

ATTACHMENT B
CITY OF RIVIERA BEACH CONSTRUCTION INVITATION TO BID
TERMS AND CONDITIONS

A. ASSIGNMENT AND SUBCONTRACTING

THE CONTRACTOR SHALL NOT ASSIGN, TRANSFER, CONVEY, PLEDGE, HYPOTHECATE, DELEGATE, OR OTHERWISE DISPOSE OF THIS CONTRACT, OR ANY RIGHT, INTEREST, OR OBLIGATION ARISING HEREUNDER, IN WHOLE OR IN PART, WITHOUT THE PRIOR WRITTEN CONSENT OF THE CITY, WHICH CONSENT MAY BE WITHHELD IN THE CITY'S SOLE AND ABSOLUTE DISCRETION. ANY PURPORTED ASSIGNMENT MADE WITHOUT SUCH CONSENT SHALL BE VOID AB INITIO AND OF NO FORCE OR EFFECT, AND SHALL CONSTITUTE A MATERIAL DEFAULT. The following events constitute an assignment requiring City consent: (a) any merger, consolidation, or reorganization of the Contractor; (b) any sale or transfer of all or substantially all assets; (c) any change in controlling ownership; (d) any assignment by operation of law, including insolvency or bankruptcy; and (e) any delegation of a material portion of the Contractor's obligations to a third party not identified in the proposal. The Contractor may subcontract portions of the work only to subcontractors identified in the proposal and approved in writing by the City. The Contractor remains solely responsible for all subcontracted work and for ensuring subcontractors comply with all contract and insurance requirements. [§ 287.055(6)(a), Fla. Stat., as applicable]

B. BANKRUPTCY AND INSOLVENCY

If the Contractor files for bankruptcy, becomes insolvent, or is unable to pay its debts as they become due, the Contractor shall notify the City immediately in writing. The City may terminate this contract immediately without penalty or liability if the Contractor becomes insolvent or files for bankruptcy. The City's rights under this contract are not discharged by the Contractor's bankruptcy and shall be preserved according to applicable federal bankruptcy law. The Contractor waives any right to assume or assign this contract in a bankruptcy proceeding

C. CODE REQUIREMENTS

The Contractor and his or her subcontractors on this project must be familiar with all applicable Federal, State, City, and Local Laws, Regulations, or Codes and be governed accordingly as they will apply to this project and the actions or operations of those engaged in the work or concerning materials used. Contractor shall ask for and receive any required inspections.

D. COMMERCIAL NON-DISCRIMINATION POLICY

It is the policy of the City not to enter into a contract or to be engaged in business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of Contractors, suppliers, subcontractors or commercial customers based on race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or based on any otherwise unlawful use of characteristics regarding the Contractor's supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in relevant marketplace for Palm Beach County.

E. CONE OF SILENCE

Section 2-166 (Cone of Silence) of the City Code of Ordinances, prohibits any communication, except written correspondence, regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between any person's representative seeking award from such competitive solicitation; and any City Council person or legislative staff, or any City employee authorized to act on behalf of the Council to award a contract under this Bid. The Cone of Silence shall be in effect as of the deadline to submit the proposal, bids or other response to this competitive solicitation and shall remain in effect and subject to the terms of this section for any person or person's representative. The provisions of this division shall not apply to oral communications at any public proceeding, including pre-bid conference, oral presentations before selection committees, and contract negotiations during any public meetings, presentations made to the Council and protest hearings. Further, the Cone of Silence shall not apply to contract negotiations between any employee and the intended awardees, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, Council member, or selection committee member, unless specifically prohibited by the applicable competitive solicitation process. The cone of silence shall terminate at the time the Council, awards or approves a contract, rejects all bids or responses or otherwise takes action, which ends the solicitation process. Any Contract entered into in violation of the cone of silence provisions in this section shall render the transaction voidable. Penalties for violation of the Cone of Silence shall be applied per Section 2-168 (Penalties) of the City Code of Ordinances.

F. CONFLICT OF INTEREST

All Bidders MUST disclose with their Bid the name of any officer, director, agent, or any relative of an officer, director, or agent who is also an employee of the City. Further, all Bidders must disclose the name of any City employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder's firm or any of its subsidiaries.

G. DEBARRED OR SUSPENDED BIDDERS

The Bidder certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any state, local or federal department or agency.

H. DISCLOSURE OF FOREIGN GIFTS AND CONTRACTS WITH FOREIGN COUNTRIES OF CONCERN

In accordance with F.S. 286.101, as amended, by entering into a Contract or performing any work hereunder, the Proposer certifies that it has disclosed any current or prior interest, any contract, or any grant or gift received from a foreign country of concern if such interest, contract, or grant/gift had a value of \$50,000 or more, or if it was in effect at any time during the past five (5) years.

I. DISPUTE RESOLUTION

If the Contractor disputes any City decision regarding contract performance, payment, or compliance, the Contractor must submit a written notice to the Procurement Director within [10 days] of the disputed decision, specifying the grounds for dispute. The Procurement Director shall review the dispute and issue a written decision within 10 business days. If the Contractor is not satisfied with the Procurement Director's decision, the Contractor may appeal to the Interim City Manager, whose decision shall be final. This procedure is a prerequisite to any legal action.

J. FORCE MAJEURE

The Contractor shall not be liable for delays or non-performance caused by unforeseeable circumstances beyond its reasonable control, including acts of God, war, pandemic, or government action, provided the Contractor promptly notifies the City of the event and makes reasonable efforts to resume performance. Force majeure does not excuse the Contractor's payment obligations or relieve it of any contractual duty that does not depend on performance of the delayed work. If a force majeure event prevents performance for more than 30 days, either party may terminate the contract upon written notice without penalty.

K. DRUG-FREE WORK PLACE

Pursuant to Section 287.087, Florida Statutes, the Offeror certifies that it shall implement and maintain a drug-free workplace program satisfying all of the following requirements:

- a) Published Policy: Publish a statement prohibiting the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace;
- b) Employee Notification: Inform all employees of the dangers of drug abuse in the workplace, the company's drug-free workplace policy, available drug counseling and rehabilitation programs, and the penalties for violations;
- c) Distribution to Affected Employees: Distribute a copy of the drug-free workplace statement to all employees engaged in providing the commodities or contractual services under this contract;
- d) Incident Reporting: Require employees to notify the employer within five (5) days of any conviction, plea of guilty, or plea of nolo contendere for any violation of Chapter 893, Florida Statutes (controlled substances), or any federal or state controlled substance law for a violation occurring in the workplace;
- e) Sanctions and Rehabilitation: Impose sanctions on, or require satisfactory participation in a drug abuse assistance or rehabilitation program for, any employee convicted of a workplace-related drug violation;
- f) Good-Faith Maintenance: Make a good-faith effort to continue maintaining a drug-free workplace through implementation of this section.

All Offerors must certify compliance with these requirements. Failure to submit this certification or false certification constitutes grounds for rejection of the proposal.

L. E-VERIFY – EMPLOYMENT ELIGIBILITY VERIFICATION

Pursuant to Section 448.095, Florida Statutes, as may be amended, the Contractor warrants and represents that it: (1) is registered with and uses the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all subcontractors performing duties and obligations under any resulting contract are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers. The Contractor shall obtain from each subcontractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien as defined in Section 448.095(1)(k), Florida Statutes. The Contractor shall maintain a copy of each such affidavit for the duration of the subcontract and any extension thereof. The City shall terminate any resulting contract if it has a good faith belief that the Contractor has knowingly violated Section 448.09(1), Florida Statutes. If the City has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, the City shall notify the Contractor to terminate its contract with the subcontractor and the Contractor shall immediately do so. A

Contractor terminated for E-Verify non-compliance shall be barred from City contracts for one (1) year from the date of termination. The Contractor shall complete and submit the E-Verify Affirmation Statement included in Attachment "A" – Bidder's Required Forms.

M. EQUAL EMPLOYMENT OPPORTUNITY

No Contractor shall discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin, sexual orientation (including but not limited to City Code, Section 10-51, and 16.5-101), marital status, political affiliation, disability, or physical or mental handicap if qualified. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, age, color, sex or national origin, sexual orientation, marital status, political affiliation, disability, or physical or mental handicap. Such actions 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 of training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Contractor selected to perform work on a City project must include the foregoing or similar language in its contracts with any subcontractors or sub consultants, except that any project assisted by U.S. Department of Transportation funds shall comply with the non-discrimination requirements in Title 49 C.F.R. Parts 23 and 26. The subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause. Failure to comply with above requirements is a material breach of the contract, and may result in the termination of this contract or such other remedy as the City deems appropriate.

N. HUMAN TRAFFICKING AFFIDAVIT

Proposer warrants and represents that it does not use coercion for labor or services as defined in Section 787.06, Florida Statutes. Proposer has executed Attachment A, Required Forms, Nongovernmental Entity Human Trafficking Affidavit, which is attached hereto and incorporated herein by reference.

O. INDEMNIFICATION

Contractor shall indemnify and save harmless and defend the City, its agents, servants, officers and employees from and against any claims, liabilities, losses, damages, and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, omission or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

The Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants, officers and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Contractor not included in the paragraph above and for which the City, its agents, servants, officers, or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

The indemnification provided above shall obligate the Contractor to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at City's, option, any and all claims of liability and all suits and actions of every name and description, which may be brought against the City, whether performed by Contractor, or persons employed or utilized by Contractor.

P. INDEPENDENT CONTRACTOR RELATIONSHIP

The successful Bidder is, and shall be, in performing all work, services, and activities under this Contract, an Independent Contractor and not an employee, agent, or servant of the City. All persons engaged in any work or services performed under this Contract shall at all times, and in all places, be subject to the successful Bidder's sole direction, supervision, and control. The successful Bidder shall exercise control over the means and manner in which it and its employees perform the work, and, in all respects, the successful Bidder's relationship, and the relationship of its employees, to the City shall be that of an Independent Contractor and not as employees or agents of the City.

Q. INSPECTION, ACCEPTANCE, AND REJECTION

The City reserves the right to inspect all work, materials, and deliverables at any time before final acceptance. Any work or goods that fail to conform to the contract specifications may be rejected by the City, and the Contractor shall correct or replace the nonconforming work at no additional cost to the City. Acceptance by the City does not waive any defects or relieve the Contractor of any obligation under this contract. The City's final written acceptance of deliverables is required before the Contractor is entitled to final payment.

R. JURISDICTION, VENUE, WAIVER OF JURY TRIAL

The contract shall be interpreted and construed in accordance with and governed by the laws of Florida. Any controversies or legal problems arising out of the contract and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Fifteenth Judicial Circuit of Palm Beach County, Florida, the venue situs, and shall be governed by the laws of the state of Florida. By entering into this contract, Contractor and City hereby waive any rights either party may have to a trial by jury of any civil litigation related to this contract. If any party demands a jury trial in a lawsuit arising out of the contract and fails to withdraw the request after written notice by the other party, the party making the request for jury trial shall be liable for the reasonable attorneys' fees and costs of the party contesting the request for jury trial.

S. LEGAL REQUIREMENTS

Bidders must comply with all provisions of Federal, State, County, and local laws, bid and ordinances, rules and regulations, and any City rules applicable to the items being bid. Lack of knowledge by the Bidder shall not be a cause for relief from responsibility or constitute a cognizable defense against the legal effect thereof.

T. LOCAL VENDOR PREFERENCE

Under the City's Procurement Code, DIVISION 1. - PREFERENCES FOR LOCAL VENDORS, the City has a preference for local businesses. A local business, for the purposes of the application of the local vendor preference, means a Bidder, which has a permanent, physical place of business within the city limits and a valid business tax receipt and certificate of occupancy applicable to the required goods, services, or construction items being procured. Post office boxes or locations at a postal service center are not verifiable and will not be used for the purpose of establishing said physical address. If the business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one party of the joint venture/partnership meets the test outlined in this section. The Bidder will have the burden of demonstrating that it meets this definition. A permanent physical location must be established for a minimum of twelve (12) months

before the published date of this solicitation. Applying the local vendor preference will not change the actual cost proposal. Further, in no event will it cause the city to pay more than \$25,000.00 above the amount proposed by the non-local vendor, which would have been recommended for award if the local vendor preference had not been applied.

U. LOBBYING ACTIVITIES

ALL CONTRACTORS PLEASE NOTE: Any Contractor submitting a response to this solicitation must comply, if applicable, with the CITY'S Lobbying Ordinance, and provided in Chapter 2.164 of the City Code of Ordinance. Copies of the Ordinance may be obtained from the Office of the CITY Clerk, 600 West Blue Heron Boulevard, Suite #140, Riviera Beach, Florida, 33404. The ordinance may also be viewed on the City's website at: https://library.municode.com/fl/riviera_beach/codes/code_of_ordinances.

V. MODIFICATIONS

All changes to purchase orders shall be made by issuance of a change order. Any modifications or changes to any contract entered into as a result of this solicitation must be made by written amendment with the same formality and of equal dignity before the initiation of any such change.

W. NON-COLLUSION STATEMENT

By signing its Bid, the Bidder certifies that its Bid is made independently and free from collusion. Bidder shall complete and submit the Non-Collusion Affidavit Form located in Attachment "A" – Bidder's Required Forms package, to their best knowledge, any Riviera Beach officer or employee, or any relative of any such officer or employee as defined in Section 112.3135(1) (c), Florida Statutes, who is an officer or director of, or has a material interest in, the supplier's business, who is in a position to influence this procurement. Any Riviera Beach officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if he/she directly or indirectly owns more than five percent (5%) of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this Bidder. Failure of a Bidder to disclose any relationship described herein shall be reason for debarment following the provisions of the City Procurement Code. If doing business under an assumed name, i.e., an Individual, Association, Partnership, Corporation, or otherwise, Bidder shall be registered with the Florida Department of State, Division of Corporations.

X. NOTICE

Written notice provided pursuant to this contract shall be sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain as set forth herein until changed in writing in the manner provided in this section. For the present, the City designates:

Director of Procurement
1481 West 15th Street
Riviera Beach, FL 33404

Contractor shall identify in the solicitation response a designated person and address to whom notice shall be sent when required by the contract.

Y. PAYMENT

Payment for all goods and services, requested by a purchase order, shall be made in a timely manner and in accordance with Local Government Prompt Payment Act, Section 218.70, Florida Statutes, and the Prompt Payment Policy, Section No. 16.5-297, City's Code of Ordinances. All payment applications shall be submitted to the address indicated in the purchase order. The City will pay the Contractor after receipt, acceptance, and proper invoice is received. Invoices must bear the purchase order number.

Z. PRICES

Firm prices shall be provided and include all handling, set up, shipping and inside delivery charges to the destination shown herein unless otherwise indicated.

1. THE CONTRACTOR: In submitting this solicitation response, the Contractor certifies that the prices provided herein are not higher than the prices at which the same commodity (s) or service(s) are sold in approximately similar quantities under similar terms and conditions to any purchaser whatsoever.
2. F.O.B.: Unless otherwise specified, prices shall be provided as F.O.B. Destination, freight included and inclusive of all costs. Current and/or anticipated applicable fuel costs should be considered and included in the prices provided.
3. TIES: The Procurement Department will break tie responses following the Procurement Code.

AA. PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING - F.S. 287.05701

Proposers are informed that, under Section 287.05701 of the Florida Statutes (as amended), the City will not require or consider documentation of a proposer's social, political, or ideological interests when evaluating their responsibility. Additionally, the City's governing body is prohibited from favoring any proposer based on these interests.

BB. PUBLIC ENTITY CRIMES

Pursuant to Florida Statutes (F.S.) 287.133, as amended: a person or affiliate who has been placed on the convicted Contractor 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, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted Contractor list. Bidder shall complete and submit the Public Entity Crimes Law Form.

CC. PUBLIC RECORDS ACT / INFORMATION DISCLOSURE TO THIRD PARTIES

The Contractor shall comply with Florida's Public Records Act, specifically section 119.0701, Florida Statutes, by agreeing to:

1. Keep and maintain all public records that ordinarily and necessarily would be required by the City to keep and maintain in order to perform the services under this Agreement.

2. Provide the public with access to said public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the price provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
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.
4. Meet all requirements for retaining said public records and transfer, at no cost, to the City all said public records in possession of the Consultant upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

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 AT THE CITY CLERK'S OFFICE, CITY OF RIVIERA BEACH, 600 WEST BLUE HERON BLVD., RIVIERA BEACH, FL. 33404, BY EMAIL AT CITYCLERK@RIVIERABEACH.ORG OR BY TELEPHONE 561-845-4090.

DD. RECORDS AND AUDITS

The Contractor shall maintain all records related to this contract, including invoices, timesheets, receipts, correspondence, and work logs, for a period of 3 years after contract completion. The City, the City's auditor, and the Inspector General of Palm Beach County have the right to audit, examine, and make copies of these records at any time without prior notice. The Contractor shall make all records available at the City's offices during normal business hours or at another location mutually agreed upon. Failure to maintain or produce records upon request constitutes grounds for non-payment and contract termination.

EE. RIGHTS TO INVESTIGATE AND AUDIT: OFFICE OF THE INSPECTOR GENERAL

The Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of any awarded contract and, in furtherance thereof, may demand and obtain records and testimony from the Contractor. The Bidder understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Bidder to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of any contract entered into with the Bidder as justification for termination.

FF. SAFETY STANDARDS

Unless otherwise stipulated in the solicitation, all manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act (OSHA) and any standards thereunder. All sources of energy associated with machinery/equipment purchased shall be capable of being locked-out in accordance with OSHA 29 CFR 1910.147, Hazardous Energy Control. In compliance with OSHA 29 CFR 1910.1200, Hazard Communication Standard, and Chapter 442, Florida Statutes, Occupational Safety and Health, any chemical substance delivered from a contract resulting from this solicitation must be compliant with the Global Harmonized System (GHS) for Hazard Communication accompanied by a Safety Data Sheet (SDS) consisting of 16 sections. A Safety Data Sheet (SDS) shall also be submitted to the City Risk Management Department, 1481 West 15th Street, Riviera Beach, FL 33404.

GG. SCRUTINIZED COMPANIES

Pursuant to § 287.135, Fla. Stat., the City shall not award a contract to any company on the Scrutinized Companies that Boycott Israel List (§ 215.4725, Fla. Stat.) or engaged in a boycott of Israel. For contracts of \$1,000,000 or more, the prohibition extends to the Scrutinized Companies with Activities in Sudan or Iran Petroleum Energy Sector Lists (§ 215.473, Fla. Stat.) and companies with business operations in Cuba or Syria. Proposers must complete and submit the Scrutinized Companies Certification in Attachment A.

HH. SBE PARTICIPATION

Consistent with the City's procurement code, [DIVISION 2. - SMALL BUSINESS ENTERPRISE PARTICIPATION GOAL](#), Small Business Enterprises (SBE) shall have the opportunity to participate in this project. CONTRACTOR is hereby informed that the CITY has established a goal of 15% participation of SBE. Contractor is obligated to demonstrate and document a good faith effort toward the attainment of the 15% SBE participation as a condition of this contract. The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance with the Ordinance, and agrees to allow the CITY to inspect such records and provide such records to the CITY upon request.

II. TERMINATION

1. **AVAILABILITY OF FUNDS:** If the term of this contract extends beyond a single fiscal year of the City, the continuation of this contract beyond the end of any fiscal year shall be subject to the availability of funds from the City in accordance with Chapter 129, Florida Statutes (F.S.). The City of Riviera Beach City Council shall be the final authority as to availability of funds and how such available funds are to be allotted and expended. In the event funds for this project/purchase are not made available or otherwise allocated, the City may terminate this contract upon thirty (30) days prior written notice to the Contractor.
2. **FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
3. **FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
4. **NON-PERFORMANCE:** The Awarding Authority may terminate the contract for cause if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. Cause for termination shall include, but not be limited to, failure to suitably perform the work, failure to suitably deliver goods in accordance with the specifications and instructions in this solicitation, failure to

continuously perform the work in a manner calculated to meet or accomplish the objectives of the City as set forth in this solicitation, or multiple breach of the provisions of this solicitation notwithstanding whether any such breach was previously waived or cured.

JJ. WAIVER OF CLAIMS

The City's acceptance of work or payment for deliverables does not constitute a waiver of any defects, non-compliance, or breach of contract. The City retains the right to pursue all remedies for any defect discovered after acceptance, including latent defects or defects discovered after final payment. Only the City Manager or authorized designee may waive contract rights in writing; no other waiver is valid. The Contractor's failure to object to the City's interpretation of the contract does not constitute a waiver of the City's right to enforce that interpretation.