMES:** Pursuant to F.S. 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 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 a proposal on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017 for CATEGORY TWO for a period of 36 months 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.
- 1.2 SCRUTINIZED COMPANIES:** This Section applies to any contract for goods or services of \$1 million or more. The Proposer certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria as provided in section 287.135, Florida Statutes (2011), as may be amended or revised. The City may terminate a contract at the City's option if the Proposer is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2011), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2011), as may be amended or revised.
- 1.3 DEBARRED OR SUSPENDED PROPOSERS:** The Proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.
- 1.4 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 RFP process.
- 1.5 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.
- 1.6 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this solicitation.
- 1.7 PUBLIC RECORDS:** Proposer shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, Proposer agrees to:
- (a) Keep and maintain all records that ordinarily and necessarily would be required by the City.
 - (b) Provide the public with access to public records on the same terms and conditions that the City would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
 - (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
 - (d) Meet all requirements for retaining public records and transfer, at no cost, to the City all records in possession of the Proposer at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. All records shall be transferred to the City prior to final payment being made to the Proposer.
 - (e) If 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.

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

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

- 1.8 INSPECTOR GENERAL:** Proposer 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 contracts, 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.
- 1.9 CONE OF SILENCE:** Proposer's are advised that a Cone of Silence is in effect at the time of submission. The Cone of Silence prohibits any communications, except written correspondence, between the Proposers or any Person representing the Proposers, and any member of the

EXHIBIT C

City Commission, the Commission's staff, any City employee authorized to act on behalf of the City to award the contract or Bid, or any member of the Selection Committee. The Cone of Silence will commence and take effect at the deadline for submitting bids. Section 36.13 of the City Code provides "[a]ny person participating in a competitive solicitation issued by the City shall comply with Section 2-355 of the Palm Beach County Code of Ordinances."

- 1.10 LOCAL PREFERENCE:** In accordance with the City of Delray Beach Code of Ordinances Sec. 36.14, the City shall give preference to a Local Business if the Local Business' bid is determined to be within five percent (5%) or five thousand dollars (\$5,000.00), whichever is less, of the lowest responsible and responsive proposer.
- 1.11 LITIGATION VENUE:** The Proposers waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Palm Beach County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.
- 1.12 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.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

- 2.01 BIDDING DEFINITIONS** The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:
INVITATION TO BID (ITB) when the City is requesting bids from qualified Bidders.
REQUEST FOR PROPOSALS (RFP) when the City is requesting proposals from qualified Proposers.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A person whose bid conforms in all material respects to the terms and conditions included in the ITB.
RESPONSIBLE BIDDER – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
PROPOSER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City.
CONTRACT – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction.
CONSULTANT – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.

The following terms may be used interchangeably by the City: ITB and/or RFP; Bid or Proposal; Bidder, Proposer, or Proposer; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

- 2.02 SPECIAL CONDITIONS:** Any and all Special Conditions contained in this solicitation that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

- 3.01 SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidders should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Bids will be publicly opened in the Purchasing Department Office, or other designated area, in the presence of Bidders, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.
- 3.02 MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.

EXHIBIT C

- 3.04 WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.05 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in the bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in the bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.06 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet or exceed these items, and feels that the technical specifications are overly restrictive, the bidder must notify the Purchasing Department immediately. Such notification must be received by the Purchasing Department prior to the deadline contained in the ITB, for questions of a material nature, or prior to the deadline for questions. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.
- 3.07 MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle the bidder to any relief from the conditions imposed in the contract.
- 3.09 SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Delray Beach encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Purchasing Officer reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 3.14 BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond or cashier's check. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.
- 3.16 RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

EXHIBIT C

3.17 LEGAL REQUIREMENTS: Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto 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 bidder shall not constitute a cognizable defense against the legal effect thereof.

3.18 BID PROTEST PROCEDURE: ANY PROPOSER OR BIDDER WHO IS NOT RECOMMENDED FOR AWARD OF A CONTRACT AND WHO ALLEGES A FAILURE BY THE CITY TO FOLLOW THE CITY'S PROCUREMENT ORDINANCE OR ANY APPLICABLE LAW MAY PROTEST TO THE CHIEF PURCHASING OFFICER, BY DELIVERING A LETTER OF PROTEST TO THE CHIEF PURCHASING OFFICER WITHIN THREE BUSINESS (3) DAYS AFTER A NOTICE OF INTENT TO AWARD IS POSTED.

Any bidder, proposers or responders filing a protest shall simultaneously provide a Protest Bond 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.

PART IV BONDS AND INSURANCE

4.01 PERFORMANCE BOND: If a performance bond is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond, payable to the City of Delray Beach, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of an Agreement by the Contractor.

4.02 INSURANCE: If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Purchasing Department original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an **ADDITIONAL INSURED for General Liability Insurance**, and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting the bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES: Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:

- Bidders name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
- All City Departments being advised to refrain from doing business with the Bidder.
- All other remedies in law or equity.

5.02 DELIVERY: Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.

5.03 PACKING SLIPS: It will be the responsibility of the awarded Contractor, to attach all packing slips to the **OUTSIDE** of each shipment. Packing slips must provide a detailed description of what is to be received and reference the City of Delray Beach purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.

5.04 PAYMENT TERMS AND CASH DISCOUNTS: Payment terms, unless otherwise stated in this ITB, will be considered to be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.

5.05 TAX EXEMPTION: The City of Delray Beach is exempt from State Sales Tax and Federal Excise Taxes. Where tax applies, the invoice must show gross, price, amount of tax, and net price. Exception certificate will be provided upon request.

5.06 PAYABLE INTEREST: *Payment of Interest.* The City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Bidder waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to the bid. *Rate of Interest.* In any instance where the prohibition or limitations herein are determined to be invalid or unenforceable, the annual rate of interest payable by the City, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

5.07 TOTAL BID DISCOUNT: If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.

EXHIBIT C

- 5.08 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that the bid and the prices quoted in the bid will be firm for acceptance by the City for a period of one hundred twenty (120) days from the date of bid opening unless otherwise stated in the ITB.
- 5.09 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.
- By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.
- 5.10 ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Proposer until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.
- 5.11 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of any order must be accompanied by a completed Safety Data Sheet (SDS).
- 5.12 ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB the bidder will supply only material or equipment that is 100% asbestos free.
- 5.13 OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, the bidder may, if the bidder has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.14 VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.15 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.16 TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
- 5.17 TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.18 CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 5.19 RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract for the duration of the contract and for three years after the final payment any agreement as a result of the bid, or until all pending audits, investigations or litigation matters relating to the contract are closed, whichever is later. The Contractor agrees to make available to the City or designee, during normal business hours all books of account, reports and records relating to any agreement as a result of this bid.
- 5.20 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at their own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this contract.
- 5.21 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.22 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the contract occur, and those

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circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:

1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve them of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a stated period of time.

If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.

5.23 ELIGIBILITY: If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.

5.24 PATENTS AND ROYALTIES: The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

5.25 ASSIGNMENT: Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Commission or the City Manager or City Manager's designee, depending on original award approval.

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AGREEMENT

BETWEEN

THE CITY OF DELRAY BEACH

AND

FOR

This is an Agreement ("Agreement"), made and entered into by and between: Delray Beach, a municipal corporation of the State of Florida, hereinafter referred to as "City,"

and

_____, a Florida corporation, hereinafter referred to as "Second Party," (collectively referred to as the "Parties").

WITNESSETH:

In consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Agreement** - This Agreement includes Articles 1 through 9, the exhibits and documents that are expressly incorporated herein by reference.
- 1.2 **Board** - The City Commission of Delray Beach, Florida.
- 1.3 **Contract Administrator** - The Delray Beach City Manager or the Director of the Delray Beach _____ Division. The primary responsibilities of the Contract Administrator are to coordinate and communicate with Second Party and to manage and supervise execution and completion of the Scope of Services and

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the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all Parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

- 1.4 **City Manager** - The administrative head of City appointed by the Board.
- 1.5 **City Attorney** - The chief legal counsel for City appointed by the Board.
- 1.6 **Project** - The Project consists of the services described in Article 2.

ARTICLE 2

SCOPE OF SERVICES

- 2.1 Second Party shall perform all work identified in this Agreement and Exhibit "A". The Scope of Services is a description of Second Party's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by Second Party impractical, illogical, or unconscionable.
- 2.2 Second Party acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement.

ARTICLE 3

TERM AND TIME OF PERFORMANCE

- 3.1 This contract is in full force and effect upon full contract execution by the City of Delray Beach. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.
- 3.2 All duties, obligations, and responsibilities of Second Party required by this Agreement shall be completed no later than **[time span]** after full contract execution by the City of Delray Beach. Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.
- 3.3 In the event services are scheduled to end due to the expiration of this Agreement, the Second Party agrees that it shall continue service upon the

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request of the Contract Administrator. The extension period shall not extend for greater than three months beyond the term of the Agreement. The Second Party shall be compensated for the service at the rate in effect when the extension is invoked by the City upon the same terms and conditions as contained in this Agreement as amended. The Chief Purchasing Officer shall notify Second Party of an extension authorized herein by written notice delivered prior to the end of the term of the Agreement.

ARTICLE 4

COMPENSATION

- 4.1 City will pay Second Party, in the manner specified in Section 4.3, the total amount of _____ Dollars (\$_____) for work actually performed and completed pursuant to this Agreement and _____ Dollars (\$_____) for all reimbursables provided for in Section 4.2, which amounts shall be accepted by Second Party as full compensation for all such work and expenses. Second Party acknowledges that this amount is the maximum payable and constitutes a limitation upon City's obligation to compensate Second Party for its services and expenses related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon Second Party's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

4.2 REIMBURSABLES

- 4.2.1 In accordance with and pursuant to the City's procurement code and subject to the limitations set forth below, reasonable expenses, which are directly attributable to the Project may be charged at no more than actual cost. The maximum sum which may be charged for expenses shall not exceed _____ Dollars (\$_____), and shall be limited to the following:

- a) Identifiable transportation expenses in connection with the Project, subject to the limitations of Section 112.061, Florida Statutes. Transportation expenses to locations outside the Miami-Dade/Broward/Palm Beach County area or from locations outside the Miami-Dade/Broward/Palm Beach County area will not be reimbursed unless specifically authorized in advance and in writing by the Contract Administrator. Transportation expenses to and from locations within the Miami-Dade/Broward/Palm Beach County area will not be reimbursed.

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- b) Cost of printing drawings and specifications which are required by or of Second Party to deliver services set forth in this Agreement.

4.2.2 A detailed statement of expenses must accompany any request for reimbursement. Expenses other than auto travel must be documented by copies of paid receipts, checks, or other evidence of payment.

4.2.3 Second Party acknowledges that the dollar limitation set forth in Section 4.2.1 is a limitation upon, and describes the maximum extent of, City's obligation to reimburse Second Party for expenses, but does not constitute a limitation, of any sort, upon Second Party's obligation to incur such expenses or perform the services identified in Article 2.

4.3 METHOD OF BILLING AND PAYMENT

4.3.1 Second Party may submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Invoices shall designate the nature of the services performed. Second Party shall submit with each invoice a Certification of Payments to Subcontractors and Suppliers (Exhibit "B"). The certification shall be accompanied by a copy of the notification sent to each subcontractor and supplier listed in item 2 of the form, explaining the good cause why payment has not been made.

4.3.2 City shall pay Second Party within thirty (30) calendar days of receipt of Second Party's proper invoice, or as required by Florida Law. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Second Party to comply with a term, condition, or requirement of this Agreement.

4.3.3 Second Party shall pay its subcontractors and suppliers within thirty (30) days following receipt of payment from City for such subcontracted work or supplies. If Second Party withholds an amount from subcontractors or suppliers as retainage, such retainage shall be released and paid within thirty (30) days following receipt of payment of retained amounts from City.

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4.4 Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by City.

4.5 Payment shall be made to Second Party at:

ARTICLE 5

INDEMNIFICATION

Second Party 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, Second Party, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, 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, Second Party 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 City Attorney to defend City. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Second Party under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by City.

ARTICLE 6

INSURANCE

6.1 Second Party shall maintain at its sole expense, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least

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the minimum insurance coverage designated in Exhibit "C" in accordance with the terms and conditions stated in this Article.

- 6.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A-. Coverage shall be provided on forms no more restrictive than the latest edition of the applicable form filed by the Insurance Services Office. Second Party shall name City as an additional insured under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy as well as on any Excess Liability policy. The official title of the Certificate Holder is City of Delray Beach, Florida. This official title shall be used in all insurance documentation.
- 6.3 Within fifteen (15) days of notification of award, Second Party shall provide to City proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declaration pages, or insurance policies evidencing all insurance required by this Article. City reserves the right to obtain a certified copy of any policies required by the Article upon request. Coverage is not to cease and is to remain in force until the City determines all performance required of Second Party is completed. For Professional Liability Insurance, coverage shall remain in force for two (2) years after the completion of services unless a different time period is stated in Exhibit "C." City shall be notified of any restriction or cancellation of coverage within thirty (30) days. If any of the insurance coverage will expire prior to the completion of the work, proof of insurance renewal shall be provided to City upon expiration.
- 6.4 City reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements.
- 6.5 If Second Party uses a subconsultant or subcontractor, Second Party shall ensure that each subconsultant or subcontractor names "City of Delray Beach, Florida" as an additional insured under the subconsultant's or subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

ARTICLE 7

TERMINATION

- 7.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided

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by City, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health, safety, or welfare. If City erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

- 7.2 This Agreement may be terminated for cause for reasons including, but not limited to, Second Party's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if the Second Party is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if the Second Party provides a false certification submitted pursuant to Section 287.135, Florida Statutes. This Agreement may also be terminated by the Board:
- 7.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager, which the City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 7.4 In the event this Agreement is terminated for convenience, Second Party shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. Second Party acknowledges that it has received good, valuable and sufficient consideration from City, the receipt and adequacy of which are, hereby acknowledged by Second Party, for City's right to terminate this Agreement for convenience.
- 7.5 In the event this Agreement is terminated for any reason, any amounts due Second Party shall be withheld by City until all documents are provided to City pursuant to Section 9.1 of Article 9.

ARTICLE 8

NON-DISCRIMINATION

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- 8.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Failure by Second Party to carry out any of these requirements shall constitute a material breach of this Agreement, which shall permit the City, to terminate this Agreement or to exercise any other remedy provided under this Agreement, or under the Delray Beach Code of Ordinances or under applicable law, with all of such remedies being cumulative.

Second Party shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as City deems appropriate.

Second Party shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement and shall not otherwise unlawfully discriminate in violation of any State or Federal law. Second Party shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Second Party shall take affirmative steps to prevent discrimination in employment against disabled persons.

By execution of this Agreement, Second Party represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. City hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle City to terminate this Agreement and recover from Second Party all monies paid by City pursuant to this Agreement, and may result in debarment from City's competitive procurement activities.

ARTICLE 9

MISCELLANEOUS

9.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the

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property of City, and, if a copyright is claimed, Second Party grants to City a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Second Party, whether finished or unfinished, shall become the property of City and shall be delivered by Second Party to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to Second Party shall be withheld until all documents are received as provided herein.

9.2 PUBLIC RECORDS

City is a public agency subject to Chapter 119, Fla. Stat. Second Party shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, Purchaser agrees to:

- 9.2.1 Keep and maintain all records that ordinarily and necessarily would be required by the City.
- 9.2.2 Provide the public with access to public records on the same terms and conditions that the City would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- 9.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- 9.2.4 Meet all requirements for retaining public records and transfer, at no cost, to the City all records in possession of the Second Party at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. All records shall be transferred to the City prior to final payment being made to the Second Party.
- 9.2.5 If Second Party 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.

9.3 INSPECTOR GENERAL

Second Party is aware that the Inspector General of Palm Beach County has the

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authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Second Party and its sub licensees and lower tier sub licensees. Second Party understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Second Party 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 this Agreement justifying its termination.

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9.4 AUDIT RIGHTS, AND RETENTION OF RECORDS

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

Second Party and its subcontractors shall preserve and make available, at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

Second Party shall ensure that the requirements of this Section 9.3 are included in all agreements with its subcontractor(s).

9.5 TRUTH-IN-NEGOTIATION REPRESENTATION

Second Party's compensation under this Agreement is based upon representations supplied to City by Second Party, and Second Party certifies that the information supplied is accurate, complete, and current at the time of contracting. City shall be entitled to recover any damages it incurs to the extent such representation is untrue.

9.6 PUBLIC ENTITY CRIME ACT

Second Party represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on

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leases of real property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by City pursuant to this Agreement, and may result in debarment from City's competitive procurement activities.

In addition to the foregoing, Second Party further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Second Party has been placed on the convicted vendor list.

9.7 INDEPENDENT CONTRACTOR

Second Party is an independent contractor under this Agreement. Services provided by Second Party pursuant to this Agreement shall be subject to the supervision of Second Party. In providing such services, neither Second Party nor its agents shall act as officers, employees, or agents of City. No partnership, joint venture, or other joint relationship is created hereby. City does not extend to Second Party or Second Party's agents any authority of any kind to bind City in any respect whatsoever.

9.8 THIRD PARTY BENEFICIARIES

Neither Second Party nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

9.9 NOTICES

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

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For City:

City Manager
City Hall
100 N.W. 1st Avenue
Delray Beach, Florida 33444

For Second Party:

9.10 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. In addition, Second Party shall not subcontract any portion of the work required by this Agreement, except as may specifically provided for herein. Notwithstanding the Termination provision of this Agreement, City may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by Second Party of this Agreement or any right or interest herein without City's written consent.

Second Party represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

Second Party shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Second Party's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to the best local and national standards.

9.11 CONFLICTS

Neither Second Party nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially

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antagonistic or incompatible with Second Party's loyal and conscientious exercise of judgment and care related to its performance under this Agreement.

None of Second Party'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 Second Party 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 Second Party is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Second Party shall require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as Second Party.

9.12 MATERIALITY AND WAIVER OF BREACH

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

9.13 COMPLIANCE WITH LAWS

Second Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

9.14 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Second Party elects to terminate this Agreement. An election to

EXHIBIT D

terminate this Agreement based upon this provision shall be made within seven (7) days of final court action, including all available appeals.

9.15 JOINT PREPARATION

The Parties and their counsel have participated fully in the drafting of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

9.16 INTERPRETATION

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

9.17 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 9 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 9 shall prevail and be given effect.

9.18 LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All Parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Fifteenth Judicial Circuit in Palm Beach County, Florida, and venue for litigation arising out of this

EXHIBIT D

Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, SECOND PARTY AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

9.19 AMENDMENTS

The Parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and Second Party or others delegated authority to or otherwise authorized to execute same on their behalf.

9.20 PRIOR AGREEMENTS

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

9.21 PAYABLE INTEREST

9.21.1 Payment of Interest. Except as required by the Prompt Payment laws, City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Second Party waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

EXHIBIT D

- 9.21.2 Rate of Interest. In any instance where the prohibition or limitations of Section 9.21.1 are determined to be invalid or unenforceable, the annual rate of interest payable by City under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

9.22 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties. All Exhibits are incorporated into and made a part of this Agreement.

9.23 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

9.25 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

(The remainder of this page is intentionally left blank.)

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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

City Clerk

By _____
Cary D. Glickstein, Mayor

_____ day of _____, 20____.

APPROVED AS TO FORM:

City Attorney

EXHIBIT D
AGREEMENT BETWEEN DELRAY BEACH, FLORIDA
AND

SECOND PARTY

WITNESS:

By _____
(Sign name)

(Sign name)

(Print name, Title)

____ day of _____, 20____

(Print name)

WITNESS:

(Sign name)

(Print name)

(SEAL)

EXHIBIT D
EXHIBIT A

SCOPE OF SERVICES

(Scope of Work as referenced in RFP 2016-040 as Exhibit A)

EXHIBIT D
EXHIBIT B

CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS

RFP/RLI/Bid/Contract No. _____

Project Title _____

The undersigned CONTRACTOR hereby swears under penalty of perjury that:

1. CONTRACTOR has paid all subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Section 4.2.3 of the Agreement, except as provided in paragraph 2 below.
2. The following subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or
Supplier's name
and address

Date of disputed
invoice

Amount in
dispute

3. The undersigned is authorized to execute this Certification on behalf of CONTRACTOR.

Dated _____, 20____

Contractor

By _____
(Signature)

By _____
(Name and Title)

EXHIBIT D

EXHIBIT D
CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS
(Continued)

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 20__.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed, or stamped

(Title or rank)

My commission expires:

(Serial number, if any)

EXHIBIT D
EXHIBIT C

INSURANCE REQUIREMENTS OF THE CITY OF DELRAY BEACH

Second Party shall not commence operations under the terms of this Agreement until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Delray Beach Risk Manager. If you have any questions call (561) 243-7150.

The following insurance coverage shall be required.

- A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute 440 and including Employers Liability coverage, regardless of the size of your firm. Second Party further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course and scope of their employment.
- B. General liability insurance with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate annually, providing coverage for Premises and Operations, Products and Completed Operations, Fire Legal Liability, and Personal and Advertising Injury Liability. Insurance Policies must be obtained through insurance companies that are authorized to transact business in the State of Florida by the Department of Financial Services, and they must carry a minimum rating of A.M. Best of A- as to management and VII as to financial size.
- C. Motor Vehicle Liability Insurance covering all vehicles associated with Second Party operations to include all owned, non-owned and hired vehicles.

The coverage will be written on an occurrence basis with limits of liability not less than \$1,000,000.00 combined single limit per each occurrence.
- D. The certification or proof of insurance must contain a provision for notification to the City thirty (30) days in advance of any material change in coverage, non-renewal or cancellation.

Second Party shall furnish to the City, Certificate(s) of Insurance evidencing insurance required by the provisions set forth above. If any of the above coverages expire during the term of this Agreement, Second Party will provide a renewal certificate at least ten (10) days prior to expiration.

Mail to: City of Delray Beach, Attn. Risk Manager, 100 N.W. 1st Avenue, Delray Beach, Florida 33444 with a copy to Assistant City Manager, 100 N.W. 1st Avenue, Delray Beach, FL 33444

Proposal Submittal Signature Page

By signing this Proposal/Bid, the Proposer/Bidder 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 Employer Identification Number:

Firm Name

Signature

Name and Title(Print or Type)

Date

By signing this document, the Proposer agrees to all terms and conditions of the solicitation and the resulting contract/agreement.

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

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

Name and Title(Print or Type)

Date

Each proposal must be signed by a Person who is legally authorized to bind the Proposer to the proposal.

All forms shall be executed by the same person.

Forms must be completed in their entirety.

Drug-Free Workplace

If identical tie bids exist, preference will be given to the vendors who submit a certification with their bid/proposal certifying they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. The drug-free workplace preference is applied as follows:

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

Firm Name

Signature

Name and Title(Print or Type)

Date

Conflict of Interest Disclosure Form

The award of this RFP/bid/contract is subject to the provisions of Chapter 112, Florida Statutes and Palm Beach County Ordinance Section 2-443. All proposers/bidders/contractors must disclose: 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/bidders/contractors 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/bidders/contractors 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 RFP/bid/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 as defined in Chapter 112, Florida Statutes and Section 2-443, Palm Beach County Code of Ordinances.

Acknowledged by:

Firm Name

Signature

Name and Title(Print or Type)

Date

Acknowledgment of Addenda

The Proposer/Bidder hereby acknowledges the receipt of the following addenda, which were issued by the City and incorporated into and made part of this RFP/Bid. The Proposer/Bidder acknowledges that it is solely responsible for ensuring that it is aware of, and in receipt of, all addenda.

ADDENDUM NUMBER	DATE RECEIVED	PRINT NAME OF AGENT	TITLE OF AGENT	SIGNATURE OF AGENT

Each proposal must be signed by a Person who is legally authorized to bind the Proposer to the proposal.
All forms shall be executed by the same person.
Forms must be completed in their entirety.

ADDENDUM NO. 1

RFP 2016-040 Debt Collection

February 2, 2016

TO ALL BIDDERS AND OTHERS CONCERNED

Contractors submitting proposals for the above-referenced project shall take note of the following changes, additions, deletions clarifications, etc., to the specifications which in accordance with the Bid Documents shall become a part of and have precedence over anything shown or described otherwise.

MODIFY

The mandatory pre-proposal meeting is hereby changed to an **optional** meeting. Proposers may attend by phone at the following:

Dial-in by phone: United States: (712) 832-8330

Access Code: 7793119

ADDENDUM NO. 2

RFP 2016-040 Debt Collection

February 2, 2016

TO ALL BIDDERS AND OTHERS CONCERNED

Contractors submitting proposals for the above-referenced project shall take note of the following changes, additions, deletions clarifications, etc., to the specifications which in accordance with the Bid Documents shall become a part of and have precedence over anything shown or described otherwise.

DUE DATE CHANGE

ACTIVITY	DATE
Due Date	February 26, 2016 at 2:00 PM

DELETE

18. Proposal Bond

Each proposal must be accompanied by a certified check, cashier's check, or a proposal bond in the amount of fifteen thousand dollars (\$15,000). The check or bond shall be made payable to the City of Delray Beach, Florida.

If the Successful Proposer fails or refuses to execute the Agreement or provide the necessary certificates of insurance, or Performance Bond following award, within the timeframes set forth herein, the City shall retain the entire proposal bond and disqualify the Proposer.

ADD

Performance Bond/Irrevocable Letter of Credit

The Proposer will execute and deliver to the City, within thirty (30) days after notification of award, a Cash Deposit, Performance Bond, or Unconditional Irrevocable Letter of Credit payable to the City, in the total amount of fifteen thousand dollars (\$15,000). If the bond is on an annual coverage basis, renewal of each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing bond. A surety company of recognized standing, authorized to do business in the State of Florida, and having a resident agent must execute the Performance Bond. If a letter of credit is chosen, it must be in a form acceptable to the City, drawn on a bank acceptable to the City, and issued in favor of the City. Acknowledgment and agreement is given by both parties that the amount herein above set is not intended to be or shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Proposer to the City in the event of a material breach of the Agreement by the Proposer.

The City shall monitor the performance of all proposers. If Proposer performance fails to meet the requirements specified within the contract, the City may without cause and without prejudice to any other right or remedy, terminate the contract whenever the City determines that such termination is in the best interest of the City.

QUESTIONS AND ANSWERS

- What are the anticipated placement volumes (number and amount)?
 - Approximately 500+ monthly accounts at an average of \$135,000.00
- What is the average balance of the accounts?
 - Parking average balance is approximately \$60.00
 - EMS average balance is approximately \$530.00
- What is the average age of the accounts?
 - 90+ days
- What is the placement frequency (monthly, daily, weekly)?
 - Varies depending upon account type
- What is the average placement dollar amount per account type?
 - EMS average monthly placement \$110,000.00
 - Parking average monthly placement \$25,000.00
 - Other account types unknown since this will be the first collection efforts.
- How long will each account be left with the successful vendor?
 - Life of the contract
- How long do we retain the accounts or do we maintain all accounts until the life of the contract?
 - Life of the contract
- How is market share between collection agencies determined (even distribution or performance based)?
 - To be determined based on RFP Results
- Can the currently liquidation/stair step history be shared with us?
 - The City has not tracked in this manner
- What is the current contingency rate being paid to existing collection vendors?
 - Between 15.25% and 25%, depending on type of account.
- Are we able to accept settlements, if so, at what percentage? If not, is there an offer in compromise process, and if so, what is that process?
 - See RFP – SCOPE OF WORK #8
 - Settlements sent to the City's Chief Financial Officer, or designee, should include proof of hardship, terms of extension, method of tracking and reporting extension payments, action taken if account defaults on extension.
- Is a legal route approved for uncollectable accounts? If so, is the contingency rate higher for legal accounts and/or are court costs paid up front by the DOR?
 - See RFP – WORK PRODUCTS REQUIRED #6
- Can any collection services be off-shored, or near shored? Are any support processes (non voice work) allowed off shore (posting, data transmissions, etc.)?
 - The City would prefer no off shore services.
- What percent of the accounts are bilingual, and what language are these typically?
 - The City does not track this information.

- What is the dispute process, and what is the turnaround time to receive backup documentation/debt validation?
 - Phone call or Email request with a 1-7 day turnaround of requested documentation.
- Do we have authority to report to the credit bureaus?
 - Yes, this is the City's strong desire and we are confirming with Legal to ensure that we can report all types of our receivables.
- What are the security and technology requirements to support this project?
 - See RFP – SCOPE OF WORK #2, #3 and #7.
 - See also RFP – WORK PRODUCTS REQUIRED #1, #4, #6, #7 and #8.
- Is the current work outsourced? If so, who is the incumbent? What is the current contingency fee paid?
 - Penn Credit receives 15.25%-25% depending on account type.
- P 17 #15 Proposer shall be qualified to effect collection services in all 50 states and Canada Proposer shall submit evidence of required licenses and business permits. Question, will Delray Beach RFP relax this section or mandate that the bidder be license as stated above?
 - If proposer is unable to effect collection services outside of the US, proposer may subcontract these services and include subcontractor evidence of required licenses and business permits.
- P 15 #2B If permissible by law, proposer will add the applicable collection fee to each debt owed to the City. The City will not be responsible for paying the Proposer's fees. Question, Are there any debt types not permissible by law to add applicable fees, if so please list or state
 - Confirmation of adding on applicable collection fees resides with our legal department.
- Exhibit B to the RFP is the form on which the pricing should be provided. Would the City entertain an alternative pricing and payment model that would be detailed in the comments section of Exhibit B, or would an alternative pricing and payment model classify the response as "non-conforming"?
 - Vendors must submit pricing via Exhibit B Schedule of Pricing.
- Proposal Bond: Would the City relax the requirement of the Bond to be provided by the Successful Bidder within a certain number of days, if not extinguishing the requirement all together as this is not typical for this service.
 - The City will waive the Proposal Bond requirement. The City will require a Performance Bond upon execution of the contract.
- Would the City consider awarding points for local, small, woman owned, diversified businesses?
 - Please refer to City Ordinance Section 36.14 Local Business Preference.
- Would the city entertain awarding two contracts: specifically: one to manage the debtors in Florida and one to manage the out of state, Canadian accounts?
 - **AWARD OF BID:** The City of Delray Beach reserves the right to accept any Bid or combination of Bid alternates which, in the City's judgment will best serve the City's interest, reject any and all Bids, to waive any and all informalities and/or irregularities, and to negotiate terms with the Successful Bidder, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. The City reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, and to award the purchase in the best interest of the City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit price. Discrepancies

between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

- Multiple questions about the 50 States and Canada. Would the city entertain an alliance between agencies to fulfill the total needs of Delray?
 - **AWARD OF BID:** The City of Delray Beach reserves the right to accept any Bid or combination of Bid alternates which, in the City's judgment will best serve the City's interest, reject any and all Bids, to waive any and all informalities and/or irregularities, and to negotiate terms with the Successful Bidder, and the right to disregard all non-conforming, non-responsive, unbalanced or conditional Bids. The City reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, and to award the purchase in the best interest of the City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit price. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- Please breakdown the estimated debt by department? Current liquidation?
 - See above.
- Who is the current agency and what is the current rate(s)?
 - See above.
- Would the City entertain monthly remittance vs weekly?
 - Yes, the City would entertain monthly remittance.
- Would the city relax the requirement to view online banking trust accounts as funds are co-mingled?
 - Yes, the City would relax the requirement to view online banking trust accounts, provided sufficient reporting of all collections and payments to the City.
- In what section should we insert and respond to Exhibit A?
 - Chapter 5: Proposer's Response
- What information should be included in Chapter 2, Proposer's Statement of Organization?
 - Legal name, address, Telephone number, Fax number, E-mail address, Web page address, etc. of the proposer, together with legal entity (corporation, partnership, etc.) Firm must be established as a legal entity in the State of Florida. Provide hours of operation; Years in business; State whether the firm is local, regional, or national; Give a list of owners and/or partners and managers of the firm. Include names, addresses and phone numbers; any additional information that your firm wishes to supply to augment its proposal.
- Exhibit A, Scope of Work, #2 b). Can the City provide copies of the consumer's knowledge and consent that collection fees will be assessed to their accounts if assigned to a collection agency. If not available, can you please provide the Florida law that would allow the City to assess collection costs?
 - Confirmation of adding on applicable collection fees resides with our legal department.
- Does the City require both electronic and paper response?
 - No. Please submit your electronic proposal via www.bidsync.com or paper proposal via mail or in person.

ADDENDUM NO. 3

RFP 2016-040 Debt Collection

February 24, 2016

TO ALL BIDDERS AND OTHERS CONCERNED

Contractors submitting proposals for the above-referenced project shall take note of the following changes, additions, deletions clarifications, etc., to the specifications which in accordance with the Bid Documents shall become a part of and have precedence over anything shown or described otherwise.

DELETE

Accordingly, in Phase One, the Selection Committee will determine whether each Proposer correctly submitted and completed all of the necessary forms, documents, and information.

ADD

Accordingly, in Phase One, the Chief Purchasing Officer or designee will determine whether each Proposer correctly submitted and completed all of the necessary forms, documents, and information.