



**CITY OF MARGATE
5790 MARGATE BOULEVARD
MARGATE, FLORIDA 33063**

**REQUEST FOR PROPOSAL
RFP NO. 2023-012
PREQUALIFICATION FOR GENERAL CONSTRUCTION, RENOVATIONS, AND
REPAIRS SERVICES**

PROPOSAL SUBMISSION DATE: Tuesday, September 12, 2023

PROPOSAL SUBMISSION TIME: 11:00 am

**ALL PROPOSALS MUST BE RECEIVED BY THE PURCHASING DIVISION PRIOR
TO THE DATE AND TIME SPECIFIED ABOVE**

REQUEST FOR PROPOSAL
RFP NO. 2023-012
PREQUALIFICATION FOR GENERAL CONSTRUCTION, RENOVATIONS, AND
REPAIRS SERVICES

The City of Margate Department of Environmental and Engineering Services (DEES) is seeking to pre-qualify area general contracting firm(s) to provide general construction, renovations, and repairs services. To submit for consideration the proposer is required to possess the State of Florida General Contractor License.

This is a formal request for pre-qualification, not an offer by the Department of Environmental and Engineering Services (DEES) to contract with any firm(s) responding to this solicitation. The Department of Environmental and Engineering Services (DEES) expects to select one or more firm(s) that best meet the need to supply general construction contractors, renovations, and repairs services. Additionally, this solicitation may be used for future unidentified projects for various City departments.

I. PURPOSE:

The City of Margate is interested in entering into agreements with a minimum of 3 and a maximum of 10 qualified General Construction Firm(s) to provide general construction, renovations, and repairs services, which include but are not limited to new construction and installations, existing building renovations and repairs, or emergency services calls for repairs on an as-needed basis.

The period for awarded firm(s) to remain on the pre-qualified general contractor's list will be for an initial period of one (1) year with the opportunity for two additional two-year renewals based on the review of services provided during the prior years and the agreement of both parties. The evaluation of each applicant's submittal will be based on its display of overall competence, compliance, format and organization as it relates to the defined criteria for this solicitation.

If mutually agreeable, the City reserves the right to consider extending the Agreement for two-year periods for a total agreement of 5 years as permitted by law. In the award of this bid renewal, the City will consider the amount of the price increase stated by the proposer as a factor and will compute accordingly. A price increase, if exercised, shall be fully justified by the proposer and proved by a test of the market and/or submission of documents.

Pursuant to this Request for Proposal ("RFP") package and in compliance with Florida Statutes Section 287.055, 2 Code of Federal Regulations (CFR) Part 200, and all other applicable Federal, State and local regulations, and the rules and regulations of all authorities having jurisdiction over any part of the services provided under this RFP, the

CITY seeks to identify firms with substantial experience and capabilities to perform general construction, renovations, and repair services.

This Proposal is being solicited in accordance with the Procurement Requirements for Federal grants, as provided for in Title 2 Code of Federal Regulations (CFR) Part 200 in order to be eligible for reimbursement under the Public Assistance Program.

Services will include all work efforts necessary to complete a project, including permits, parts, equipment, labor, and materials to construct, renovate or repair the original or to new design specifications or conditions acceptable to DEES and the City. The Contractor(s) will perform all required administration, management, and quality assurance to ensure the proper execution of construction, renovations, and repairs projects. All work performed shall be coordinated with the DEES Project Manager (PM) or designee as applicable to the location of the work.

These services are to be performed principally for the Department of Environmental and Engineering Services; however, other Departments within the City may request general construction and repair services.

The City will require “project quotes” for any and all work required under this Agreement at its sole discretion. The City reserves the right to award the task or project to the Contractor offering the most favorable quote (as determined by the City). It is important to note that the most favorable quote may not offer the lowest price. The City may evaluate the quote based on several factors, including the starting and completion dates provided by the Contractor(s) with their quote for that task or project, parts and materials quality, and its subsequent effect on the task or project.

For non-emergency work, the Contractor(s) must physically report to the work site within one (1) month of written notification from the City’s Department, hereinafter Project Manager (PM), to complete a written quotation based on the agreement pricing of the work to be performed. The PM shall review the written quotation of work to be performed and determine that the work specified aligns with the work needed. The PM must approve all materials and supply sources incorporated into work before use on each job. Materials incorporated in the work that has not received prior approval by the PM shall be at the Contractor’s expense and not paid for by the City. The quote shall include estimated labor, equipment, material cost(s), a brief description of the work to be completed, and the project location. Written quotations may be e-mailed to the PM, (TBD).

For emergency work, the Contractor(s) must physically report to the work site within twenty-four (24) hours of verbal notification from the City’s PM to complete any necessary emergency repair work needed to secure/alleviate the emergency. The PM must approve all materials and sources of supply incorporated in work for use on each job. Materials incorporated in the work that has not received approval by the PM shall be the Contractor’s expense and not paid for by the City. The contractor will provide the

PM with a quote if additional work should be completed after the emergency service call. The quote shall include estimated labor, equipment, material cost(s), a brief description of the work to be completed, and the project location. Written quotations may be e-mailed to the PM (TBD).

If the Contractor(s) foresees that he/she will exceed the original estimate in the quotation, he/she must notify the PM for approval before proceeding with any additional work. The City shall not pay for additional work the Contractor performs without the City's approval.

Due to certain locations within the City, employees must have the ability to pass a background check and work unsupervised.

The Contractor shall provide a minimum of one (1) year warranty on installed equipment following substantial completion or as recommended by the manufacturer to meet project closeout requirements; and shall make good any defects that may occur during that period. If the manufacturer specifies any special guarantees in excess of the year period, these guarantees shall take precedence over the year period guarantee. Upon completion of work, and before final payment or release of retainage, submit and obtain general warranties from each subcontractor, material supplier, and equipment manufacturer.

The contractor shall include an hourly price rate and overtime rate for "on-call service" to perform repairs on the equipment or systems. The contractor shall provide a price for a percentage of the markup of materials. The manufacturer's or supplier's invoice shall be attached to any bill submitted for materials.

II. MINORITY / WOMEN'S / LABOR SURPLUS FIRMS PARTICIPATION:

The CITY, in accordance with the requirements as stated in Title 2 CFR 200.321 encourages the active participation of minority businesses, women's business enterprises and labor surplus area firms as a part of any subsequent agreement whenever possible. The prime contractor must take affirmative steps and if subcontracts are to be let, through a prime contractor, that subcontractor is required to also take the affirmative steps listed in items (1) through (5) below.

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirements permit, which encourage participation by small and minority businesses, and women's business enterprises; and

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

III. PROPOSED PROJECT LIST:

The Department of Environmental and Engineering Services (DEES) proposed project list of upcoming projects is included below. Services requests will be given on an "as needed" basis. The Department of Environmental and Engineering Services or the City reserves the right to add a new project(s) to the list or remove project(s) from the list at any time.

The Contractor's attention is called to the fact that the quantities given are estimated quantities and in no way bind or limit the City to the actual amount of work or service to be performed or the quantity of material to be furnished. Any estimates of quantities provided by the City are approximate only and have been used by the City as a basis for estimating the cost of the work and will also be used for the purpose of tabulating and comparing the proposal and awarding the Agreement.

Proposed Projects List:

A. Modifications of already constructed buildings, including expansion of the existing operations room, and all system upgrades to support the existing and new space layout. The scope of work outlines structural building renovations and upgrades, interior renovation, drywall, concrete work, stucco, roof, impact-resistant windows, and doors replacement, new AC units and duct work, electrical, mechanical, and plumbing work, new furniture and fixtures, and other. The scope of work outlines the order of priorities in regard to building upgrades. Of the 37,000 SF facility, the renovation areas will be limited to the high-priority upgrades and the spaces considered to be in poor condition to ensure the partial continuation of operations throughout all phases of construction. First and foremost are the areas deemed critical and in need of immediate upgrades:

- Distribution Building – Offices, Restrooms and Shop area (approx. area 1,300 square feet). The renovation shall redesign ADA-accessible restrooms (4 to 5 toilets, 4 to 5 showers, trough sink) and to provide a kitchen, breakroom, locker room, storage and office space. The space shall be designed to accommodate operable partition to allow for the flexibility of rooms.

- WTP Control Room Building – Offices and Restrooms (approx. area 2,980 square feet). The renovation shall redesign ADA-accessible restrooms (4 to 5 toilets, 4 to 5 showers, trough sink) and to provide kitchen, breakroom, locker room, storage and office space.
- WWTP Control Room Building - Offices and Restrooms (approx. area 2,980 square feet). The renovation shall redesign ADA-accessible restrooms (4 to 5 toilets, 4 to 5 showers, trough sink) and to provide Pantry Kitchenette, storage and office space.
- WTP High Service Pump Building renovations – structural repairs of existing walls and roof, windows and doors replacements, installation of AC unit, and duct work to provide cooled air for electrical equipment.
- WWTP Break Room Building Expansion - the exterior area in the West side of the existing building shall be utilized to enlarge the existing kitchen, break room, restrooms and locker area. The new space arrangement shall provide more showers and locker space for employees. The extended space shall redesign ADA-accessible restrooms (4 to 5 toilets, 4 to 5 showers, trough sink) and provide a kitchen, breakroom, locker room, storage, and office space.
- Other general construction renovations and repairs as needed for DEES, and other City departments.
- **This solicitation may be used for future unidentified projects for various City departments.**

A. New prefabricated building for storage. The construction of the large conglomerate building included designing commercial buildings which offices, restrooms, and break room accommodations to provide space for equipment and a working shop, aesthetically appealing, reliable, and flexible for possible future demands.

IV. SCOPE OF SERVICES:

The selected General Contractor(s) will provide all necessary labor, parts, materials, equipment, and supervision to complete construction projects in compliance with applicable building codes and regulations. The scope of work may include new construction, renovation, repairs, and maintenance projects across various DEES facilities, including but not limited to Water Treatment Plant Facilities, Wastewater Treatment Plant Facilities, Pump Stations, Administration, and other government facilities. To complete the project, the selected Contractor(s) must be prepared to perform any and all of the general construction-related services described below, including permitting, architectural, structural, plumbing, mechanical, electrical, fire protection, management, and

administration, coordination of subcontractors and others, from pre-construction planning and design to final construction and project closeout.

The scope may require to furnish or provide Furniture, Fixtures, and moveable Equipment ("FF&E"). FF&E procurement schedule to be developed by the Contractor subject to the Department's specification, agreement and acceptance. All security and Operations Room workstations shall be Government Furnished, Government Installed unless otherwise noted.

The City Department on a project-by-project basis, depending on the needs of each project, would determine the exact scope for each project. The scope may include implementing the Department's drawings and specifications for the site and providing all materials and services necessary to complete the project. Minor variations or scope adjustments necessary to accommodate the site conditions will not be the basis for a change order. Contractor(s) should include a contingency appropriate to cover adjustments typically encountered on jobs of this nature in their bid prices.

Subject to each task assignment, in general, the firms may be required to provide:

1. Pre-Construction Services:

- Develop project budgets, schedules, and construction timelines
- Assist with the selection of architects and engineers
- Provide constructability reviews and value engineering recommendations
- Conduct site investigations and surveys
- Assist with developing bid packages/RFPs

2. Assist in Design-Build Services:

- Collaborate with architects and engineers to develop design concepts
- Provide detailed cost estimates and value engineering options
- Provide construction documents and specifications
- Obtain necessary permits and approvals
- Conduct constructability reviews

3. Construction Services:

- Provide on-site management and supervision
- Ensure compliance with all applicable building codes and regulations
- Manage subcontractors and suppliers
- Conduct quality control inspections and testing
- Manage project schedules and budgets
- Provide regular progress reports and project updates
- Coordinate with owners, architects, and other stakeholders

4. Post-Construction Services:
 - Conduct final inspections and punch-list walkthroughs
 - Obtain final certificates of occupancy and close-out permits
 - Provide training and maintenance manuals to owners
 - Provide warranty and maintenance services as required

V. QUALIFICATIONS:

The general contractor must have extensive experience providing construction services on industrial-scale projects and demonstrated ability to deliver projects on time and within budget. The contractor shall have at least five (5) years of experience in general construction-related work. The contractor must possess the State of Florida General Contractor License and have all necessary permits and certifications to perform the required work. The contractor must also be insured with liability and workers' compensation insurance as required by state law. The contractor must have a solid safety record and a strong job site safety commitment.

VI. CONSTRAINTS ON THE SUCCESSFUL CONTRACTOR:

When requested by the City, a lump sum or cost proposal based on a list of items/tasks provided by the City shall be submitted, including all labor, parts, materials, equipment, and sub-contractors required to complete the project. The City may request a cost proposal for a specific task from multiple Contractors to determine the lowest cost task proposal.

At its sole discretion, the City reserves the following rights:

1. To perform any work at any site utilizing "in-house/City personnel" for any project;
2. To issue a new solicitation for projects outside the scope of the specifications listed herein at any one or more project sites, separate from this RFP;
3. To obtain the work from any source, if, for any reason, the Awarded Contractor(s) cannot complete the services within the parameters required by the City.
4. Unless otherwise authorized in writing, the contractor will not be permitted to work on holidays observed by the City of Margate, the State of Florida, or Sundays.
5. In case of an emergency that may require work to be done on Saturdays, Sundays, or Holidays, the contractor shall request permission from the City of Margate to do so. If, in the City's opinion, the emergency is bonafide, permission may be granted to the

contractor to work such hours as necessary. Also, if a bonafide emergency exists in the City's opinion, the contractor may be directed to work such hours as necessary whether or not the contractor requests permission. The contractor will be allowed to work eight (8) hours daily, Monday through Friday, except for holidays, 52 weeks per year. The contractor shall pay for all costs incurred for inspection services required for work permitted during holidays, weekends or in excess of eight (8) hours per day.

VII. CONTRACTORS RESPONSIBILITY:

It shall be the Contractor's responsibility to schedule and coordinate all work to be performed under this Agreement to insure continuous and smooth operations of the work and completion within the times specified in the scope of work.

It shall be distinctly understood that failure to mention any work by the City, which would normally be required to complete the project, shall not relieve the Contractor(s) of his/her responsibility to perform such work.

The Contractor shall supply all labor, parts, materials, equipment, insurance, permits, etc., necessary to perform the mentioned work. At the completion of the project, the Contractor is responsible for the removal and proper disposal of all debris, etc., associated with their work on the project.

It is the Contractor's responsibility to perform all work professionally and maintain high quality.

It shall be the Contractor's responsibility to furnish all materials in new condition as per the project documents. The Contractor is responsible for ensuring all materials are in accordance with the project specifications. The City reserves the right to reject any materials, or equipment observed to have been repaired without the consent of the City, to be damaged or defective, or not in compliance with the agreement documents at any time during the agreement period.

It shall be the Contractor's responsibility to obtain all necessary permits through City Department of Permits and Inspections and to follow all requirements of the permits.

VIII. PROTECTION OF EXISTING UTILITIES

The attention of the Contractor(s) shall be directed to the potential presence of water, sewer mains, electrical wires, conduits, communication cables (both overhead and underground), poles and house service connections on each project site. The Contractor(s) shall exercise special care and extreme caution to protect and avoid damage to such utilities.

The Contractor(s) is responsible for having all utilities located with sufficient accuracy to ensure their safety and the safety of those within the area of the project.

The Contractor(s) shall not begin any excavation without first notifying each and every public service agency that may or may not have underground or embedded facilities within the area of the project, at least forty-eight (48) hours prior to the commencement of this work (not including weekends and holidays).

There will be no measurement or direct payment to the Contractor(s) for working around, protecting, or repairing damaged utilities caused by the proposed maintenance and/or Repair activities.

If the Contractor(s) damages any utility, they shall immediately notify the PM and the affected utility owner. The Contractor(s) shall ensure the safety of workers and others around the site. The Contractor(s) shall protect the damaged utility from further damage until a representative from the affected utility arrives to make a site assessment. The Contractor(s) shall fully cooperate with the representative of the affected utility to restore it to a condition equal to or better than the condition that existed just prior to the incident, in a timely manner. The utility owner may repair the damage with its own forces, sub-contractors, or the Awarded Contractor(s) on this project. In all cases, the Contractor(s) is liable for all costs of the repair of the damages to the satisfaction of the affected utility owner.

The Contractor(s) will notify the PM immediately by telephone of any unexpected emergency, subsurface, or latent physical condition found, along with the recommendations for dealing with the matter. Any changes found necessary by the City or the Contractor(s) not covered under the original scope of work, specification, or drawing(s) shall be jointly agreed upon by the Contractor(s) and City. Any additional services or costs associated with the task/project must be submitted in writing by the Contractor(s), and an amendment to the purchase order must be made and approved by the City before the work can proceed. The City assumes no responsibility for oral/verbal communications, instructions, or suggestions.

IX. SUB-CONTRACTORS:

The Contractor(s) may not sub-contract more than fifty percent (50%) of the work assigned under this Agreement. If the Contractor sub-contracts any portion of the work, an employee of the Contractor(s), qualified in the labor skills required for the work being performed, must be overseeing and directing the work on the job site at all times that the sub-contractor is conducting work. Any work subcontracted for equipment and/or trucks and their operators is paid for by the agreement pay items for the specific equipment and/or trucks and the equipment operator.

The Contractor may subcontract any portion of the work assigned under this Agreement if the work is not within the trade or scope of work (i.e. structural, foundation repairs, etc.). These sub-contractors will be referred to as "specialty sub-contractors". The City

shall reimburse the Contractor(s) for their costs for the “specialty sub-contractors” labor, equipment, and materials, plus overhead and profit.

For all sub-contracted work, the Contractor must bind any sub-contractors by the same terms, conditions, responsibilities, and obligations assumed by said Contractor(s) to the County.

Before starting any work, the contractor (s) shall submit a list of sub-contractors they intend to employ and utilize for each task. Prior to their use by the Awarded Contractor(s) in any project, all sub-contractors must be approved by the City. The responsibility for updating this list is the Awarded Contractor's; utilization of a City non-approved sub-contractor is grounds for suspension or termination.

Without the County's written consent, the Awarded Contractor(s) shall not assign any money payable under the Agreement.

X. EQUIPMENT

All equipment required to perform standard/typical work under this Agreement shall be provided by the Awarded Contractor(s) and shall normally be available.

The Awarded Contractors' equipment shall be in good working condition and conform to all required safety standards.

All associated rental charges for equipment used by the Awarded Contractor(s) are considered overhead and shall be included in the hourly rates submitted as part of this RFP and shall not be considered an extra expense.

Use of City equipment is prohibited.

XI. SCHEDULE OF OPERATIONS:

In developing project schedules, the contractor will make reasonable accommodations for weather delays and shall reflect federal, state, County or City-observed holidays. Work is prohibited on Saturday or Sunday unless prior authorization is requested in writing and received from the Department.

The standard work week is Monday through Friday, between the hours of 8:00 am to 6:00 pm, and the contractor shall schedule their operations accordingly.

The contractor must provide an updated schedule with each periodic estimate. Payment of periodic estimates will not be approved unless an updated schedule is submitted.

XII. APPROXIMATE QUANTITIES:

The Contractor's attention is called to the fact that the quantities given are estimated quantities and are in no way bound or limit the City to the actual amount of work or service to be performed or the quantity of material to be furnished. Any estimates of quantities provided by the City are approximate only and have been used by the City as a basis for estimating the cost of the work and will also be used for the purpose of tabulating and comparing the proposal and awarding the Agreement.

XIII. TRANSPORTATION:

Prices quoted shall be net, including transportation and delivery charges fully pre-paid by the seller, f.o.b. destination (City designated area). No additional charges for packing, packages, or partial delivery costs will be allowed. By submitting their quote, all Contractors certify and warrant that the price offered for f.o.b. destination includes only the freight rate cost as at the lowest and best rate and based upon the actual weight of the goods shipped. Standard commercial packaging, packing, and shipping containers will be used, except as otherwise specified.

XIV. WARRANTY:

The Contractor shall warrant all work for one (1) year or the standard warranty of the manufacturer, whichever is longer for workmanship and materials, dating from the time of acceptance of the project, and shall make good any defects that may occur during that period. Failure to correct warranty issues promptly and to the satisfaction of the Department on this or other agreements may result in finding the Contractor non-responsive for future contracts/bids. Upon completion of work, and before final payment or release of retainage, submit, and obtain from each subcontractor, material supplier, and equipment manufacturer general warranties.

XV. ORDER OF PRECEDENCE FOR AGREEMENT DOCUMENTS:

In the event of a conflict between the quality of the work as called for by the Agreement Documents, the City shall have the right to insist upon the delivery of the strictest requirements, the highest quality, or the highest quantity at no additional cost to the City.

XVI. ANNULMENT OF AGREEMENT:

Should the Contractor(s) fail to satisfy fully, or to comply with orders of the City, or to perform a new such work that has been rejected as defective and unsuitable, or if the Contractor(s) shall become insolvent or be declared bankrupt or shall make an assignment for the benefit of creditors or from any other cause shall not carry on the work in an acceptable manner, the City shall have the right to annul its Agreement and all Departmental Agreements with the Contractor at the City's convenience.

XVII. PERSONAL LIABILITY OF PUBLIC OFFICIALS:

In carrying out any of the provisions of this Agreement or exercising any power of authority granted herein, there shall be no personal liability upon the City or its authorized representative(s); it is understood that in such matters, they act as the agent or representative of the City.

XVIII. THE SUBMITTAL PACKAGE:

The CITY has prepared the following compilation of instructions in the RFP in order to minimize costs and response time and to ensure the RFP response is designed to provide the necessary information about the firm. Each submittal must include the attached checklist labeled "Exhibit A". This checklist must appear immediately after the cover letter. To ensure that all submittals can be evaluated on an equitable basis, the RFP requires each respondent to provide the requested information in a prescribed format and organization that excludes supplemental materials. Any supplemental information included with the response must appear after the required materials and tabbed "Additional RFP Information", or under separate cover. The submittal package should be organized as listed below with one tab for each item.

The submittal package must be organized in the following manner:

- 1. Transmittal Letter** – This is to be an up to two-page document to transmit the RFP package. The letter shall provide the name, title, address and telephone number of the official corporate contact, and an alternate. These individuals shall have the authority to bind the consulting firm and shall be available to attend appropriate meetings (two pages maximum, single sided).
- 2. Check List (Exhibit A)**
- 3. Corporate History** – Briefly describe the corporate history of the company. Also, describe the corporate history of any joint ventures or key sub consultants proposed for any of this type of project. Firms that are short-listed may be required to submit audited financial statements to demonstrate current financial condition and stability that will become public information as provided in Chapter 119, Florida Statutes (up to two pages maximum, single sided).

Corporate Qualifications – Summarize relevant corporate experience that demonstrates specific knowledge of similar projects and services completed within the last five years in Florida. Provide a short description of the qualifications of specific people assigned to this project as they relate to the type of work to be performed.

Financial Stability – Each Contractor shall certify and provide a statement that it is financially stable and has the necessary resources, human and financial, to provide the services at the level required by the City. Each Contractor shall be prepared to supply a financial statement upon request. If a subcontractor or joint venture arrangement is being proposed, provide similar information for those

participants in the Proposal. Provide clear and sufficient information that will provide insight to the City about the financial qualifications, fitness, and stability of the Contractor.

- 4. Project Team** – Identify key personnel and their qualifications for these services and describe qualifications of assigned support personnel. This should be summarized in two pages, single sided maximum. In addition, attach a one page current organization chart (not counted as part of the page limit). All resumes, if included, should be included under “Additional RFP Information” tab.)
- 5. Personnel Assigned** – Personnel proposed for the project, including all sub-consultants, must be identified and their qualifications provided.
- 6. Professional Registration** – All submittals must include a copy of the Certificate of Authorization for the firm, including all sub consultants if applicable, issued by the State of Florida authority.
- 7. Project Management** - Describe project management approaches to address: communication needs of the team, how key decisions will be made, how conflicts will be resolved, how coordination will be handled with other entities (government, utilities, etc.) and how schedule and budget will be managed.
- 8. Proof of Insurance** – Proof of professional liability insurance and errors and omission insurance, auto, workers compensation or proof that the required insurance will be provided at the time of selection (Refer to Section XXI – Insurance).
- 9. Offeror’s Certification**
- 10. Offeror’s Qualifications Statement**
- 11. Scrutinized Companies Certificate**
- 12. Non-Collusive Affidavit**
- 13. Drug-Free Workplace Program Form**
- 14. Byrd-Anti Lobbying Certification**
- 15. Statement of Compliance**
- 16. E-Verify Form**

XIX. SUBMISSION REQUIREMENTS:

1. The City of Margate Purchasing Division will accept sealed Qualification Proposals until 11:00 AM, local time, Tuesday, September 12, 2023. RFP packets will be received in the Office of the Purchasing Division, City of Margate, City Hall, Finance Department, Second Floor, 5790 Margate Boulevard, Margate, Florida 33063. Proposals received prior to the date and time above will be considered. Proposals received after the date and time will not be considered and will be returned to the firm(s) unopened.
2. Interested firms shall submit one (1) original and five (5) copies of the proposal (**NO THREE (3) RING BINDERS**), as well as an electronic copy (flash drive or disk – do not send via e-mail) of the complete submittal, no later than the date and time as stated above. The original and five (5) copies must be bound or in binders on 8.5" x 11" white paper with tabbed/identified sections as stated in Section XVIII – The Submittal Package. The proposal packages shall be sealed and clearly marked on the outside "RFP 2023-012 General Construction, Renovations, and Repair Services" and addressed to the Purchasing Division at the address above. Respondents desiring to submit a proposal should carefully review the instructions and other related sections of the RFP Compliance with all requirements shall be solely the responsibility of the Respondent.
3. By submitting a proposal, the Proposer certifies that they have fully read and understood the proposal method and have full knowledge of the scope, nature, and quality of work to be performed.
4. **NO FAXED OR ELECTRONICALLY SUBMITTED PROPOSALS WILL BE ACCEPTED.** It shall be the sole responsibility of the Proposer to have their proposal delivered to the City of Margate Purchasing Division, Finance Department, Second Floor, City of Margate City Hall, 5790 Margate Boulevard, Margate, FL 33063 prior the date and time specified.
5. Proposers may withdraw their proposals by notifying the Purchasing Division in writing at any time prior to the scheduled opening. Proposers may withdraw their proposals in person or through an authorized representative. Proposers and authorized representative must disclose their identity and provide a receipt for the proposal. Proposals, once opened, become the property of the CITY and will not be returned to the Proposers.
6. The Offeror's Certification form shall be signed by an authorized company representative.

In accordance with the American with Disabilities Act (ADA) this document may be requested in an alternate format.

XX. ADDENDA, ADDITIONAL INFORMATION:

All questions and requests for additional information in connection with this Request for Proposal (RFP) shall be directed in writing or by email to Kelly McGilvray Buyer II, 5790 Margate Boulevard, Margate, FL 33063. Fax number (954) 935-5328. Email purchase@margatefl.com.

Any addenda or answers to written questions supplied to participating proposers shall become part of the Request For Proposal and the resultant agreement.

If you have received this RFP packet from a source other than directly from the City of Margate Purchasing Division, you are not registered. All interested parties must register with the City of Margate Purchasing Division office (address for submission of qualifications) in order to receive any changes, additions, addenda or other notices concerning this project. Contact the Purchasing Division at (954) 935-5346 or by email to purchase@margatefl.com. Include in the subject line "RFP 2023-012 and description"

No negotiations, decisions or actions shall be initiated by the Proposer as a result of any discussions with a CITY employee. Only those communications which are in writing from the Purchasing Division may be considered as a duly authorized expression. Also, only communications from Proposers, which are signed and submitted in writing will be recognized by the CITY as duly authorized expressions on behalf of the Proposer. It is the Proposer's responsibility to contact the Purchasing Division at (954) 935-5346 (prior to the date and time for submission) to determine if any addenda have been issued.

XXI. INSURANCE REQUIREMENTS:

The awarded Proposer shall procure and maintain at its own expense and keep in effect during the full term of the Agreement a policy or policies of insurance which shall be determined by the CITY prior to agreement. Additionally, any subcontractor hired by the awarded Proposer for this Agreement shall provide insurance coverage as well.

The City of Margate (CITY) shall be named "additional insured" under the appropriate policies. Awarded Proposer agrees to provide the CITY a Certificate(s) of Insurance evidencing that all coverage, limits and endorsements required are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum of thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.

The Certificate Holder address shall read:

1. FOR CITY
City of Margate
Purchasing Division
5790 Margate Boulevard
Margate, FL 33063
Re: RFP 2023-012
2. The required insurance coverage shall be issued by an insurance Company, duly authorized and licensed to do business in the State of Florida, with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide:

Financial Stability to A+
3. Insurance Companies selected must be acceptable to CITY and CITY. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the CITY by certified mail.

XXII. EVALUATION AND SCORING:

The selection process consists of evaluation and scoring by the Selection Committee. Each category will be scored and when the scores awarded for all categories are totaled, the scores will be tabulated and added to achieve the Total Points and Weighted Score awarded to each firm. Both criteria will be used to rank each firm one, two, three, etc. The ranking of each firm will be tabulated from each Committee Member and combined with other Committee Members to determine the total score and weighted score for the firm.

1. Firm's experience in South Florida.
2. Firm's personnel qualifications.
3. Firm's governmental experience.
4. Firm's approach to project management.
5. Firm's resources, personnel availability and commitment.

Failure to respond to all the items listed above will result in a lower overall score and may hinder a firm's chance of being selected.

The Scoring Criteria is made up of the categories above that collectively represent a Grand Total Point Value of 100 points, as described herein. The points indicated below as "Points Possible" are the maximum that can be allocated for each category. The

point value shall be the basis of establishing a finalist list of the top ranking RFP submittals.

Firm Experience: The firm will be expected to demonstrate its past experience and track record in delivering successful construction, renovation, and repair services, with particular attention given to projects completed with other local government agencies. It may consider factors such as the number of years in business, relevant certifications and licenses, technical expertise, and examples of completed projects.

Firm's Personnel Qualifications: The firm shall name the actual Project Manager assigned to the City and other key staff to be assigned to projects, describe their ability and experience and indicate the function of each individual within the organization and their proposed role on City projects. This may include the firm's possession of relevant licenses plumbing, electrical, HVAC/mechanical and any other licenses required for the specific project.

Firm's Governmental Experience: The firm shall detail experience with other governmental agencies, including compliance with legal and regulatory requirements, such as licensing, insurance, permits, and other necessary certifications. It ensures that the contractor operates within the law and can fulfill all legal obligations associated with the project. It assesses the contractor's reputation, client satisfaction levels, and the quality of their previous work. This criterion provides insights into the contractor's reliability, professionalism, and ability to build and maintain positive relationships with clients.

Firm's Approach to Project Management: The firm shall detail methodology, approach and strategies to be utilized in managing projects including, but not limited to, coordination with other governmental agencies and other utility companies to carry out the construction, renovation, or repair work. It assesses the contractor's understanding of the project scope, their ability to meet the specifications, and their proposed solutions to potential challenges or issues that may arise during the project.

Firm's Resources, Personnel Availability and Commitment: The firm shall demonstrate a commitment to completing project on time and within budget. Firm must also demonstrate flexibility to complete projects per client's specifications. This may include specialties such as concrete work, drywall installation, tile installation, painting, masonry/structural/concrete and other relevant skills required for the project. Assessing the qualifications of the contractor's staff ensures the availability of competent individuals to perform the necessary tasks. Also evaluates the contractor's capacity to take on the project in terms of their workforce, equipment, and availability of resources. It ensures that the contractor has the necessary manpower, specialized skills, and equipment to execute the project effectively and within the proposed timeline.

EVALUATION CATEGORIES	POINTS POSSIBLE
1. Firm experience in South Florida	25
2. Firm's personnel qualifications	30
3. Firm's governmental experience	20
4. Firm's approach to project management	15
5. Firm's resources, personnel availability and commitment	10
GRAND TOTAL OF POINTS	100 POINTS

XXIII. AWARD OF AGREEMENT:

Based on final rankings resulting from the above-described process, the Selection Committee will recommend to the CITY to award the agreement to a minimum of three (3) firms. The pre-qualified firm(s) may be requested to bid on the applicable projects list (See Section III).

The period for awarded firm(s) to remain on the pre-qualified general contractor's list will be for an initial period of one (1) year with the opportunity for two additional two-year renewals based on the review of services provided during the prior years and the agreement of both parties.

XXIV. WORKING PAPER RETENTION AND ACCESS TO WORKING PAPERS:

All working papers and reports must be retained in accordance with requirements and procedures set forth by the General Records Schedule for Local Government Agencies as promulgated by the Division of Archives, History and Records Management (a division of the Florida Department of State) at the firm's expense, unless the firm is notified in writing by the CITY of the need to extend the retention period. The firm will be required to make working papers available, upon request, to the following parties or their designees:

- City of Margate
- U.S. General Accounting Office (GAO), or local OIG
- Parties designated by federal or state governments or by the CITY as part of an audit quality review process.

In addition, the firm shall respond to the reasonable inquiries of auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

XXV. TIME REQUIREMENTS:

A. PROPOSAL CALENDAR, NOTIFICATION AND AGREEMENT DATES

The schedule of events, relative to the procurement shall be as follows:

Event	Date (on or by)
1. Issuance of RFP	August 11, 2023
2. Receipt of RFP	September 12, 2023
3. Proposal Evaluations	Week of September 18, 2023
4. Recommendation to CITY Commission	October 4, 2023
5. Negotiations	Week of October 9, 2023
6. Contract Award by Commission	October 18, 2023

Be advised that the CITY is prepared to award a single agreement or multiple agreements as is deemed to be in the best interest of the CITY. The CITY reserves the right to change and/or delay scheduled dates.

As the best interest of the CITY may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received.

The successful proposer shall be required to execute a contact with the CITY covering the scope of services to be provided and setting forth the duties, rights and responsibilities of the parties.

B. Oral Presentations

During the evaluation process, the Selection Committee may, at its discretion, request firms to make oral presentations either in person, by phone, or by internet. Such presentations will provide firms with an opportunity to answer any questions the Selection Committee may have on a firm's proposal. Only firms short-listed for further consideration during the evaluation process will be invited to make such oral presentations.

C. Final Selection

The CITY will select/award the firm(s) which best meets the 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 will be final.

XXVI. SUMMARY OF PROVIDED DOCUMENTS TO BE SUBMITTED WITH PROPOSALS:

Samples of the following documents, (except certificate of insurance) are attached and shall be executed as a condition to this offer:

- (a) Proposal and Offeror's Certification
- (b) Offeror's Qualifications Statement
- (c) Scrutinized Companies Certification
- (d) Non-Collusive Affidavit Form
- (e) Drug-Free Workplace Program Form
- (f) Byrd-Anti Lobbying Certification
- (g) Statement of Compliance
- (h) E-Verify Form
- (i) Exhibit A
- (j) Exhibit B
- (k) Proof of Insurance

XXVII. AWARD OF AGREEMENT:

The agreement or agreements shall be awarded to the most qualified Proposer(s) whose proposal(s) is/are determined to be the most advantageous to the CITY and who agree to provide the required services at compensation which the CITY determines is fair, reasonable and competitive.

XXVIII. GENERAL CONDITIONS:

A. PUBLIC ENTITY CRIMES INFORMATION STATEMENT: Pursuant to the requirements of Section 287.133 (2)(a), Florida Statutes, "A person or Affiliate who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplies, 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."

B. DISCRIMINATORY VENDOR AND SUSPENSION AND DEBARMENT LISTS An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor,

supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

Federal regulations restrict CITY from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. Accordingly, a contract or subcontract must not be made with any parties listed on the System for Award Management (“SAM”) Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority.

(1) This Agreement is a covered transaction for purposes of Title 2 Code of Federal Regulations (CFR) pt. 180 and 2 CFR pt. 3000. As such Contractor is required to verify that none of Contractor, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

(2) Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C during the term of this Agreement and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) Contractor must verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov. This certification is a material representation of fact relied upon by the City of Margate. If it is later determined that the Contractor failed to comply, in addition to remedies available to the City of Margate, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

C. EXPENSES: All expenses for making the proposal to the CITY are borne by the Proposer.

D. WITHDRAWAL OF PROPOSAL: Any proposal may be withdrawn up until the date and time set forth for the opening of proposals. Any proposal not withdrawn shall constitute an irrevocable offer for a period of 90 days or until one or more of the proposals have been duly accepted and an agreement is awarded. No guarantee or representation is made herein as to the time between the proposal opening and subsequent award.

E. APPLICABLE LAWS: All applicable laws and regulations of the U.S. Government, State of Florida, Broward County, and ordinances and regulations of the City of Margate will apply to any resulting agreement.

F. FORM OF AGREEMENT: Any agreement or contract resulting from the acceptance of a proposal shall be on forms either supplied by or approved by the CITY and shall contain, as a minimum, applicable provisions of the Request for

Proposal. The CITY reserves the right to reject any agreement that does not conform to the Request for Proposal and any CITY requirements for agreements and contracts.

G. CONFLICT OF INTEREST: For purposes of determining any possible conflict of interest, all Proposers must indicate if any City of Margate employee is an owner, corporate officer, or employee of their business. If such relationship(s) exist, the Proposer must file a statement with the Supervisor of Elections, pursuant to Florida Statutes 112.13.

H. COPYRIGHTS AND PATENT RIGHT: Proposer warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this proposal, and successful proposer agrees to hold the CITY harmless from any and all liability, loss or expense by any such violation.

I. TAXES: The CITY is exempt from any taxes imposed by the State and Federal Governments. Exemption certificates will be provided upon request.

J. RETENTION OF RECORDS AND RIGHT TO ACCESS CLAUSE: The successful proposer shall preserve and make available all financial records, supporting documents, statistical records and any other documents pertinent to this Agreement for a period of five (5) years after termination of this Agreement; or if an audit has been initiated and audit findings have not been resolved at the end of these (5) years, the records shall be retained until resolution of audit finding.

K. NON-COLLUSION STATEMENT: By submitting this proposal, the Proposer affirms that this proposal is without previous understanding, agreement, or connection with any person, business, or corporation submitting a proposal for the same materials, supplies, service, or equipment, and that this proposal is in all respects fair, and without collusion or fraud. Refer to "Non-Collusive Affidavit" form attached.

L. ASSIGNMENT: Successful Contractor may not assign or transfer this Agreement in whole or part without prior written approval of the CITY.

M. TERMINATION: (a) Termination for Cause - In the event the Successful Offeror (Contractor) shall default in any of the terms, obligations, restrictions or conditions in the Agreement documents, the CITY shall give the Contractor written notice by certified mail of the default and that such default shall be corrected or actions taken to correct such default shall be commenced within three (3) calendar days thereof. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the CITY, the CITY shall have all legal remedies available to it, including, but not limited to termination of the Agreement in which case the

Contractor shall be liable for any and all damages permitted by law arising from the default and breach of the contract. (b) Termination for Convenience - Upon thirty (30) calendar days written notice to the Contractor, the CITY may without cause and without prejudice to any other right or remedy, terminate the contract for the CITY's convenience whenever the CITY determines that such termination is in the best interest of the CITY. Where the contract is terminated for the convenience of the CITY, the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the CITY under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service. (c) 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 agreement into a subsequent fiscal period, regardless of agreement term, is subject to appropriation of funds, unless otherwise authorized by law.

N. VENUE AND GOVERNING LAW: This Agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated only in the courts of the Seventeenth Judicial Circuit in and for Broward County, Florida.

O. CANCELLATION FOR UNAPPROPRIATED FUNDS: The obligation of the CITY for payment to a Contractor is limited to the availability of funds appropriated in current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

P. GOVERNMENT RESTRICTIONS: In the event any governmental restrictions may be imposed which would necessitate alteration of the material quality, workmanship, or performance of the items/services offered on the proposal prior to delivery/performance, it shall be the responsibility of the Contractor to notify the CITY at once, indicating in their letter the specific regulation which required an alteration. The CITY reserves the right to accept any such alteration, including any price adjustments occasioned hereby, or to cancel the Agreement at no further expense to the CITY.

Q. OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA): Proposer warrants that the product supplied to the CITY conforms in all respects to the standards set forth in the Occupational Safety and Health Act and its amendments and to any applicable industry standards.

R. NOTICES: The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and orders of public authorities bearing on the safety of persons and property and their protection from damage, injury, or loss.

S. WARRANTY: Successful offeror warrants that all equipment and materials to be supplied pursuant to the Agreement will be merchantable, of good quality and free from defects, whether patent or latent in material and workmanship.

Successful offeror warrants all materials and workmanship for a minimum of one (1) year from date of completion and acceptance by CITY. If within one (1) year after acceptance by CITY, or within such larger periods of time as may be prescribed by law any of the work is found to be defective or not in accordance with the agreement documents, successful offeror shall promptly after receipt of written notice from CITY to do so, correct the work unless CITY has previously given successful offerer a written acceptance of such condition. This obligation shall survive termination of the agreement.

Warranty of Fitness for a Particular Purpose: Successful offeror warrants the equipment shall be fit for and sufficient for the purpose(s) intended and outlined within this proposal package. Successful offeror understands and agrees that City is purchasing the equipment in reliance upon the skill of successful offeror in furnishing the equipment suitable for the purpose stated. If the equipment cannot be used in the manner stated in the proposal, then City, at its sole discretion, may return the equipment to successful offeror for a full refund of any and all monies paid for the equipment.

Warranty of Title: Successful offeror warrants that all equipment delivered under the Agreement shall be of new manufacture and that successful offeror possesses good and clear title to said equipment and there are no pending liens, claims or encumbrances whatsoever against said equipment.

T. DAMAGE: The Contractor shall be liable for damage or loss (other than damage or loss to property insured under the property insurance provided or required by the Agreement Documents to be provided by the Owner) to property at the site caused in whole or in part by the Contractor, a contractor of the Contractor or anyone directly or indirectly employed by either of them, or by anyone for whose acts they may be liable.

U. WAIVER OF JURY TRIAL: THE PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THE AGREEMENT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE MATTERS TO BE ACCOMPLISHED IN THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR THE ACTIONS OR INACTIONS OF ANY PARTY.

V. INDEMNIFICATION: To the extent permitted by Florida law, Contractor agrees to indemnify, defend, save, and hold harmless the CITY and City, their officers and employees, from or on account of all damages, losses, liabilities, including but not limited to reasonable attorneys' fees, and costs to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the CITY may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

W. WORKING HOURS AND INSPECTIONS: The City of Margate's working hours are Monday through Friday 8 A.M. – 6 P.M. Contractor must plan for and schedule inspections within the City's working hours.

Contractor can perform work Monday – Saturday from Dawn to Dusk. Work on Sunday is not permitted unless a special request is made to the CITY 48 hours in advance. All requests must be approved by the City Manager.

X. NO WAIVER: No waiver of any provision, covenant, or condition within this agreement or of the breach of any provision, covenant, or condition within this agreement shall be taken to constitute a waiver of any subsequent breach of such provision, covenant, or condition.

Y. EQUAL EMPLOYMENT OPPORTUNITY: During the performance of work under any resulting agreement from this solicitation, the Proposer agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965 as amended, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Z. CONE OF SILENCE: Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and City holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

All Proposers are directed to make all contact regarding this solicitation and during the evaluation process of this project through the Purchasing Division of

the City of Margate as stated previously in this RFP document. Proposers are not to contact any member of the selection/evaluation committee.

AA. BID SECURITY, BONDS: Each bid (if required) shall be accompanied by a certified or cashier's check or approved Bid Bond in the amount stated in the Bid Documents. Said check or bond shall be made payable to the City and shall be given as guarantee that the Bidder, if awarded the Bid, will enter into an Agreement with the City, and shall furnish the necessary insurance certificates, Payment and Performance Bonds (IF REQUIRED), each of said bonds to be in the amount stated in the Bid Documents or Agreement. In case of refusal or failure by Bidder to enter into an Agreement, the check or bid bond shall be forfeited to the City. If the bidder elected to furnish a Bid Bond as its Bid Security, the Bidder shall use the Bid Bond form bound herein, or one conforming substantially to it in form.

Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, it shall be the duty of the Contractor to record the aforesaid payment and performance bonds in the public records of Broward County, with the Contractor to pay all recording costs.

AB. OTHER GOVERNMENTAL AGENCIES: If Contractor is awarded an agreement as a result of this RFP solicitation, Contractor will, if they have sufficient capacity of quantity available, provide to other governmental agencies, so requesting, the product or services awarded in accordance with the terms and conditions of the bid proposal and resulting agreement. Prices shall be FOB DELIVERED to the requesting agency.

AC. CITY PERMITS: The Contractor shall be required to obtain all necessary permits from the City Engineering and/or Building Departments. If the schedule of Bid Prices does not include a permit allowance line item, permit fees should be included in your bid proposal. All permit applications shall be made using the City's online permitting system **ePermitting-ProjectDox** and can be obtained from the City's website at www.margatefl.com under **BUILDING DEPARTMENT** for City Building permits and under **ENVIRONMENTAL AND ENGINEERING SERVICES DEPARTMENT** for City Engineering permits. City Building permit fees are NOT waived and the cost should be included in the bid. Non-City permit fees (County and other regulatory agencies) are not waived and shall be included in the bid. City Engineering permits will not have a fee. Any questions regarding the requirements to obtain a permit from the City of Margate Building Department should be directed to (954) 970-3004. All City Engineering permits questions should be directed to DEES Department at (954) 972-0828.

AD. DISPUTES: NOTWITHSTANDING ANY OTHER PROVISIONS PROVIDED IN THIS AGREEMENT, ANY DISPUTE ARISING UNDER THIS AGREEMENT WHICH IS NOT DISPOSED OF BY AGREEMENT, SHALL BE DECIDED BY THE CITY MANAGER OF THE CITY OF MARGATE, FLORIDA, WHO SHALL REDUCE THEIR DECISION IN WRITING AND FURNISH A COPY THEREOF TO THE CONTRACTOR. THE DECISION OF THE CITY MANAGER OF THE CITY OF MARGATE, FLORIDA AND THOSE PERSONS TO WHOM THEY DELEGATE AUTHORITY TO DECIDE DISPUTES, SHALL BE FINAL AND CONCLUSIVE UNLESS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE FRAUDULENT, CAPRICIOUS, ARBITRARILY, OR GROSSLY ERRONEOUS AS TO NECESSARILY IMPLY BAD FAITH, OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

AE. WAVIER: No waiver by either Party hereto of a breach of an obligation owed hereunder by the other shall be construed as a waiver of any other breach, whether of the same or of a different nature. No delay or failure on either Party's part to enforce any right or claim, which it may have hereunder, shall constitute a waiver on the respective Party's part of such right or claim. All rights and remedies arising under this Agreement as amended and modified from time to time are cumulative and not exclusive of any rights or remedies which may be available at law or otherwise.

AF. RATES: Rates shall remain firm and fixed for the initial agreement term. Rates for any extension term are subject to negotiation between the parties and any changes require CITY's approval. In the event the Contractor wishes to adjust the rates for the extension term, Contractor shall notify the CITY in writing ninety (90) days prior to the agreement anniversary date, and include in the notice the requested adjustments including full documentation of the requested changes. If no notice is received by that date, it will be assumed by the CITY that no adjustment is requested by the Contractor and that the rates will remain the same for the extension term. If the CITY requests an adjustment, it will notify the Contractor under the same terms and schedule. Within thirty (30) days of notice, the parties shall meet to resolve any differences and agree on rates for the extension term (not to exceed a maximum of 5% increase). In the event that the rates cannot be resolved to the CITY's satisfaction, the Executive Director or designee reserves the right to terminate the agreement at the end of the initial agreement term.

AG. DHS SEAL, LOGO AND FLAGS: Contractor shall not use the U.S. Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

AH. NO OBLIGATION BY FEDERAL GOVERNMENT: The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Agreement.

AI. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS: Contractor acknowledges that 31 United States Code Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.

AJ. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:

- (1) Affirmative steps for the prime contractor to take regarding subcontractors must include steps as detailed in Section IV – Scope of Services.
- (2) Contractor shall sign the Statement of Compliance - Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

AK. COPELAND ANTI-KICKBACK ACT (PRIME CONSTRUCTION CONTRACTS IN EXCESS OF \$2,000):

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts.

The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR § 5.12."

AL. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT: As per 29 C.F.R. § 5.5(b), "*Overtime Requirements*. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek."

AM. CLEAN AIR ACT: The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

AN. ENTIRE AGREEMENT: This Agreement contains the entire Agreement and understanding between the Parties with respect to the subject matter hereof, and there are no other promises, representations, or warranties affecting it.

AO. PUBLIC RECORDS: The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and specifically agrees to:

- A. Keep and maintain public records required by the CITY to perform the service.
- B. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the CITY.
- D. Upon completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the Contractor or keep and maintain public records required by the CITY to perform the service. If the Contractor transfers all public records to the CITY upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

**E. IF THE CONTRACTOR HAS QUESTIONS
REGARDING THE APPLICATION OF CHAPTER
119, FLORIDA STATUTES, TO THE
CONTRACTOR'S DUTY TO PROVIDE PUBLIC
RECORDS RELATING TO THIS AGREEMENT,
CONTACT THE CUSTODIAN OF PUBLIC
RECORDS AT:**

Telephone number:
(954) 935-5330
E-mail address: cra@margatefl.com
Mailing address:
5790 Margate Boulevard
Margate, FL 33063

AP. SCRUTINIZED COMPANIES: In accordance with s. 287.135, Florida Statutes, as amended, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services if:

- a. Any amount of, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
- b. One million dollars or more, if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
 - i. Is 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 s. 215.473, Florida Statutes; or
 - ii. Is engaged in business operations in Cuba or Syria.
- c. By submitting a bid, proposal or response, the company, principals or owners certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Syria.
- d. The CITY shall reserve the right to terminate any contract resulting from this solicitation if the awarded Contractor is found to have been placed on

the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

AQ. NO WAIVER OF SOVEREIGN IMMUNITY: Nothing contained herein is intended to serve as a waiver of sovereign immunity by the CITY or as a waiver of limits of liability of rights existing under Section 768.28, Florida Statutes.

AR. RESPONSIBLE VENDOR DETERMINATION

Respondent is hereby notified that Section 287.05701, Florida Statutes, requires that the City may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor.

Electronic Code of Federal Regulations

e-CFR data is current as of January 26, 2023

[Title 2](#) → [Subtitle A](#) → [Chapter II](#) → [Part 200](#) → [Subpart D](#) → Subject Group

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

[Subpart D—Post Federal Award Requirements](#)

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with [§§ 200.321](#), [200.322](#), and [200.323](#) and ensure that every purchase order or other contract includes any clauses required by [§ 200.327](#). All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in [§§ 200.318](#) through [200.327](#).

§ 200.318 General procurement standards.

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in [§§ 200.317](#) through [200.327](#).
- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)
 - (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
 - (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the

non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also [§ 200.214](#).

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight

in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[[85 FR 49543](#), Aug. 13, 2020, as amended at [86 FR 10440](#), Feb. 22, 2021]

§ 200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and [§ 200.320](#).

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with [§ 200.320\(c\)](#).

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and [§§ 200.317](#), [200.318](#), and [200.319](#) for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) ***Informal procurement methods.*** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in [§ 200.1](#), or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) ***Micro-purchases -***

(i) ***Distribution.*** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in [§ 200.1](#)). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) ***Micro-purchase awards.*** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) ***Micro-purchase thresholds.*** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation

of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with [paragraphs \(a\)\(1\)\(iv\)](#) and [\(v\)](#) of this section.

(iv) ***Non-Federal entity increase to the micro-purchase threshold up to \$50,000.*** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with [§ 200.334](#). The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- (A) A qualification as a low-risk auditee, in accordance with the criteria in [§ 200.520](#) for the most recent audit;
- (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- (C) For public institutions, a higher threshold consistent with State law.

(v) ***Non-Federal entity increase to the micro-purchase threshold over \$50,000.*** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in [paragraph \(a\)\(1\)\(iv\)](#) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) ***Small purchases -***

(i) ***Small purchase procedures.*** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) ***Simplified acquisition thresholds.*** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) ***Formal procurement methods.*** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with [§ 200.319](#) or [paragraph \(c\)](#) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) **Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
- (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
- (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's

qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) ***Noncompetitive procurement.*** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see [paragraph \(a\)\(1\)](#) of this section);
- (2) The item is available only from a single source;
- (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
- (5) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in [paragraphs \(b\)\(1\)](#) through [\(5\)](#) of this section.

§ 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.324 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under [subpart E of this part](#). The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.325 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

OFFEROR'S CERTIFICATION CITY RFP NO. 2023-012

WHEN OFFEROR IS AN INDIVIDUAL

IN WITNESS WHEREOF, the Offeror hereto has executed this Proposal
Form this _____ day of _____, 2023.

By: _____
Signature of Individual

Witness _____

Printed Name of Individual _____

Witness _____

Business Address _____

City/State/Zip _____

Business Phone Number _____

State of _____

County of _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization this day of _____ 20____, by _____ (Name), 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.

NOTARY PUBLIC

(Name of Notary Public: Print, Stamp,
or type as Commissioned)

OFFEROR'S CERTIFICATION CITY RFP NO. 2023-012

WHEN OFFEROR IS A SOLE PROPRIETORSHIP OR OPERATES UNDER A FICTITIOUS OR TRADE NAME

IN WITNESS WHEREOF, the Offeror hereto has executed this Proposal Form this _____ day of _____, 2023.

Printed Name of Firm

By: _____

Signature of Owner

Witness

Printed Name of Individual

Witness

Business Address

City/State/Zip

State of _____

Business Phone Number

County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this day of _____ 20____ by _____ (Name), 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.

NOTARY PUBLIC

(Name of Notary Public: Print, Stamp,
or type as Commissioned)

OFFEROR'S CERTIFICATION CITY RFP NO. 2023-012

WHEN OFFEROR IS A PARTNERSHIP

IN WITNESS WHEREOF, the Offeror hereto has executed this Proposal Form this _____ day of _____, 2023.

Printed Name of Partnership

By: _____
Signature of General or Managing Partner

Witness

Printed Name of Individual

Witness

Business Address

State of _____

Business Phone Number

County of _____

Business Phone Number

WITNESS my hand and official seal.

NOTARY PUBLIC

(Name of Notary Public: Print, Stamp,
or type as Commissioned)

OFFEROR'S CERTIFICATION CITY RFP NO. 2023-012

WHEN OFFER IS A CORPORATION

IN WITNESS WHEREOF, the Offeror hereto has executed this _____ day of _____, 2023.

Printed Name of Corporation

Printed State of Incorporation

(CORPORATE SEAL)

By: _____
Signature of President or other authorized officer

ATTEST:

By _____
Secretary

Printed Name of President or other authorized
officer

Address of Corporation

City/State/Zip

Business Phone Number

State of _____

County of _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization this day of _____, 20_____, by (Name),
(Title) of _____
(Company Name) on behalf of the corporation, 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.

Notary Public

Name of Notary Public: Print, Stamp, or Type as Commissioned

OFFEROR'S QUALIFICATION STATEMENT CITY RFP NO. 2023-012

The undersigned certifies under oath the truth and correctness of all statements and of all answers to questions made hereinafter:

SUBMITTED TO: City of Margate (Purchasing Manager)

ADDRESS: 5790 Margate Boulevard
Margate, Florida 33063

CIRCLE ONE

SUBMITTED BY: _____

NAME: _____

ADDRESS: _____

PRINCIPAL OFFICE: _____

Corporation
Partnership
Individual
Other

1. State the true, exact, correct and complete name of the partnership, corporation, trade or fictitious name under which you do business and the address of the place of business. (Attach corporate documents from the State of Florida (sunbiz.org) to this statement.)

The correct name of the Offeror is: _____

The address of the principal place of business is: _____

2. If Offeror is a corporation, answer the following:

a. Date of Incorporation: _____

b. State of Incorporation: _____

c. President's name: _____

d. Vice President's name: _____

e. Secretary's name: _____

f. Treasurer's name: _____

g. Name and address of Resident Agent:

3. If Offeror is an individual or a partnership, answer the following:

a. Date of organization: _____

b. Name, address and ownership units of all partners:

c. State whether general or limited partnership:

4. If Offeror is other than an individual, corporation or partnership, describe the organization and give the name and address of principals:

5. If Offeror is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

6. How many years has your organization been in business under its present business name?

a. Under what other former names has your organization operated?

7. Indicate registration, license numbers or certificate numbers for the businesses or professions which are the subject of this RFP. Please attach certificate of competency and/or state registration.

8. Have you ever failed to complete any work awarded to you? If so, state when, where and why?

THE OFFEROR ACKNOWLEDGES AND UNDERSTANDS THAT THE INFORMATION CONTAINED IN RESPONSE TO THIS QUALIFICATIONS STATEMENT SHALL BE RELIED UPON BY OWNER IN AWARDING THE CONTRACT AND SUCH INFORMATION IS WARRANTED BY OFFEROR TO BE TRUE. THE DISCOVERY OF ANY OMISSION OR MISSTATEMENT THAT MATERIALLY AFFECTS THE OFFEROR'S QUALIFICATIONS TO PERFORM UNDER THE CONTRACT SHALL CAUSE THE OWNER TO REJECT THE PROPOSAL AND, IF AFTER THE AWARD, TO CANCEL AND TERMINATE THE AWARD AND/OR CONTRACT.

(Signature)

State of _____
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this _____ day of _____, 2023, 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.

NOTARY PUBLIC

(Name of Notary Public: Print, Stamp,
or Type as Commissioned)

Scrutinized Company Certification

I hereby swear or affirm that as of the date below this company is not listed on a Scrutinized Companies list created pursuant to 215.4725, 215.473, or 287.135, Florida Statutes. Pursuant to 287.135, Florida Statutes I further affirm that:

- (1) This company is not participating in a boycott of Israel such that it is not refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner.
- (2) This Company does not appear on the Scrutinized Companies with Activities in Sudan List where the State Board of Administration has established the following criteria:
 - Have a material business relationship with the government of Sudan or a government-created project involving oil related, mineral extraction, or power generation activities, or
 - Have a material business relationship involving the supply of military equipment, or
 - Impart minimal benefit to disadvantaged citizens that are typically located in the geographic periphery of Sudan, or
 - Have been complicit in the genocidal campaign in Darfur.
- (3) This Company does not appear on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List where the State Board of Administration has established the following criteria:
 - Have a material business relationship with the government of Iran or a government-created project involving oil related or mineral extraction activities, or
 - Have made material investments with the effect of significantly enhancing Iran's petroleum sector.
- (4) This Company is not engaged in business operations in Cuba or Syria.

VENDOR/COMPANY NAME: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____ DATE: _____

The scrutinized company list is maintained by the State Board of Administration and available at <http://www.sbafla.com/>

NON-COLLUSIVE AFFIDAVIT FORM RFP 2023-012

State of _____)

County of _____)

_____, being first duly sworn, deposes and says that:

He/she is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Offeror that has submitted the attached Proposal;

He/she is fully informed regarding the preparation and contents of the attached Proposal and of all pertinent circumstances regarding such Proposal;

Such Proposal is genuine and is not a collusive or sham Proposal;

Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Offeror, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Offeror, firm, or person to fix the price or prices in the attached Proposal or of any other Offeror, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Offeror, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;

The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Offeror or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed, and delivered in the presence of:

Witness _____
By _____

Witness _____
Printed Name _____

Title _____

ACKNOWLEDGMENT
NON-COLLUSIVE AFFIDAVIT RFP 2023-012

State of Florida
County of _____

On this _____ day of _____, 2023, before me by means of _____ physical presence or _____ online notarization, the undersigned Notary Public of the State of Florida, personally appeared

(Name(s) of individual(s) who appeared before notary)

whose name(s) is/are Subscribed to within the instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand
and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp, or
Type as Commissioned)

Personally known to me, or
 Produced identification:

(Type of Identification Produced)

DID take an oath, or DID NOT take an oath

DRUG-FREE WORKPLACE PROGRAM FORM

In accordance with Section 287.087, State of Florida Statutes, 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 for the procurement of commodities or contractual service, 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. In the event that none of the tied vendors have a Drug-free Workplace program in effect, the CITY reserves the right to make final Decisions in the CITY's best interest. In order to have a Drug-free Workplace Program, a business shall:

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

If bidder's company has a Drug-free Workplace Program, so certify below:

AS THE PERSON AUTHORIZED TO SIGN THE STATEMENT, I CERTIFY THAT THIS FIRM COMPLIES FULLY WITH THE ABOVE REQUIREMENTS.

SIGNATURE OF BIDDER: _____ **DATE:** _____

**BYRD ANTI LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,
AND COOPERATIVE AGREEMENTS**

To be submitted with each bid or offer exceeding \$100,000

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. §3801 et seq. apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date _____

STATEMENT OF COMPLIANCE - SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The undersigned Contractor hereby swears under penalty of perjury that Contractor took the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms were used when possible:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

By _____
(Signature)

By _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization this _____ day of _____, 2023, 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 _____, 2023.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Print Name of Officer taking acknowledgment)

(Title or rank)

My Commission expires:
(Serial number, if any) _____

**CITY OF MARGATE
E-VERIFY FORM**

Project Name:	
Project No.:	

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T** Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Margate; and
- c) *Should vendor become successful Contractor awarded for the above-named project, by entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination and shall be liable for any additional costs incurred by the City as a result of the termination.*

Company Name:
Authorized Signature:
Print Name:
Title
Date:
Phone:
Email:
Website:

SAMPLE INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERs NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT	
	NAME: PHONE (A/C No. Ext):	FAX (A/C, No):
INSURED	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY	X	X				EACH OCCURRENCE	\$ 1M
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 5K
	<input type="checkbox"/>						PERSONAL & ADV INJURY	\$ 1M
	<input type="checkbox"/>						GENERAL AGGREGATE	\$ 1M
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$ 1M
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$ 500K	
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$	
	ALL OWNED AUTOS					BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS					PROPERTY DAMAGE (Per accident)	\$	
	<input type="checkbox"/>						\$	
	<input type="checkbox"/> UMBRELLA LIAB					EACH OCCURRENCE	\$	
	EXCESS LIAB					AGGREGATE	\$	
	<input type="checkbox"/> OCCUR						\$	
	<input type="checkbox"/> CLAIMS-MADE						\$	
	DED <input type="checkbox"/> RETENTION \$	Y / N	N / A			<input checked="" type="checkbox"/> WC STATU- TORY LIMITS	OTH- ER	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					E.L. EACH ACCIDENT	\$ 100,000	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					E.L. DISEASE - EA EMPLOYEE	\$ 100,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	\$ 300,000	
	<input checked="" type="checkbox"/> Professional Liability							

SAMPLE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City of Margate shall be listed as additional insured as required by the Agreement.

CERTIFICATE HOLDER

CANCELLATION

The City of Margate
(Department Name)
5790 Margate Blvd.
Margate, Florida 33063

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE
THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN
ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

EXHIBIT A
CHECKLIST – RFP 2023-012

NOTE:

- A) This Exhibit must be included in RFP immediately after the cover letter.
- B) RFP Package must be put together in order of this checklist.
- C) Any supplemental materials must appear after those listed below and tabbed “Additional RFP Information”.

1. Transmittal Letter
2. Copy of this Check List (Exhibit A)
3. Rate Schedule (Exhibit B)
4. Corporate History/Corporate Qualifications/Team Organizational Chart
5. Corporate Qualifications
6. Project Team: (Name, Title and years with firm only. **Do not include a resume here.** All resumes, if included, should be included under “Additional RFP Information” tab.)
7. Personnel Assigned (Include complete organizational chart as required)
8. Professional Registration
9. Project Management
10. Proof of Insurance
11. Offeror’s Certification
12. Offeror’s Qualifications Statement
13. Scrutinized Companies Certificate
14. Non-Collusive Affidavit
15. Drug-Free Workplace Form
16. Byrd Anti-Lobbying Certification
17. Statement of Compliance
18. E-Verify Form

EXHIBIT B

RATE SCHEDULE FOR LICENSED GENERAL CONSTRUCTION SERVICES:

Supervisor/Project Manager Labor Rate:

Regular Rate:	\$ _____ /HR
Special Rate: As approved by City (Weekends, Holidays, Etc.)	\$ _____ /HR

J Journeyman Labor Rate:

Regular Rate:	\$ _____ /HR
Special Rate: As approved by City (Weekends, Holidays, Etc.)	\$ _____ /HR

Helper Labor Rate:

Regular Rate:	\$ _____ /HR
Special Rate: As approved by City (Weekends, Holidays, Etc.)	\$ _____ /HR

Parts and Materials:

Percent (%) Markup over Cost	_____ %
------------------------------	---------

Specialty sub-contractors:

Percent (%) Markup over Cost	_____ %
------------------------------	---------

Administrative Personnel:

Rate:	\$ _____ /HR
Assist with developing bid packages/RFPs	

Equipment: Please refer to Item X on Page 11

Name of Bidder _____

Type of Organization _____

Address of Bidder _____

Taxpayer's Identification No. of Bidder _____

Company Telephone Number _____ Fax Number _____

SAMPLE FORM OF AGREEMENT



**AGREEMENT
Between
CITY OF MARGATE**

and

for

RFP 2023-012 General Construction, Renovations, and Repair Services

This is an Agreement between: The CITY OF MARGATE, a municipal Corporation in the State of Florida, hereinafter referred to as "CITY" or "OWNER" and _____, its successors and assigns, hereinafter referred to as "CONTRACTOR".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

GENERAL PROVISIONS

1.1 BASIC DEFINITIONS:

Wherever used in this Agreement or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1.1.1 Agreement - The written agreement between CITY and CONTRACTOR covering the WORK to be performed including other Contract Documents that are attached to the Agreement or made a part thereof.

1.1.2 Not Used

1.1.3 Change Order - A document which is signed by CONTRACTOR and CITY and authorizes an addition, deletion or revision in the WORK within the general scope of this Agreement, or an adjustment in the Agreement Price or the Agreement Time, issued on or after the Effective Date of the Agreement.

1.1.4 CITY - The City Commission of the CITY OF MARGATE, FLORIDA with whom CONTRACTOR has entered into an Agreement and for whom the WORK is to be provided.

1.1.5 Contract Documents - The Contract Documents consist of the Drawings, Plans and Specifications, Non-Collusive Affidavit, Contract, Notice of Award, Notice to Proceed, Certificate(s) of Insurance, Payment and Performance Bonds and any additional documents which are required to be submitted under the Agreement, and all amendments, modifications and supplements, change orders and WORK directive changes issued on or after the effective date of the Agreement.

1.1.6 Defective - An adjective which when modifying the WORK refers to WORK that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to final payment.

1.1.7 Drawings - The drawings which show the character and scope of the WORK to be performed and which are referred to in the Contract Documents.

1.1.8 Effective Date of the Agreement - The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

1.1.9 ENGINEER -

Marta Reczko
Assistant Director of Utilities
City of Margate Department of Environmental & Engineering Services
901 NW 66th Ave
Margate, FL 33063
(954) 884-3632

1.1.10 Field Order - A written order issued by the ENGINEER which orders minor changes in the WORK but which does not involve a change in the Agreement Sum or the Agreement Time.

1.1.11 Notice to Proceed - A written notice given by CITY to CONTRACTOR fixing the date on which the Agreement Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents.

1.1.12 Project - The total construction for which the CONTRACTOR is responsible under this Agreement, including all labor, materials, equipment and transportation used or incorporated in such construction.

1.1.13 Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the WORK and certain administrative details applicable thereto.

1.1.14 Subcontractor - An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the WORK at the site.

1.1.15 Supplier - A manufacturer, fabricator, supplier, distributor, materialperson or vendor.

1.1.16 WORK - WORK is the result of performing services, specifically, including but not limited to construction, furnishing labor, soil borings, equipment and materials incorporated used or incorporated in the construction of the entire Project as required by the Contract Documents.

1.1.17 WORK Change Directive - A written directive to CONTRACTOR issued on or after the effective date of the Agreement and signed by CITY and recommended by ENGINEER ordering an addition, deletion, or revision in the WORK. A WORK change directive shall not change the Agreement Price or Time, but is evidence that the parties expect that the change directed or documented by a WORK change directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Agreement Price or Agreement Time.

1.1.18 Written Amendment - A written amendment of the Contract Documents, signed by CITY and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the non-engineering, or non-technical aspects rather than strictly Work related aspects of the Contract Documents.

1.2 EXECUTION, CORRELATION, AND INTENT:

1.2.1 This Agreement shall be signed in not less than duplicate by the CITY and CONTRACTOR.

1.2.2 It is the intent of the CITY and CONTRACTOR that the Contract Documents include all items necessary for proper execution and completion of the WORK. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. WORK not covered in the Contract Documents will not be required unless it is consistent with and is reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 ENUMERATION OF CONTRACT DOCUMENTS:

1.3.1 The Contract Documents which comprise the entire agreement between CITY and CONTRACTOR are attached to this Agreement, made a part hereof and consist of the following:

- .1** This Agreement (pages 1 to 51, inclusive)
- .2** Plans and Specification Attachments
- .3** Construction performance bond, as required for work awarded under RFP 2023-12
- .4** Construction payment bond, as required for work awarded under RFP 2023-12
- .5** Insurance certificate(s)
- .6** Notice of Award and Notice to Proceed.
- .7** Any modification, including all change orders, duly delivered after execution of Agreement.
- .8** Complete RFP No. 2023-012 document, inclusive of all documents and forms submitted by CONTRACTOR in response to RFP No. 2023-012. All addenda, clarifications, modifications, supplements, and notices issued by the CITY on or after the agreement date in connection with the bid and CONTRACTOR'S response(s) thereto.

IN THE EVENT OF CONFLICT, THE ABOVE LISTING OF DOCUMENTS SHALL TAKE PRECEDENCE IN THE ORDER THAT THEY ARE LISTED.

1.4 INTENT:

It is the intent of the Contract Documents to describe a functionally complete Project in accordance with the plans and specifications. Any WORK, materials, or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe WORK, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of Contract Award, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of CITY, CONTRACTOR, or any of their consultants, agents or employees from those set forth in the Contract Documents.

1.5 CONFLICT, ERROR, OR DISCREPANCY:

If, during the performance of the WORK, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to CITY and ENGINEER in writing at once and before proceeding with the WORK affected thereby shall obtain a written interpretation or clarification from CITY through the ENGINEER.

1.6 AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS:

The Contract Documents may be amended to provide for additions, deletions, and revisions in the WORK or to modify the terms and conditions thereof in one or more of the following ways:

- 1.6.1** Change Order;
- 1.6.2** formal written amendment, or
- 1.6.3** work change directive.

1.7 SUPPLEMENTS, MINOR VARIATIONS, OR DEVIATIONS:

In addition, the requirements of the Contract Documents may be supplemented and minor variations and deviations in the WORK may be authorized in one or more of the following ways:

- 1.7.1** ENGINEER'S approval of a shop drawing or sample;
- 1.7.2** ENGINEER'S written interpretation or clarification, or
- 1.7.3** A field order.

1.8 REPRESENTATION OF CONTRACTOR:

Execution of the Agreement by the CONTRACTOR is a representation that CONTRACTOR has visited the site and become familiar with the local conditions under which the WORK is to be performed.

1.9 BEFORE COMMENCING OPERATIONS:

Before undertaking each part of the WORK, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon. CONTRACTOR shall promptly report in writing to CITY and ENGINEER any conflict, error or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any WORK affected thereby.

1.10 OWNERSHIP AND USE OF DOCUMENTS:

1.10.1 The drawings, specifications, designs, models, photographs, reports, surveys and other data provided with this Agreement are and shall remain the property of the CITY whether the project for which they are made is executed or not. This is not an assignment of any copyrights or other ownership rights which the ENGINEER maintains.

1.10.2 Submission or distribution of documents to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the ENGINEER'S common law copyrights or other reserved rights.

ARTICLE 2

CONTRACTOR'S SERVICES AND RESPONSIBILITIES

2.1 SERVICES AND RESPONSIBILITIES:

2.1.1 The CONTRACTOR shall assist the CITY and ENGINEER in filing documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

2.1.2 Unless otherwise provided in the Contract Documents, the CONTRACTOR shall provide or cause to be provided and shall pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the WORK, whether temporary or permanent and whether or not incorporated or to be incorporated in the WORK.

2.1.3 The CONTRACTOR shall be responsible for and shall coordinate all construction means, methods, techniques, sequences, and procedures.

2.1.4 The CONTRACTOR shall keep the CITY and ENGINEER informed of the progress and quality of the WORK.

2.1.5 If requested in writing by the CITY, the CONTRACTOR, with reasonable promptness and in accordance with time limits agreed upon, shall interpret the requirements of the Contract Documents and shall perform work, subject to determination by the ENGINEER, subject to demand for arbitration, claims, disputes, and other matters in question relating to performance thereunder by both CITY and CONTRACTOR. Such interpretations and decisions shall be in writing, shall not be presumed to be correct, and shall be given such weight as the arbitrator(s) or the court shall determine.

2.1.6 The CONTRACTOR shall correct WORK which does not conform to the Construction Documents and/or Contract Documents.

2.1.7 The CONTRACTOR warrants to the CITY that materials and equipment incorporated in the WORK will be new unless otherwise specified, and that the WORK will be of good quality, free from faults and defects, and in conformance with the Contract Documents. WORK not conforming to these requirements shall be corrected in accordance with Article 9.

2.1.8 The CONTRACTOR shall pay all sales, consumer, use and similar taxes. CITY shall secure and pay for building and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the WORK which are either customarily secured after execution of this Agreement or are legally required at the time the CONTRACTOR's Proposal was first submitted to the CITY.

2.1.9 The CONTRACTOR shall give notices and comply with laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

2.1.10 The CONTRACTOR shall pay royalties and license fees. The CONTRACTOR shall defend suits or claims for infringement of patent rights and shall save the CITY harmless from loss on account thereof, except that the CITY shall be responsible for such loss when a particular design, process or product of a particular manufacturer is required by the CITY. However, if the CONTRACTOR has reason to believe the use of

a required design, process or product is an infringement of a patent, the CONTRACTOR shall be responsible for such loss unless such information is promptly given to the CITY.

2.1.11 The CONTRACTOR shall be responsible to the CITY for acts and omissions of the CONTRACTOR's employees and parties in privity of Agreement with the CONTRACTOR to perform a portion of the WORK, including their agents and employees.

2.1.12 The CONTRACTOR shall keep the premises free from accumulation of waste materials or rubbish caused by the CONTRACTOR's operations. At the completion of the WORK, the CONTRACTOR shall remove from and about the Project the CONTRACTOR's tools, construction equipment, machinery, surplus materials, waste materials and rubbish.

2.1.13 The CONTRACTOR shall prepare Change Orders for the ENGINEER'S and CITY'S approval and execution in accordance with this Agreement and shall have authority to make minor changes in the design and construction consistent with the intent of this Agreement not involving an adjustment in the Agreement Sum or an extension of the Agreement Time. The CONTRACTOR shall promptly inform the CITY and ENGINEER in writing, of minor changes in the design and construction.

2.1.14 The CONTRACTOR shall notify the ENGINEER and CITY when the WORK or an agreed upon portion thereof is substantially completed by issuing a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the WORK and insurance, shall include a list of items to be completed or corrected and shall fix the time within which the CONTRACTOR shall complete items listed therein.

2.1.15 The CONTRACTOR shall maintain in good order at the site one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other Modifications, marked currently to record changes made during construction.

These shall be delivered to the CITY upon completion of the construction and prior to final payment.

2.2 BASIC SERVICES:

The WORK will consist of furnishing all materials, labor, equipment, and transportation to provide a completed project for RFP 2023-012.

CONTRACTOR will provide necessary weather protection against rain, wind, storms, and heat as to maintain WORK and/or contents of building.

All WORK to be guaranteed for a minimum of one (1) year from the date of final acceptance by the CITY.

2.3 Not Used

2.4 SHOP DRAWINGS AND SAMPLES:

2.4.1 Within fourteen (14) business days after Agreement Commencement, CONTRACTOR shall submit to ENGINEER and City Building Department for review and approval five (5) copies of all Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles. The purpose of the Shop Drawing is to show the suitability, efficiency, technique-of-manufacture, installation requirements, details of the item and evidence of compliance with the

Contract Documents. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable ENGINEER to review the information as required.

2.4.2 CONTRACTOR shall also submit to ENGINEER for review and approval with such promptness as to cause no delay in WORK, all samples required by the Contract Documents and shall be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which it is intended.

2.4.3 Before submission of each Shop Drawing or sample, CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the WORK and the Contract Documents.

2.4.4 At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to ENGINEER for review and approval of each such variation. Failure to point out such departures shall not relieve CONTRACTOR from his responsibility to comply with the Contract Documents.

2.4.5 Approval of the Shop Drawings by ENGINEER shall be general and shall not relieve CONTRACTOR of responsibility for the accuracy of such drawings nor for the proper fittings and construction of the WORK, nor for the furnishing of material or WORK required by the Agreement and not indicated on the drawings. No WORK called for by any Shop Drawing shall be done until the drawings have been approved by ENGINEER.

2.5 SUPERVISION AND SUPERINTENDENCE:

CONTRACTOR shall supervise and direct the WORK competently and efficiently, devoting such attention thereto and applying CONTRACTOR's best skill, attention, and expertise. CONTRACTOR shall be solely responsible for and have control over the means, methods, techniques, sequences, and procedures of construction. CONTRACTOR shall be responsible to see that the finished WORK complies accurately with the Contract Documents.

2.6 RESIDENT SUPERINTENDENT:

CONTRACTOR shall keep on the WORK SITE at all times during its progress a competent resident superintendent who must be able to effectively communicate in written and spoken English. Superintendent and any necessary assistants shall not be replaced without written notice to CITY, unless the superintendent proves to be unsatisfactory to CONTRACTOR and ceases to be in his employ. The superintendent will be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

2.7 LABOR:

2.7.1 Construction services shall be performed by qualified construction contractors licensed to do business in the State of Florida and suppliers, selected and paid by the CONTRACTOR.

2.7.2 CONTRACTOR shall provide and pay for competent, suitably qualified personnel to perform the WORK as required by the Contract Documents. CONTRACTOR shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the WORK or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all WORK at the site shall be performed Monday – Saturday from Dawn to Dusk. Work on Sunday is not permitted unless a special request is made to the City 48 hours in advance. CONTRACTOR will not permit overtime work or the performance of WORK on Saturday, Sunday or any legal holiday without CITY'S written consent.

2.8 MATERIALS:

2.8.1 Unless otherwise specified herein, CONTRACTOR shall furnish, pay for and assume full responsibility for all materials, equipment, transportation, machinery, tools, appliances, water, heat, utilities and all other facilities and services necessary for the furnishing, performance, testing, start-up and proper completion of the WORK.

2.8.2 CONTRACTOR warrants that all materials and equipment shall be of good quality and new, unless otherwise provided in the Contract Documents and that the WORK will be free from defects whether patent or latent in nature. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents.

2.9 CONCERNING SUBCONTRACTORS, SUPPLIERS AND OTHERS:

2.9.1 Within seven (7) business days after execution of the Agreement and in any event prior to the commencement of any WORK hereunder, CONTRACTOR shall furnish, in writing to CITY, the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the WORK. CITY shall advise CONTRACTOR, in writing, of any proposed person or entity to which CITY has a reasonable objection. Failure of CITY to reply promptly shall constitute notice of no reasonable objection. CONTRACTOR shall not contract with a proposed person or entity to whom CITY has made a reasonable and timely objection. If CITY has reasonable objection to a person or entity proposed by CONTRACTOR, CONTRACTOR shall propose another to whom CITY has no reasonable objection. CONTRACTOR shall not change a subcontractor, person or entity previously selected if CITY makes reasonable objection to such change.

2.9.2 CONTRACTOR shall be fully responsible to CITY for all acts and omissions of the CONTRACTOR'S employees, Subcontractors, Suppliers and other persons directly or indirectly employed by his Subcontractors, suppliers and of persons for whose acts any of them may be liable and any other persons and organizations performing or furnishing of the WORK under a direct or indirect contract with CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between CITY and any such Subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of CITY to pay or to see to the payment of any moneys due any such Subcontractor, supplier or other person or organization except as may otherwise be required by laws and regulations.

2.9.3 All work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of CITY.

2.10 PATENT FEES AND ROYALTIES:

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the WORK or the incorporation in the WORK of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others.

2.11 PERMITS:

The CONTRACTOR shall be required to obtain all necessary permits from the City Engineering and/or Building Departments. If the schedule of Bid Prices does not include a permit allowance line item, permit fees should be included in your bid proposal. All permit applications shall be made using the City's online permitting system **EPERMITTING-PROJECTDOX** and can be obtained from the City's website at www.margatefl.com under **BUILDING DEPARTMENT** for City Building permits and under **ENVIRONMENTAL AND ENGINEERING SERVICES DEPARTMENT** for City Engineering permits. City Building permit fees are NOT waived and the cost should be included in the bid. Non-City permit fees (County and other regulatory agencies) are not waived and shall be included in the bid. City Engineering permits will not have a fee. Any questions regarding the requirements to obtain a permit from the City of Margate Building Department should be directed to (954) 970-3004. All City Engineering permits questions should be directed to DEES Department at (954) 972-0828.

2.12 LAWS AND REGULATIONS:

CONTRACTOR shall comply with and give all notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to the performance of the WORK. CITY shall not be responsible for monitoring CONTRACTOR's compliance with any laws and regulations. CONTRACTOR shall promptly notify CITY if the Contract Documents are observed by CONTRACTOR to be at variance therewith.

2.13 RISK OF LOSS; TITLE:

The risk of loss, injury, or destruction shall be on CONTRACTOR until acceptance of the WORK by CITY. Title to the WORK shall pass to CITY upon acceptance of the WORK by CITY.

2.14 TAXES:

CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the laws and regulations of the State of Florida and its political subdivisions. CONTRACTOR is responsible for reviewing the pertinent state statutes involving such taxes and complying with all requirements.

2.15 USE OF PREMISES:

2.15.1 CONTRACTOR shall confine equipment, the storage of materials and equipment and the operations of workers to the Project site and areas identified in and permitted by the Contract Documents and shall not unreasonably encumber the premises with equipment or other materials. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the City or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the WORK. Should any claim be made against CITY by any such City or occupant because of the performance of the WORK, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim. The general indemnification provided elsewhere in this Contract specifically applies to claims arising out of CONTRACTOR's use of the premises.

2.15.2 During the progress of the WORK, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the WORK. At the completion of the WORK, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises, as well as all tools, appliances, equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by CITY. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

2.15.3 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the WORK or adjacent property to stresses or pressures that will endanger it.

2.16 ACCESS TO WORK:

CONTRACTOR shall provide CITY, CITY'S consultants, representatives and personnel, independent testing laboratories and governmental agencies with jurisdictional interests with access to the WORK at reasonable times for their observation, inspection and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's site safety procedures and programs so that they may comply therewith.

2.17 SAFETY AND PROTECTION:

2.17.1 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK to prevent damage, injury or loss to all employees on the work site and other persons and organizations who may be affected thereby; all the WORK and materials and equipment to be incorporated therein, whether in storage on or off the site; and other property at the site or adjacent thereto.

2.17.2 CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

2.18 INDEMNIFICATION:

CONTRACTOR agrees to indemnify, defend, save, and hold harmless the City of Margate, their officers and employees, from or on account of all damages, losses, liabilities, including but not limited to reasonable attorneys' fees, and costs to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

2.19 SURVIVAL OF OBLIGATIONS:

All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the WORK and termination or completion of the Agreement.

2.20 CORRECTION AND REMOVAL OF DEFECTIVE WORK:

If required by CITY and ENGINEER, CONTRACTOR shall promptly, as directed, either correct all defective WORK, whether or not fabricated, installed or completed, or, if the WORK has been

rejected by CITY and ENGINEER, remove it from the site and replace it with non-defective WORK. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, attorneys and other professionals) made necessary thereby.

2.21 CONTRACTOR DELIVERABLES (AS APPLICABLE):

- 2.21.1 Engineering Permit – three (3) sets of hard copies plus one (1) PDF copy.
- 2.21.2 Engineer's cost estimate or copy of contract.
- 2.21.3 Building Permit – three (3) sets.
- 2.21.4 Shop drawings – three (3) sets.
- 2.21.5 Record Drawings (as built) – two (2) sets of hard Copies (one full and one half size) plus one (1) PDF copy.
- 2.21.6 Record Drawings (as built) – 1 AutoCAD (2010 version, geo referenced).
- 2.21.7 Operation and Maintenance Manuals – Three hard copies plus one (1) PDF copy.

ARTICLE 3

CITY'S AND ENGINEER'S RESPONSIBILITIES

3.1 The CITY shall designate a representative authorized to act on the CITY'S behalf with respect to the Project. The CITY or such authorized representative shall examine documents submitted by the CONTRACTOR and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the WORK.

3.2 The CITY may appoint an on-site project representative to observe the WORK and to have such other responsibilities as the CITY and CONTRACTOR agree in writing prior to execution of this Agreement.

3.3 The CITY shall cooperate with the CONTRACTOR in securing building and other permits, licenses and inspections.

3.4 If the CITY observes or otherwise becomes aware of a fault or defect in the WORK or nonconformity with the Design or Construction Documents, the CITY shall give prompt written notice thereof to the CONTRACTOR.

3.5 The CITY shall furnish required information and services and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the construction.

3.6 The CITY shall communicate with subcontractors only through the CONTRACTOR.

3.7 CITY shall furnish data required of CITY under the Contract Documents promptly.

3.8 Except for permits and fees which are the responsibility of CONTRACTOR, CITY shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or permanent changes in existing facilities.

3.9 If the WORK is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the WORK in such a way that the completed WORK will not conform to the Contract Documents, CITY may order CONTRACTOR to stop the WORK, or any portion thereof, until the cause for such order has been eliminated; however, this right of CITY to stop the WORK shall not give rise to any duty on the part of CITY to exercise this right for the benefit of CONTRACTOR or any other party.

3.10 ENGINEER'S RESPONSIBILITIES:

3.10.1 ENGINEER will be CITY'S representative during the construction period and until final payment is due.

3.10.2 Visits to Site:

ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed WORK and to determine, in general, if the WORK is proceeding in accordance with the Contract Documents. ENGINEER'S efforts will be directed toward providing for CITY a greater degree of confidence that the completed WORK will conform to the Contract Documents. On the basis of such visits and on-site inspections, ENGINEER shall keep CITY informed of the progress of the WORK and shall endeavor to guard CITY against defects and deficiencies in the WORK.

3.10.3 Technical Clarifications and Interpretations:

ENGINEER will issue, with reasonable promptness, such written clarifications or interpretations of the technical requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should CONTRACTOR fail to request interpretation of questionable items in the Contract Documents, neither CITY nor ENGINEER will thereafter entertain any excuse for failure to execute the WORK in a satisfactory manner.

3.10.4 ENGINEER will interpret and decide matters concerning performance under the requirements of the Contract Documents upon written request of either CITY or CONTRACTOR. ENGINEER will make initial decisions on all claims, disputes, or other matters in question between CITY and CONTRACTOR. All written decisions of the ENGINEER on any claim, dispute or other matter will be final and binding upon CITY and CONTRACTOR unless a written notice of intention to appeal from ENGINEER'S written decision is delivered within five (5) business days after the date of such decisions and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within thirty (30) business days of the date of such decision. The rendering of a decision by ENGINEER with respect to any such claim, dispute, or matter (except any which have been waived by the making or acceptance of final payment) is a condition precedent to any exercise by CITY or CONTRACTOR of such rights or remedies existing under the Contract Documents or by law.

3.10.5 Authorized Variations in WORK:

ENGINEER may authorize minor variations in the WORK from the technical requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a field order and will be binding on CITY, and also on CONTRACTOR who shall perform the WORK involved promptly.

3.10.6 Rejecting Defective WORK:

ENGINEER will have the authority to disapprove or reject WORK which ENGINEER believes to be defective, and will also have authority to require special inspections or testing of the WORK whether or not the WORK is fabricated, installed or completed.

ARTICLE 4

TIME

4.1 TIME IS OF THE ESSENCE OF THIS AGREEMENT. The WORK to be performed under this Agreement shall be commenced upon the date of Agreement Commencement specified in the Notice to Proceed and, subject to authorized adjustments, shall be completed by _____. Failure to achieve timely, substantial, and/or final completion shall be regarded as a breach of this Agreement and subject to appropriate remedies including but not limited to liability for liquidated damages in accordance with Section 4.9 herein.

4.2 The CONTRACTOR shall provide services as expeditiously as is consistent with reasonable skill and care and the orderly progress of construction.

4.3 Time limits stated in the Contract Documents are of the essence of this Agreement. The WORK to be performed under this Agreement shall commence upon execution of a notice to proceed unless otherwise agreed and, subject to authorized Modifications, Substantial Completion shall be achieved as indicated in Article 4.4, below.

4.4 The Date of Substantial Completion of the WORK or an agreed upon portion thereof is the date when construction or an agreed upon portion thereof is sufficiently complete so the CITY can occupy and utilize the WORK or agreed upon portion thereof for its intended use.

4.5 The schedule provided in the CONTRACTOR's Proposal shall include a construction schedule consistent with Section 4.2 above.

4.6 If the CONTRACTOR is delayed in the progress of the Project by acts or neglect of the CITY, CITY'S employees, separate contractors employed by the CITY, changes ordered in the WORK not caused by the fault of the CONTRACTOR, labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or other causes beyond the CONTRACTOR's control, or by delay authorized by the CITY'S pending arbitration or another cause which the CITY and CONTRACTOR agree is justifiable, the Agreement Time shall be reasonably extended by Change Order.

4.7 CHANGE OF AGREEMENT TIME:

ALL TIME LIMITS STATED IN THE CONTRACT DOCUMENTS ARE OF THE ESSENCE OF THE AGREEMENT. NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS. CONTRACTOR shall not be entitled to an increase in the Agreement Price or payment or compensation of any kind from CITY for direct, indirect, consequential, impact or other costs, expenses or damages including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of CITY or its agents. Otherwise, CONTRACTOR shall be entitled only to extensions of the Agreement Time as the sole and exclusive remedy for such resulting delay, in accordance with and to that extent specifically provided above. No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten (10) years of weather data as recorded by the United States Department of Commerce, National Oceanic and Atmospheric Administration at the Fort Lauderdale Weather Station.

4.8 NO RECOVERY FOR EARLY COMPLETION:

If the CONTRACTOR submits a schedule or expresses an intention to complete the WORK earlier than any required milestone or completion date, the CITY shall not be liable to the CONTRACTOR for any costs incurred because of delay or hindrance should the CONTRACTOR be unable to complete the WORK before such milestone or completion date. The duties, obligations and warranties of the CITY to the CONTRACTOR shall be consistent with and applicable only to the completion of the WORK and completion dates set forth in this Agreement.

4.9 LIQUIDATED DAMAGES:

Upon failure of the CONTRACTOR to complete the WORK within the time specified for completion, (plus approved extensions if any) CONTRACTOR shall pay to CITY the sum of five hundred and xx/100 dollars (\$500.00) for each calendar day excluding Sundays that the completion of the WORK is delayed beyond the time specified in the Agreement for completion, as fixed and agreed liquidated damages and not as a penalty. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by CITY as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of CONTRACTOR to complete the Agreement on time. Regardless of whether or not a single Agreement is involved, the above-stated liquidated damages shall apply separately to each portion of the WORK for which a time of completion is given. CITY shall have the right to deduct from and retain out of monies which may be then due or which may become due and payable to CONTRACTOR, the amount of such liquidated damages and if the amount retained by CITY is insufficient to pay in full such liquidated damages, the CONTRACTOR shall pay in full such liquidated damages. CONTRACTOR shall be responsible for reimbursing CITY, in addition to liquidated damages or other per day damages for delay, for all costs of engineering, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to CONTRACTOR whichever is later.

4.10 COVID-19 PANDEMIC OR OTHER PANDEMICS

4.10.1 CONTRACTOR acknowledges that at the time of execution of this Agreement, there is an ongoing, worldwide pandemic related to COVID-19. This pandemic has resulted in certain restrictions on commerce and has resulted in certain delays or shortages in labor, production and supply of construction labor, materials and or equipment. CONTRACTOR represents that in arriving at its Agreement price and Agreement time, CONTRACTOR has considered present COVID-19 pandemic related impacts, including but not limited to; labor shortages, reduced productivity, government regulations, government shut downs, labor price increases, material and or equipment shortages, material and or equipment delivery delays, material and or equipment availability and material and or equipment price increases. CONTRACTOR further agrees that CONTRACTOR shall not be entitled to any additional money or time as a result of the present effects due to the COVID-19 pandemic except as otherwise set forth within this Section 4.10. Notwithstanding the above, CONTRACTOR has given CITY a Schedule of Values for materials when it submitted its response to the BID and should the costs of the items in the Schedule of Values increase as a direct result of COVID-19 by more than eight percent (8%) of the amount set forth in the Schedule of Values submitted with the CONTRACTOR's response to the BID then the Agreement Price shall be adjusted to account for the difference in price. CONTRACTOR shall be responsible for providing CITY written proof that the increase in materials is directly due to COVID-19.

4.10.2 CONTRACTOR shall have in place a COVID-19 mitigation plan to protect employees and to reduce the impact and spread of COVID-19 at the Project. This includes, but is not limited to, performing Work while socially distanced, requiring the wearing of masks while working, regularly sanitizing high touch areas, and providing appropriate sanitizing stations throughout the Project site.

4.10.3 Should there be any change in government COVID-19 regulations by any government or agency with jurisdiction over this Project that impose new regulations applicable to the Project that are not in existence at the time of execution of this Agreement, CONTRACTOR shall be entitled to additional time, but not additional money, but only to the extent that CONTRACTOR can establish that the change in government COVID-19 regulations impacted the critical path of this Project. If such new applicable government COVID-19 regulations cause CONTRACTOR to incur actual documented hard expenses that cumulatively total over Ten Thousand Dollars (\$10,000.00) then CONTRACTOR shall be reimbursed by the CITY for such documented hard expenses in excess of Ten Thousand Dollars (\$10,000.00). If the cumulative costs CONTRACTOR incurs as a result of these changes in government COVID-19 regulations are less than Ten Thousand Dollars (\$10,000.00) then CONTRACTOR shall not be entitled to any additional money. Entitlement to additional time shall not apply if there are concurrent Project delays for which CONTRACTOR is responsible.

4.10.4 In the event of a complete Project shutdown by any government or agency with jurisdiction over this Project related to COVID-19, CONTRACTOR shall, within seventy-two hours of the shutdown, provide the CITY with a written, detailed proposed plan for the CITY's written approval, of which employees (if any) shall remain during the shutdown, which shall be removed from the Project, what demobilization costs must be incurred, and what ongoing general requirements costs must be incurred. Said plan shall also identify all costs that can be mitigated during the time of the COVID-19 shutdown. CONTRACTOR shall not be compensated for demobilization costs but shall be compensated for documented remobilization costs. CONTRACTOR shall be paid for the reduced general requirements costs and the employees that remain during the shutdown in accordance with the agreed upon plan. CONTRACTOR shall be entitled to additional time, but not additional money for time impacts, but only to the extent that CONTRACTOR can establish that the Project shutdown impacted the critical path of this Project. Entitlement to additional time shall not apply if there are concurrent Project delays for which CONTRACTOR is responsible.

4.10.5 Should any employees (including but not limited to CONTRACTOR and subcontractor and supplier employees) working on the Project test positive for COVID-19, CONTRACTOR shall promptly remove those employees and all with whom they had contact, from the site for the required quarantine period. Said employees shall not be permitted back on site until they have had two (2) negative test results or otherwise comply with the then current and applicable CDC recommendations. During this time, CONTRACTOR shall endeavor to bring in replacement employees (at no additional costs to the CITY) to mitigate the impacts to the Project schedule. Should the reduction in labor result in delays to the critical path of the Project schedule, CONTRACTOR shall be entitled to additional time, but not additional money, but only to the extent that CONTRACTOR can establish that reduction in labor impacted the critical path of this Project. Entitlement to additional time shall not apply if there are concurrent Project delays for which CONTRACTOR is responsible.

4.10.6 The CITY and CONTRACTOR shall work together at no additional cost to the other, to mitigate all future COVID-19 price impacts and/or delays, including but not limited to supplementing labor due to labor shortages, reducing labor and/or overhead if applicable to mitigate daily losses, and exploring alternative selections to materials that may not be delayed or subject to price increases. No changes in materials shall be permitted unless approved in writing via a Change Order by the CITY, properly executed in accordance with the Contract Documents.

ARTICLE 5

PAYMENTS

5.1 AGREEMENT SUM:

CITY shall pay CONTRACTOR in current funds as full compensation for the performance of all the WORK subject to additions and deductions by Change Order as provided in this Agreement, the Agreement Sum of as follows:

5.2 PROGRESS PAYMENTS:

5.2.1 The CONTRACTOR shall deliver to the CITY an itemized Application for Payment in such detail as indicated in the CITY approved Schedule of Values. CONTRACTOR may requisition payments for WORK completed during the Project at intervals of not more than once a month. The CONTRACTOR'S requisition shall show a complete breakdown of the Project components, the quantities completed and the amount due, together with a certification by the CONTRACTOR that the CONTRACTOR has disbursed to all subcontractors and suppliers their pro-rata shares of the payment out of previous progress payments received by the CONTRACTOR for all WORK completed and materials furnished in the previous period or properly executed releases of liens by all subcontractors, suppliers and materialmen who were included in the CONTRACTOR'S previous applications for payment, and any other supporting documentation as may be required by the ENGINEER or Contract Documents. Each requisition shall be submitted in triplicate to the ENGINEER for approval. The CITY shall make payment to the CONTRACTOR within thirty (30) business days after approval by the ENGINEER of the CONTRACTOR's requisition for payment.

5.2.2 Five percent (5%) of all monies earned by the CONTRACTOR shall be retained by the CITY until the WORK is totally completed as specified, and accepted by the CITY unless, at some point during the construction period, a retainage reduction is required to comply with Florida Statute 218.735(8).

5.3 The Application for Payment shall constitute a representation by the CONTRACTOR to the CITY that, to the best of the CONTRACTOR's knowledge, information and belief, the construction have progressed to the point indicated; the quality of the WORK covered by the application is in accordance with the Contract Documents; and the CONTRACTOR is entitled to payment in the amount requested.

5.4 The CONTRACTOR shall pay each subcontractor, upon receipt of payment from the CITY, out of the amount paid to the CONTRACTOR on account of such subcontractor's WORK, the amount to which said subcontractor is entitled in accordance with the terms of the CONTRACTOR'S contract with such subcontractor. The CONTRACTOR shall, by appropriate agreement with each subcontractor, require each subcontractor to make payments to sub-subcontractors in similar manner.

5.5 The CITY shall have no obligation to pay or to be responsible in any way for payment to a subcontractor of the CONTRACTOR except as may otherwise be required by law.

5.6 No progress payment or partial or entire use or occupancy of the Project by the CITY shall constitute an acceptance of WORK not in accordance with the Contract Documents.

5.7 The CONTRACTOR warrants that: (1) title to WORK, materials and equipment covered by an Application for Payment will pass to the CITY either by incorporation in construction or

upon receipt of payment by the CONTRACTOR, whichever occurs first; (2) WORK, materials and equipment covered by previous Applications for Payment are free and clear of liens, claims, security interests or encumbrances, hereinafter referred to as "liens"; and (3) no WORK, materials or equipment covered by an Application for Payment will have been acquired by the CONTRACTOR, or any other person performing work at the site or furnishing materials or equipment for the Project, subject to an Agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.

5.8 If the Agreement provides for retainage, within 30 calendar days after reaching the earlier of substantial completion or beneficial occupancy, the CITY and the contractor will inspect the work and develop a punch list covering those items required to render complete, satisfactory, and acceptable the construction services purchased by the CITY. The punch list will include a schedule of values that provides the estimated cost to complete each item on the punch list. If the CITY and CONTRACTOR are unable to agree on an item or value, the CITY has final discretion whether to include an item and the amount for valuation of the cost to complete each item on the punch list. Within 20 business days after the creation of the punch list, the remaining contract balance, including retainage, will be paid to the contractor less an amount equal to 150 percent of the cost to complete the items on the punch list. Upon reaching final acceptance for an item or all items, the 150 percent withheld for each item will be released with final payment. For projects valued at \$10 million or more, the 30 calendar day period may be extended to 45 days.

5.9 FINAL INSPECTION:

Upon written notice from CONTRACTOR that the entire WORK or an agreed portion thereof is complete, CITY and ENGINEER will make a final inspection and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the WORK is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

5.10 FINAL APPLICATION FOR PAYMENT:

After CONTRACTOR has completed all such corrections to the satisfaction of CITY and ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked up record documents and other documents required by the Contract Documents, and after ENGINEER has indicated that the WORK is acceptable, CONTRACTOR may make application for final payment. The final application for payment shall be accompanied by (1) complete and legally effective releases or waivers of all liens arising out of or filed in connection with the WORK; or (2) CONTRACTOR's receipts in full covering all labor, materials and equipment for which a lien could be filed; or (3) a final affidavit stating that all laborers, materialmen, suppliers and subcontractors who worked for CONTRACTOR under this Agreement have been paid in full or if the fact be otherwise, identifying the name of each lienor who has not been paid in full and the amount due or to become due each for labor, services or materials furnished. If any subcontractor or supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a bond satisfactory to CITY to indemnify CITY against any lien.

In addition, CONTRACTOR shall also submit with the final application for payment, the completed set of "As-Built" drawings for review and approval. The "As-Built" drawings shall be prepared, sealed and certified by a professional registered land surveyor licensed by the State of Florida. Final payment to CONTRACTOR shall not be made until said drawings have been reviewed and approved by ENGINEER. Prior to approval, if necessary, the drawings may be returned to CONTRACTOR for changes or modifications if in the opinion of ENGINEER they do not represent correct or accurate "As-built" drawings.

5.11 FINAL PAYMENT AND ACCEPTANCE:

5.11.1 If, on the basis of ENGINEER'S observation of the WORK during construction and final inspection, and ENGINEER'S review of the final Application for Payment and accompanying documentation, ENGINEER is satisfied that the WORK has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten (10) business days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application to CITY for payment. Thereupon, ENGINEER will give written notice to CITY and CONTRACTOR that the WORK is acceptable. Otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty (30) business days after presentation to CITY of the Application and accompanying documentation, in appropriate form and substance, and with ENGINEER'S recommendation and notice of acceptability, the amount recommended by ENGINEER will become due and will be paid by CITY to CONTRACTOR.

5.11.2 If, through no fault of CONTRACTOR, final completion of the WORK is significantly delayed and if ENGINEER so confirms, CITY shall, upon receipt of CONTRACTOR'S final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the WORK fully completed and accepted. If the remaining balance to be held by CITY for WORK not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required, the written consent of the surety to the payment of the balance due for that portion of the WORK fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

5.11.3 Final payment, constituting the entire unpaid balance of the Agreement Sum, shall be paid by the CITY to the CONTRACTOR when the WORK has been completed, the Agreement fully performed, and a final certificate for payment has been issued by the ENGINEER. The making of final payment shall constitute a waiver of claims by CITY except those arising from:

- .1** Liens, claims, security interests or encumbrances arising out of this Agreement and unsettled.
- .2** Faulty or defective WORK and latent defects discovered after acceptance.
- .3** Failure of the WORK to comply with the requirements of the Contract Documents.
- .4** Terms of special warranties required by the Contract Documents.
- .5** Any of CONTRACTOR's continuing obligations under this Agreement.

The acceptance of final payment by CONTRACTOR or the subcontractor for materials and supplies shall constitute a waiver of claims by that payee except those previously made in writing and identified by payee as unsettled at the time of final application for payment.

5.12 CITY'S RIGHT TO WITHHOLD PAYMENT:

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

5.12.1 Defective WORK not remedied.

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

5.12.3 Failure of the CONTRACTOR to make payments to subcontractors or suppliers for materials or labor.

5.12.4 Damage to another contractor not remedied.

5.12.5 Liability for liquidated damages has been incurred by the CONTRACTOR.

5.12.6 Reasonable evidence that the WORK cannot be completed for the unpaid balance of the Agreement Sum.

5.12.7 Reasonable evidence that the WORK will not be completed within the Agreement Time.

5.12.8 Failure to carry out the WORK in accordance with the Contract Documents.

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

5.13 FINAL PAYMENT:

5.13.1 Neither final payment nor amounts retained, if any, shall become due until the CONTRACTOR submits to the CITY (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Project for which the CITY or CITY'S property might be liable have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, (3) a certificate that insurance required by the Contract Documents is in force following completion of the WORK, and (4) if required by the CITY, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens arising out of this Agreement, to the extent and in such form as may be designated by the CITY. If a CONTRACTOR refuses to furnish a release or waiver required by the CITY, the CONTRACTOR may furnish a bond satisfactory to the CITY to indemnify the CITY against such lien. If such lien remains unsatisfied after payments are made, the CONTRACTOR shall reimburse the CITY for monies the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

5.13.2 Final payment constituting the entire unpaid balance due shall be paid by the CITY to the CONTRACTOR upon the CITY'S receipt of the CONTRACTOR's final Application for Payment when the WORK has been completed and the Agreement fully performed except for those responsibilities of the CONTRACTOR which survive final payment.

5.13.3 The making of final payment shall constitute a waiver of all claims by the CITY except those arising from:

- .1 unsettled liens;
- .2 faulty or defective WORK appearing after Substantial Completion;
- .3 failure of the WORK to comply with requirements of the Contract Documents;
- .4 terms of special warranties required by the Contract Documents.

5.13.4 Acceptance of final payment shall constitute a waiver of all claims by the CONTRACTOR except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of final Application for Payment.

ARTICLE 6

PROTECTION OF PERSONS AND PROPERTY

6.1 The CONTRACTOR shall be responsible for initiating, maintaining, and providing supervision of OSHA standards for safety precautions and programs in connection with the WORK.

6.2 The CONTRACTOR shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to (1) employees on the WORK and other persons who may be affected thereby; (2) the WORK and materials and equipment to be incorporated therein; and (3) other property at or adjacent to the site.

6.3 The CONTRACTOR shall give notices and comply with applicable laws, ordinances, rules, regulations and orders of public authorities bearing on the safety of persons and property and their protection from damage, injury or loss.

6.4 The CONTRACTOR shall be liable for damage or loss (other than damage or loss to property insured under the property insurance provided or required by the Contract Documents to be provided by the CITY) to property at the site caused in whole or in part by the CONTRACTOR, a subcontractor of the CONTRACTOR or anyone directly or indirectly employed by either of them, or by anyone for whose acts they may be liable.

6.5 HURRICANE PRECAUTIONS: During such periods of times that are designated by the United States Weather Bureau as a hurricane warning or alert; all construction materials or equipment will be secured against displacement by wind forces; provided that where a full complement of personnel is employed or otherwise in attendance, or engaged for such purposes, formal construction procedures or use of materials or equipment may continue allowing such reasonable time as may be necessary to secure such materials or equipment before winds of hurricane force are anticipated. Construction materials and equipment will be secured by guying and shoring, or removing or tying down loose materials, equipment and construction sheds.

ARTICLE 7

INSURANCE AND BONDS

7.1 CONTRACTOR'S LIABILITY INSURANCE:

7.1.1 The CONTRACTOR shall purchase and maintain coverage from a company or companies authorized to do business in the State of Florida, such insurance as will protect the CONTRACTOR from claims set forth below which may arise out of or result from operations under the Agreement by the CONTRACTOR or by a subcontractor of the CONTRACTOR, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable:

- .1** claims under Workers' compensation, disability benefit and other similar employee benefit laws which are applicable to the WORK to be performed;
- .2** claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR's employees under any applicable employer's liability law;
- .3** claims for damages because of bodily injury, sickness or disease, or death of persons other than the CONTRACTOR's employees;
- .4** claims for damages covered by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the CONTRACTOR or (2) by another person;
- .5** claims for damages, other than to the WORK at the site, because of injury to or destruction of tangible property, including loss of use; and
- .6** claims for damages for bodily injury or death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle.

7.1.2 The insurance required by the above Subsection 7.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever are greater.

7.1.3 The CONTRACTOR's liability insurance shall include contractual liability insurance applicable to the CONTRACTOR's obligations.

7.1.4 Certificates of Insurance, and copies of policies, acceptable to the CITY shall be delivered to the CITY at the time of execution of Agreement. These Certificates, as well as insurance policies required by this Section shall contain a provision that coverage will not be canceled or allowed to expire until at least thirty calendar days prior written notice has been given to the CITY.

If any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted along with the application for final payment.

7.2 PAYMENT AND PERFORMANCE BONDS:

7.2.1 Within fifteen (15) business days after Notice of Award and in any event prior to commencing WORK, the CONTRACTOR shall execute and furnish to CITY a performance bond and a payment bond, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR, Section 223.10, Section 223.11). Further, the surety company shall provide CITY with evidence satisfactory to CITY, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858.

7.2.2 Two (2) separate bonds are required and both must be approved by the CITY. The penal sum stated in each bond shall be the amount equal to the total amount payable under the terms of the Agreement. The performance bond shall be conditioned that the CONTRACTOR perform the Agreement in the time and manner prescribed in the Agreement. The payment bond shall be conditioned that the CONTRACTOR promptly make payments to all persons who supply the CONTRACTOR with labor, materials and supplies used directly or indirectly by the CONTRACTOR in the prosecution of the WORK provided for in the Agreement and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate allowed by law; and that they shall indemnify and save harmless the CITY to the extent of any and all payments in connection with the carrying out of said Agreement which the CITY may be required to make under the law.

7.2.3 Pursuant to the requirements of Section 255.05(l)(a), Florida Statutes, it shall be the duty of the CONTRACTOR to record the aforesaid payment and performance bonds in the public records of Broward County, with the CONTRACTOR to pay all recording costs.

7.3 BONDS, REDUCTION AFTER FINAL PAYMENT:

Such bonds shall continue in effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or by the Contract Documents with the final sum of said bonds reduced after final payment to an amount equal to twenty five percent (25%) of the Agreement Price, or an additional bond shall be conditioned that CONTRACTOR shall correct any defective or faulty WORK or material which appears within one (1) year after final completion of the Agreement, upon notification by the CITY.

7.4 DUTY TO SUBSTITUTE SURETY:

If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of other applicable laws or regulations, CONTRACTOR shall within seven (7) business days thereafter substitute another bond and surety, both of which must be acceptable to CITY.

7.5 INSURANCE:

7.5.1 AT THE TIME OF EXECUTION OF THE AGREEMENT, THE CONTRACTOR SHALL SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGE AND SPECIFICALLY PROVIDING THAT THE CITY OF MARGATE IS AN ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGE AND THE OPERATIONS OF THE CONTRACTOR UNDER THE AGREEMENT. Insurance Companies selected must be acceptable by the CITY. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least thirty (30) business days' written notice has been given to CITY by certified mail.

The CONTRACTOR shall procure and maintain at its own expense and keep in effect during the full term of the Agreement a policy or policies of insurance which must include the following coverage and minimum limits of liability: **Additionally, any subcontractor hired by the CONTRACTOR for this Project shall provide insurance coverage as stated herein.**

(a) Builder's Risk: The CONTRACTOR shall maintain builder's risk insurance for any Property or Project in the course of construction in an amount at least equal to 100% of the estimated completed Project value as well as subsequent modifications of that sum. Coverage shall be provided on an All-Risk basis including coverage for the perils of wind and flood. CONTRACTOR shall assume all responsibility for any coinsurance penalties, deductibles, or uncovered self-insurance retention. The policy shall be endorsed with an "Occupancy Endorsement" or similar endorsement, amending the automatic termination of coverage in the event the Project is partially occupied, or put to its intended use prior to completion of construction. If a sublimit applies to the perils of wind or flood, the sublimit shall not be less than 25% of the projected completed value of the Project. The deductible shall not exceed \$10,000.00 nor shall a wind percentage deductible, when applicable, exceed five percent 5%. The coverage shall be kept in force until final payment has been made in accordance with other applicable Agreement requirements, or until CONTRACTOR and the CITY has any Property interest in the Project, or until CONTRACTOR and the CITY mutually consent to the termination, whichever occurs first. This insurance shall include interest of the CITY, CONTRACTOR, SUBCONTRACTOR, AND SUB-SUBCONTRACTORS in the Project.

Partial Occupancy or use of the WORK shall not commence until insurance company or companies providing insurance as required have consented to such partial occupancy or use. CONTRACTOR shall take reasonable steps to notify and obtain consent of the insurance company or companies, and agrees to take no action, other than upon mutual consent, with respect to occupancy or use of the WORK that could lead to cancellation, lapse, or reduction of insurance.

The coverage shall be kept in full force and effect until Final Completion or until CONTRACTOR and CITY mutually consent to the termination, whichever occurs first. The CONTRACTOR agrees and understands the CITY shall not provide any Builder's Risk insurance on behalf of CONTRACTOR for loss or damage to WORK, or to any other property of owned, hired, or borrowed by the CONTRACTOR.

CONTRACTOR agrees this coverage shall be provided on a primary basis, and shall be in accordance with all of the limits terms and conditions set forth herein.

(b) Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Worker's Act, the Federal Employers' Liability Act and the Homes Act. Employer's Liability Insurance shall be provided with a minimum of One Hundred Thousand and xx/100 dollars (\$100,000.00) per accident. CONTRACTOR shall agree to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

(c) Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by the CONTRACTOR in the performance of the WORK with the following minimum limits of liability:

\$1,000,000.00 Combined single Limit, Bodily Injury and Property Damage Liability, per occurrence

(d) Comprehensive General Liability with the following minimum limits of liability:

\$1,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability, per occurrence

Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage:

1. Premises and operations;
2. Independent Contractors;
3. Product and Completed Operations Liability;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to the Agreement and specifically confirming the indemnification and hold harmless agreement in the Contract and Personal Injury coverage with employment contractual exclusions removed and deleted.

7.5.2 The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with the following minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.

7.5.3 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against CITY with the express intention of the parties being that the required insurance coverage protect both parties as the primary coverage for any and all losses covered by the above described insurance.

7.5.4 The CONTRACTOR shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against CITY for payment or assessments in any form on any policy of insurance.

7.5.5 The clauses "Other Insurance Provisions" and "Insurers Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which CITY is named as an additional named insured shall not apply to CITY. CITY shall provide written notice of occurrence within a reasonable time of the actual notice of such an event.

7.5.6 The CONTRACTOR shall not commence performance of its obligations under this Agreement until after it has obtained all of the minimum insurance herein described and the same has been approved.

7.5.7 The CONTRACTOR agrees to perform the WORK under the Agreement as an independent CONTRACTOR, and not as a subcontractor, agent, or employee of CITY.

7.5.8 Violation of the terms of this section and its subparts shall constitute a breach of the Agreement and CITY, at its sole discretion, may cancel the Agreement and all rights, title and interest of the CONTRACTOR shall thereupon cease and terminate.

7.6 CITY'S LIABILITY AND INSURANCE:

CITY shall not be responsible for purchasing and maintaining any insurance to protect the interests of CONTRACTOR, subcontractors or others on the WORK. CITY specifically reserves all statutory and common law rights and immunities and nothing herein is intended to limit or waive same including, but not limited to, the procedural and substantive provisions of Florida Statute 768.28 and Florida Statute 95.11.

7.7 LOSS OF USE INSURANCE:

The CITY, at the CITY'S option, may purchase and maintain such insurance as will insure the CITY against loss of use of the CITY'S property due to fire or other hazards, however caused. The CITY waives all rights of action against the CONTRACTOR, and its CONTRACTORs and their agents and employees, for loss of use of the CITY'S property, including consequential losses due to fire or other hazards, however caused, to the extent covered by insurance under this Section.

ARTICLE 8

CHANGES IN THE WORK

8.1 CHANGES IN THE WORK:

8.1.1 CITY, without invalidating this Agreement, may order additions, deletions, or revisions to the WORK. Such additions, deletions, or revisions shall be authorized by a Written Amendment, Change Order, or Work Directive Change.

8.1.2 All Change Orders which, individually or when cumulatively added to amounts authorized pursuant to prior change Orders for this Project, increase the cost of the WORK to CITY or which extend the time for completion, must be formally authorized and approved by the CITY'S Commission prior to their issuance and before WORK may begin. No claim against CITY for extra WORK in furtherance of such change order shall be allowed unless prior approval has been obtained.

Notwithstanding the above subsection, Change Orders which individually or when cumulatively added to amounts authorized, pursuant to prior Change Orders for this Project, increase the cost of the WORK to the CITY not in excess of ten percent (10%) or \$50,000 (whichever is less) may be approved by signed approval of the City Manager of the City of Margate.

No claim against CITY for extra WORK in furtherance of a Change Order shall be allowed unless prior approval pursuant to this section has been obtained.

8.1.3 The Agreement Price and Agreement Time shall be changed only by Change Order or Written Amendment.

8.1.4 Proposed Change Orders shall be prepared by the ENGINEER on forms provided by CITY. When submitted for approval, they shall carry the signature of the ENGINEER and the CONTRACTOR.

8.1.5 If CITY and CONTRACTOR are unable to agree as to the extent, if any, of an adjustment in the Agreement Price or an adjustment of the Agreement Time that should be allowed as a result of a Work Change Directive, a claim may be made therefore.

8.1.6 CONTRACTOR shall not be entitled to an increase in the Agreement Price or an extension of the Agreement Time with respect to any WORK performed that is not required by the Contract Documents as amended, modified and supplemented.

8.1.7 If notice of any change affecting the general scope of the WORK or the provisions of the Contract Documents is required by the provisions of any bond to be given to a surety, the giving of any such notice will be CONTRACTOR'S responsibility and the amount of each applicable bond shall be adjusted accordingly.

8.1.8 Any claim for adjustment in the Agreement Price or time shall be based upon written notice delivered by the party making the claim to the other parties and to ENGINEER not later than three (3) business days after the occurrence or event giving rise to the claims and stating the general nature of the claim. No claim for an adjustment in the Agreement Price or an extension of the Agreement Time will be valid if not submitted in accordance with this Subsection.

8.1.9 The cost or credit to CITY from a change in the WORK shall be determined by mutual agreement.

8.2 CHANGE ORDERS:

8.2.1 A Change Order is a written order signed by the CITY and CONTRACTOR, and issued after execution of this Agreement, authorizing a change in the WORK or adjustment in the Agreement Sum or Agreement Time. The Agreement Sum and Agreement Time may be changed only by Change Order.

8.2.2 Cost or credit to the CITY resulting from a change in the WORK shall be determined in one or more of the following ways:

- .1** by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2** by unit prices stated in the Contract Documents or subsequently agreed upon;
- .3** by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4** by the method provided below.

8.2.3 If none of the methods set forth in Clauses 8.2.2.1, 8.2.2.2 or 8.2.2.3 is agreed upon, the CONTRACTOR, provided a written order signed by the CITY is received, shall promptly proceed with the WORK involved. The cost of such WORK shall then be determined on the basis of reasonable expenditures and savings of those performing the WORK attributable to the change, including the expenditures for design services and revisions to the Contract Documents. In case of an increase in the Agreement Sum, the cost shall include a reasonable allowance for overhead and profit. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; additional costs of supervision and field office personnel directly attributable to the change, and fees paid to engineers and other professionals. Pending final determination of cost to the CITY, payments on account shall be made on the Application for Payment. The amount of credit to be allowed by the CONTRACTOR to the CITY for deletion or change which results in a net decrease in the Agreement Sum will be actual net cost. When both additions and credits covering related WORK or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

8.2.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order that application of agreed unit prices to quantities proposed will cause substantial inequity to the CITY or CONTRACTOR, applicable unit prices shall be equitably adjusted.

8.3 CONCEALED CONDITIONS:

By execution of this Agreement, CONTRACTOR has satisfied itself as to all conditions necessary to fulfill this Agreement. No Agreement adjustments shall be allowed for concealed conditions nor different site conditions than anticipated.

8.4 REGULATORY CHANGES:

The CONTRACTOR shall be compensated for changes in the WORK necessitated by the enactment or revision of codes, laws, or regulations subsequent to the submission of the CONTRACTOR's proposal.

ARTICLE 9

WARRANTIES, TESTS AND INSPECTIONS CORRECTION OF DEFECTIVE WORK

9.1 WARRANTY OF TITLE:

The CONTRACTOR warrants to the CITY that it possesses good, clear and marketable title to all equipment and materials provided hereunder and there are no pending liens, claims or encumbrances whatsoever against said equipment and materials.

9.2 WARRANTY OF SPECIFICATIONS:

The CONTRACTOR warrants that all equipment, materials and workmanship furnished, whether furnished by the CONTRACTOR or its sub-contractors and suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

9.3 WARRANTY OF MERCHANTABILITY:

CONTRACTOR warrants that any and all equipment to be supplied pursuant to the Agreement is merchantable, free from defects, whether patent or latent in material or workmanship and fit for the ordinary purposes for which it is intended.

9.4 CORRECTION PERIOD:

CONTRACTOR warrants all material and workmanship for a minimum of one (1) year from date of acceptance by the CITY. If within one (1) year after the date of final completion or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents, any WORK is found to be defective, whether observed before or after acceptance by CITY, CONTRACTOR shall promptly, without cost to CITY and in accordance with CITY'S written instructions, either correct such defective WORK, or, if it has been rejected by CITY, remove it from the site and replace it with WORK that is not defective and satisfactorily correct and remove and replace any damage to other WORK or the work of others resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, CITY may have the defective workmanship corrected or the rejected WORK removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, attorneys and other professionals) will be paid by CONTRACTOR.

9.4.1 Where defective WORK (and damage to other WORK resulting therefrom) has been corrected, removed or replaced under this Section, the correction period hereunder with respect to such WORK will be extended for an additional period of one (1) year after such correction or removal and replacement has been satisfactorily completed.

9.4.2 Nothing contained in this Article shall be construed to establish a period of limitation with respect to other obligations which CONTRACTOR might have under the Contract Documents. Establishment of the time period of one (1) year as described in Subsection 9.4.1 relates only to the specific obligation of the CONTRACTOR to correct the WORK, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish CONTRACTOR'S liability with respect to the CONTRACTOR'S obligation other than specifically to correct the WORK.

9.5 CONTRACTOR warrants to the CITY that it will comply with all applicable federal, state, and local laws, regulations, and orders in carrying out its obligations under the Agreement.

9.6 CONTRACTOR warrants to the CITY that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Agreement.

9.7 CONTRACTOR warrants to the CITY that the consummation of the WORK provided for in the Contract Documents will not result in the breach of any term or provision of, or constitute a default under any indenture, mortgage, contract, or agreement to which the CONTRACTOR is a party.

9.8 CONTRACTOR warrants that there has been no violation of copyrights or patent rights either in the United States of America or in foreign countries in connection with the WORK of the Agreement.

9.9 No warranty, either express or implied, may be modified, excluded, or disclaimed in any way by CONTRACTOR. All warranties shall remain in full force and effect, notwithstanding acceptance and payment by CITY.

9.10 TESTS AND INSPECTIONS:

9.10.1 CONTRACTOR shall give CITY timely notice of readiness of the WORK for all required inspections, tests or approvals. CONTRACTOR shall assume full responsibility, pay all costs in connection therewith and furnish CITY the required certificates of inspection, testing or approval for all materials, equipment or the WORK or any part thereof unless otherwise specified herein.

9.10.2 Inspectors shall have no authority to permit deviations from nor to relax any of the provisions of the Contract Documents, nor to delay the Agreement by failure to inspect the materials and WORK with reasonable promptness.

9.10.3 The payment of any compensation whatever may be its character or form, or the giving of any gratuity or the granting of any favor by the CONTRACTOR to any inspectors, directly or indirectly is strictly prohibited and any such action on the part of the CONTRACTOR will constitute a breach of this Agreement.

9.10.4 The City of Margate's working hours are Monday through Friday 8 A.M. to 6 P.M. CONTRACTOR shall be responsible to plan for and schedule inspections within the CITY's working hours.

9.11 The CONTRACTOR shall promptly correct WORK rejected by the CITY or known by the CONTRACTOR to be defective or failing to conform to the Construction Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, and shall correct WORK under this Agreement found to be defective or nonconforming within a period of one year from the date of Substantial Completion of the WORK or designated portion thereof, or within such longer period provided by any applicable special warranty in the Contract Documents.

9.12 Nothing contained in this Article 9 shall be construed to establish a period of limitation with respect to other obligations of the CONTRACTOR under this Agreement. Section 9.11 relates only to the specific obligation of the CONTRACTOR to correct the WORK and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to

establish the CONTRACTOR's liability with respect to the CONTRACTOR'S obligations other than correction of the WORK.

9.13 If the CONTRACTOR fails to correct the defective WORK as required or persistently fails to carry out the WORK in accordance with the Contract Documents, the CITY, by written order signed personally or by an agent specifically so empowered by the CITY in writing, may stop the WORK, or any portion thereof, until the cause for such order has been eliminated; however the CITY'S right to stop the WORK shall not give rise to a duty on the part of the CITY to exercise the right for benefit of the CONTRACTOR or other persons or entities.

9.14 If the CONTRACTOR defaults or neglects to carry out the WORK in accordance with the Contract Documents and fails within seven business days after receipt of written notice from the CITY to commence and continue correction of such default or neglect with diligence and promptness, the CITY may give a second written notice to the CONTRACTOR and seven days following receipt by the CONTRACTOR of that second notice and without prejudice to other remedies the CITY may correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the CONTRACTOR costs of correcting such deficiencies. If the payments then or thereafter due the CONTRACTOR are not sufficient to cover the amount of the deduction, the CONTRACTOR shall pay the difference to the CITY.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 This Agreement shall be governed by the law where the WORK is located.

10.2 The table of contents and the headings of articles and Sections are for convenience only and shall not modify rights and obligations created by this Agreement.

10.3 In case a provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected.

10.4 SUBCONTRACTS:

10.4.1 The CONTRACTOR, as soon as practicable after execution of this Agreement, shall furnish to the CITY in writing the names of the persons or entities the CONTRACTOR will engage as subcontractors for the Project.

10.4.2 Nothing contained in the CONTRACTOR Contract Documents shall create a professional obligation or contractual relationship between the CITY and any third party.

10.5 WORK BY CITY OR CITY'S CONTRACTORS:

10.5.1 The CITY reserves the right to perform work related to, but not part of, the Project and to award separate contracts in connection with other work at the site. If the CONTRACTOR claims that delay or additional cost is involved because of such action by the CITY, the CONTRACTOR shall make such claims as provided in Section 10.6.

10.5.2 The CONTRACTOR shall afford the CITY'S separate CONTRACTORS reasonable opportunity for introduction and storage of their materials and equipment for execution of their work. The CONTRACTOR shall incorporate and coordinate the CONTRACTOR'S WORK with work of the CITY'S separate CONTRACTORS as required by the Contract Documents.

10.5.3 Costs caused by defective or ill-timed WORK shall be borne by the party responsible.

10.6 CLAIMS FOR DAMAGES:

Should either party to Agreement suffer injury or damage to person or property because of an act or omission of the other party, the other party's employees or agents, or another for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time after such injury or damage is or should have been first observed.

10.7 SUCCESSORS AND ASSIGNS:

This Agreement shall be binding on successors, assigns, and legal representatives of and persons in privity of the Agreement with the CITY or CONTRACTOR. Neither party shall assign, sublet or transfer an interest in this Agreement without the written consent of the other.

10.8 EXTENT OF AGREEMENT:

This Agreement represents the entire agreement between the CITY and CONTRACTOR and supersedes any prior negotiations, representations, or agreements. This Agreement may be amended only by written instrument signed by both CITY and CONTRACTOR.

10.9 NO WAIVER:

No waiver of any provision, covenant, or condition within this agreement or of the breach of any provision, covenant, or condition within this agreement shall be taken to constitute a waiver of any subsequent breach of such provision, covenant, or condition.

10.10 HOURS OF WORK:

CONTRACTOR can perform work during the time frames as stipulated in 2.7.2. Work on Sunday is not permitted unless a special request is made to the City 48 hours in advance. All requests must be approved by the City Manager.

10.11 WAIVER:

No waiver by either Party hereto of a breach of an obligation owed hereunder by the other shall be construed as a waiver of any other breach, whether of the same or of a different nature. No delay or failure on either Party's part to enforce any right or claim, which it may have hereunder, shall constitute a waiver on the respective Party's part of such right or claim. All rights and remedies arising under this Agreement as amended and modified from time to time are cumulative and not exclusive of any rights or remedies which may be available at law or otherwise.

10.12 ENTIRE AGREEMENT:

This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter hereof, and there are no other promises; representations, or warranties affecting it.

ARTICLE 11

DISPUTES

NOTWITHSTANDING ANY OTHER PROVISIONS PROVIDED IN THIS AGREEMENT, ANY DISPUTE ARISING UNDER THIS AGREEMENT WHICH IS NOT DISPOSED OF BY AGREEMENT, SHALL BE DECIDED BY THE CITY MANAGER, WHO SHALL REDUCE THEIR DECISION IN WRITING AND FURNISH A COPY THEREOF TO THE CONTRACTOR. THE DECISION OF THE CITY MANAGER AND THOSE PERSONS TO WHOM THEY DELEGATE AUTHORITY TO DECIDE DISPUTES, SHALL BE FINAL AND CONCLUSIVE UNLESS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE FRAUDULENT, CAPRICIOUS, ARBITRARY, OR GROSSLY ERRONEOUS AS TO NECESSARILY IMPLY BAD FAITH, OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

ARTICLE 12

TERMINATION OF THE AGREEMENT

12.1 TERMINATION BY THE CITY:

CITY'S Right to Terminate upon the occurrence of any one or more of the following events:

12.1.1 If CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

12.1.2 If a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency.

12.1.3 If CONTRACTOR makes a general assignment for the benefit of creditors.

12.1.4 If a trustee, receiver, custodian, or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR'S creditors.

12.1.5 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due.

12.1.6 If CONTRACTOR persistently fails to perform the WORK in accordance with the Contract Documents (including but not limited to, failure to supply sufficient skilled Workers or suitable materials or equipment or failure to adhere to the progress schedule as same may be revised from time to time).

12.1.7 If CONTRACTOR disregards laws or regulations of any public body having jurisdiction.

12.1.8 If CONTRACTOR otherwise violates in any substantial way any provision of the Contract Documents CITY may, after giving CONTRACTOR and the Surety seven (7) business days written notice to the extent permitted by laws and regulations, terminate the services of the CONTRACTOR, exclude CONTRACTOR from the site and take possession of the WORK and of all CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and use the same to full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the WORK all materials and equipment stored at the site or for which has paid CONTRACTOR but which are sorted elsewhere, and finish the WORK as CITY may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished.

12.1.9 Termination for Convenience of CITY:

Upon thirty (30) business days written notice to CONTRACTOR, CITY may, without cause and without prejudice to any other right or remedy, terminate the agreement for CITY'S convenience whenever CITY determines that such termination is in the best interests of CITY. Where the agreement is terminated for the convenience of CITY, the notice of termination to CONTRACTOR must state that the Agreement is being

terminated for the convenience of the CITY under the termination clause the effective date of the termination and the extent of termination. Upon receipt of the notice of termination for convenience, CONTRACTOR shall promptly discontinue all WORK at the time and to the extent indicated on the notice of termination, terminate all outstanding Subcontractors and purchase orders to the extent that they relate to the terminated portion of the Agreement, and refrain from placing further orders and Subcontracts. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

12.1.10 This Agreement may be terminated by the CITY upon fourteen business days' written notice to the CONTRACTOR in the event that the Project is abandoned. If such termination occurs, the CITY shall pay the CONTRACTOR for work completed and for proven loss sustained upon materials, equipment, tools and construction equipment and machinery, including reasonable profit and applicable damages.

12.1.11 If the CONTRACTOR defaults or persistently fails or neglects to carry out the WORK in accordance with the Contract Documents or fails to perform the provisions of this Agreement, the CITY may give written notice that the CITY intends to terminate this agreement. If the CONTRACTOR fails to correct the defaults, failure or neglect within seven business days after being given notice, the CITY may then give a second written notice and, after an additional seven business days, the CITY may without prejudice to any other remedy make good such deficiencies and may deduct the cost thereof from the payment due the CONTRACTOR or, at the CITY'S option, may terminate the employment of the CONTRACTOR and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the CONTRACTOR and finish the WORK by whatever method the CITY may deem expedient. If the unpaid balance of the Agreement Sum exceeds the expense of finishing the WORK, the excess shall be paid to the CONTRACTOR, but if the expense exceeds the unpaid balance, the CONTRACTOR shall pay the difference to the CITY.

12.2 TERMINATION BY CONTRACTOR:

12.2.1 If ENGINEER fails to recommend payment for a period of thirty (30) business days through no fault of CONTRACTOR or if CITY fails to make payment thereon for a period of thirty (30) business days, CONTRACTOR may, upon seven (7) additional business days' written notice to CITY and ENGINEER, terminate the Agreement and recover from the Agreement Payment for WORK executed and for proven loss with respect to materials, equipment, tools and construction equipment and machinery.

12.2.2 If the CITY fails to make payment when due, the CONTRACTOR may give written notice of the CONTRACTOR'S intention to terminate this Agreement. If the CONTRACTOR fails to receive payment within thirty business days after receipt of such notice by the CITY, the CONTRACTOR may give a second written notice and, thirty business days after receipt of such second written notice by the CITY, may terminate this Agreement and recover from the CITY payment for WORK executed and for proven losses sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and applicable damages.

ARTICLE 13

BASIS OF COMPENSATION

13.1 CHANGES IN AGREEMENT PRICE:

13.1.1 THE AGREEMENT PRICE CONSTITUTES THE TOTAL COMPENSATION (SUBJECT TO AUTHORIZED ADJUSTMENTS) PAYABLE TO CONTRACTOR FOR PERFORMING THE WORK. ALL DUTIES, RESPONSIBILITIES AND OBLIGATIONS ASSIGNED TO OR UNDERTAKEN BY CONTRACTOR SHALL BE AT HIS EXPENSE WITHOUT CHANGE IN AGREEMENT PRICE.

13.1.2 THE AGREEMENT PRICE MAY ONLY BE CHANGED BY A CHANGE ORDER OR BY A WRITTEN AMENDMENT. ANY CLAIM FOR AN INCREASE OR DECREASE IN THE AGREEMENT PRICE SHALL BE BASED ON WRITTEN NOTICE DELIVERED TO ENGINEER PROMPTLY (BUT IN NO EVENT LATER THAN TEN (10) BUSINESS DAYS) AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE AMOUNT OF THE CLAIM WITH SUPPORTING DATA SHALL BE DELIVERED WITHIN TWENTY (20) BUSINESS DAYS AND SHALL BE ACCCOMPANIED BY CLAIMANT'S WRITTEN STATEMENT THAT THE AMOUNT CLAIMED COVERS ALL KNOWN AMOUNTS (DIRECT, INDIRECT AND CONSEQUENTIAL) TO WHICH THE CLAIMANT IS ENTITLED AS A RESULT OF THE OCCURRENCE OF SAID EVENT. NO RESOLUTION OF A CLAIM FOR ADJUSTMENT IN THE AGREEMENT PRICE SHALL BE EFFECTIVE UNTIL APPROVED BY CITY COMMISSION IN WRITING. NO CLAIM FOR ADJUSTMENT IN THE AGREEMENT PRICE WILL BE VALID IF NOT SUBMITTED IN ACCORDANCE WITH THIS SECTION.

13.1.3 The value of any WORK covered by a change order or of any claim for an increase or decrease in the Agreement Price shall be determined in one of the following ways:

.1 Where the WORK involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit including any subcontractor fees) which shall not exceed twenty-five percent (25%). If the negotiated lump sum change order exceeds the percentages set forth for "Cost of WORK" it must be accompanied by a detailed explanation justifying the increase.

.3 On the basis of the cost of the WORK (determined as provided in Sections 13.2 and 13.3) plus a CONTRACTOR'S fee for overhead and profit (determined as provided in Section 13.4).

13.2 COST OF THE WORK IN THE EVENT OF CHANGE ORDER:

The term "Cost of the WORK" means the sum of all direct costs necessarily incurred and paid by CONTRACTOR in the proper performance of the WORK. Except as otherwise may be agreed to in writing by CITY, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Section 13.3:

13.2.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the WORK under schedules of job classifications agreed upon by CITY and CONTRACTOR. Payroll costs for employees not employed full time on the WORK shall be apportioned on the basis of their time spent on the WORK. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foreperson at the site. The expenses of performing WORK after regular working hours, on Sunday or legal holidays, shall not be included in the above unless authorized in writing by CITY.

13.2.2 Cost of all materials and equipment furnished and incorporated in the WORK, including costs of transportation and storage thereof, and suppliers field services required in connection therewith. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to CITY, and CONTRACTOR shall make provisions so that they may be obtained.

13.2.3 Supplemental costs including the following:

- .1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the WORK.
- .2 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by CITY with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with terms of said rental agreements, the rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the WORK.
- .3 Sales, consumer, use or similar taxes related to the WORK, and for which CONTRACTOR is liable, imposed by laws and regulations.
- .4 Royalty payments and fees for permits and licenses.
- .5 The cost of utilities, fuel and sanitary facilities at the site.
- .6 Minor expenses such as telegrams, long distance telephone calls, telephone service at site, express message and similar petty cash items in connection with the WORK.
- .7 Cost of premiums for additional bonds and insurance required because of changes in the WORK.

13.3 NOT INCLUDED IN THE COST OF THE WORK IN THE EVENT OF CHANGE ORDER:

The term cost of the WORK shall not include any of the following:

13.3.1 Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals, (of partnership and sole proprietorships), general managers, engineers, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR'S principal or a branch office for general administration of the WORK and not specifically included in the agreed upon schedule of job classifications referred to in Subsection 13.2.1 - all of which are to be considered administrative costs covered by CONTRACTOR'S fee.

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

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

13.3.4 Cost of premiums for all bonds and all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same.

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

13.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Section 13.2.

13.4 CONTRACTOR'S FEE IN THE EVENT OF CHANGE ORDER:

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

13.4.1 A mutually acceptable negotiated fee.

13.4.2 For costs incurred under Subsections 13.2.1 and 13.2.2 CONTRACTOR's fee shall not exceed ten percent (10%).

13.4.3 No fee shall be payable on the basis of costs itemized under Subsections 13.2.3.1, 13.2.3.2, 13.2.3.3, 13.2.3.4, 13.2.3.5, 13.2.3.6, 13.2.3.7, 13.3.1, 13.3.2, 13.3.3, 13.3.4, 13.3.5 and 13.3.6.

13.4.4 The amount of credit to be allowed by CONTRACTOR to CITY for any such change which results in a net decrease plus a deduction in CONTRACTOR's fee by an amount equal to ten percent (10%) for the net decrease.

13.4.5 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, profit will not be paid on any WORK not performed.

13.5 COST BREAKDOWN IN THE EVENT OF CHANGE ORDER:

Whenever the cost of any WORK is to be determined pursuant to Sections 13.2 or 13.3, CONTRACTOR will submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data. Whenever a change in the WORK is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit or no-change-in-cost, the CONTRACTOR shall submit an estimate substantiated by a complete itemized breakdown.

13.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.

13.5.2 Whenever a change involves the CONTRACTOR and one (1) or more subcontractors and the change is an increase in the Agreement Price, the overhead and profit percentage for the CONTRACTOR and each subcontractor shall be itemized separately.

The City shall compensate the CONTRACTOR in accordance with Article 5, Payments, and the other provisions of this Agreement as described below.

13.6 REIMBURSABLE EXPENSES IN EVENT OF CHANGE ORDER:

13.6.1 Reimbursable Expenses are in addition to the compensation for basic and additional Services and include actual expenditures made by the CONTRACTOR in the interest of the Project for the expenses listed as follows:

13.6.2 FOR REIMBURSABLE EXPENSES, compensation shall be a multiple of 1.10 times the amounts expended.

ARTICLE 14

OTHER PROVISIONS

14.1 NOTICE AND COMPUTATION OF TIME:

14.1.1 Giving Notice:

All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

The business address of the CONTRACTOR is:

The business address of the CITY is:

City Manager
City of Margate
5790 Margate Blvd.
Margate, Florida 33063

The business address of the ENGINEER is:

Marta Reczko
Assistant Director of Utilities
City of Margate Department of Environmental & Engineering Services
901 NW 66th Ave
Margate, Florida 33063

All "Notice to Owner / Notice of Contractor" forms are to be sent to:

Curt Keyser
Director
City of Margate Department of Environmental & Engineering Services
5790 Margate Blvd.
Margate, Florida 33063

14.2 COMPUTATION OF TIME:

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a Federal or City holiday by the law of the applicable jurisdiction, such day will be omitted from the computation. A calendar day of twenty-four (24) hours measured from midnight to the next midnight shall constitute a day.

14.3 MISCELLANEOUS:

14.3.1 The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR and all of the rights and remedies available to CITY thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Section will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Section will survive final payment and termination or completion of the Agreement.

14.3.2 CONTRACTOR shall not assign or transfer the Agreement or its rights, title or interests therein without CITY'S prior written approval. The obligations undertaken by CONTRACTOR pursuant to the Agreement shall not be delegated or assigned to any other person or firm unless CITY shall first consent in writing to the assignment. Violation of the terms of this Subsection shall constitute a breach of Agreement by CONTRACTOR and the CITY may, at its discretion, cancel the Agreement and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.

14.3.3 CONTRACTOR and its employees, volunteers and agents shall be and remain independent contractors and not agents or employees of CITY with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between the parties hereto.

14.3.4 CITY reserves the right to audit the records of CONTRACTOR relating in any way to the WORK to be performed pursuant to this Agreement at any time during the performance and term of the Agreement and for a period of three (3) years after completion and acceptance by CITY. If required by CITY, CONTRACTOR agrees to submit to an audit by an independent certified public accountant selected by CITY. CONTRACTOR shall allow CITY to inspect, examine and review the records of CONTRACTOR at any and all times during normal business hours during the term of the Agreement.

14.3.5 The remedies expressly provided in this Agreement to CITY shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of CITY now or hereafter existing at law or in equity.

14.3.6 Should any part, term or provision of this Agreement be by the courts decided to be invalid, illegal, or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby.

14.4 VENUE AND GOVERNING LAW: This agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated only in the courts of the Seventeenth Judicial Circuit in and for Broward County, Florida.

14.5 WAIVER OF JURY TRIAL: The parties to this agreement hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the Agreement, arising out of, under, or in connection with the matters to be accomplished in this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or the actions or inactions of any party.

14.6 NO WAIVER OF SOVEREIGN IMMUNITY: Nothing contained herein is intended to service as a waiver of sovereign immunity by the City or as a waiver of limits of liability of rights existing under Section 768.28, Florida Statutes.

14.7 SCRUTINIZED COMPANIES: In accordance with s. 287.135, Florida Statutes, as amended, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services if:

14.7.1 Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

.1 One million dollars or more, if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

.2 Is 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 s. 215.73, Florida Statutes; or

.3 Is engaged in business operations in Cuba and Syria.

14.7.2 By submitting a bid, proposal or response, the company, principals or City certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Syria.

14.7.3 The City reserves the right to terminate this contract if CONTRACTOR is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

14.8 PUBLIC RECORDS: The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and specifically agrees to:

14.8.1 Keep and maintain public records required by the City of Margate to perform the service.

14.8.2 Upon request from the City of Margate's custodian of public records, provide the City of Margate with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

14.8.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City of Margate.

14.8.4 Upon completion of the Agreement, transfer, at no cost, to the City of Margate all public records in possession of the Contractor or keep and maintain public records required by the City of Margate to perform the service. If the Contractor transfers all public records to the City of Margate upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the

Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City of Margate, upon request from the City of Margate's custodian of public records, in a format that is compatible with the information technology systems of the City of Margate.

Section 119.0701(2)(a), Florida Statutes

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Telephone number: (954) 972-6454

E-mail address: recordsmanagement@margatefl.com

Mailing address: 5790 Margate Boulevard, Margate, FL 33063

14.9 E-VERIFY

1) Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

2) Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and**
- b) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Margate; and**
- c) *By entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor***

shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination and shall be liable for any additional costs incurred by the City as a result of the termination.

WITNESS WHEREOF, the parties hereto have made an executed Agreement on the respective dates under each signature; City of Margate through its City Commission signing by and through its Mayor and City Manager, authorized to execute same by the City Commission the _____ day of _____, 20____ and _____, signing by and through its representatives is duly authorized to execute same.

CITY OF MARGATE

Anthony N. Caggiano, Mayor

____ day of _____, 20____

Cale Curtis, City Manager

____ day of _____, 20____

ATTEST:

Jennifer M. Johnson, City Clerk

____ day of _____, 20____

APPROVED AS TO FORM:

David N. Tolces, Interim City Attorney

____ day of _____, 20____

CONTRACTOR

FOR CORPORATION:

President

(CORPORATE SEAL)

Secretary

The foregoing instrument was acknowledged before me **by means of physical presence or online notarization**, this ____ day of _____, 20____, by _____ (name of person acknowledging)

Signature of Notary Public
State of Florida

Print, Type, or Stamp Commissioned
Name of Notary Public

**AGREEMENT BETWEEN CITY OF MARGATE AND CONTRACTOR FOR THE PROPOSED
RFP NO. 2023-012**