



## VILLAGE OF NORTH PALM BEACH REGULAR SESSION AGENDA

VILLAGE HALL COUNCIL CHAMBERS  
501 U.S. HIGHWAY 1

THURSDAY, SEPTEMBER 28, 2023  
7:00 PM

David B. Norris  
Mayor

Susan Bickel  
Vice Mayor

Darryl C. Aubrey  
President Pro Tem

Mark Mullinix  
Councilmember

Deborah Searcy  
Councilmember

Chuck Huff  
Village Manager

Leonard G. Rubin  
Village Attorney

Jessica Green  
Village Clerk

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### INSTRUCTIONS FOR "WATCH LIVE" MEETING

To watch the meeting live please go to our website page (link provided below) and click the "Watch Live" link provided on the webpage:

<https://www.village-npb.org/CivicAlerts.aspx?AID=496>

### ROLL CALL

### INVOCATION - MAYOR

### PLEDGE OF ALLEGIANCE - VICE MAYOR

### ADDITIONS, DELETIONS, AND MODIFICATIONS TO THE AGENDA

### AWARDS AND RECOGNITION

1. Proclamation - Palm Beach State 90th Anniversary

### APPROVAL OF MINUTES

2. Minutes of the Regular Session held August 24, 2023
3. Minutes of the Regular Session held September 14, 2023

### COUNCIL BUSINESS MATTERS

#### STATEMENTS FROM THE PUBLIC, PETITIONS AND COMMUNICATIONS

Members of the public may address the Council concerning items on the Consent Agenda or any non agenda item under Statements from the Public. **Time Limit: 3 minutes**

Members of the public who wish to speak on any item listed on the Regular Session or Workshop Session Agenda will be called on when the issue comes up for discussion. **Time Limit: 3 minutes**

Anyone wishing to speak should complete a Public Comment Card (on the table at back of Council Chambers) and submit it to the Village Clerk prior to the beginning of the meeting.

**DECLARATION OF EX PARTE COMMUNICATIONS****PUBLIC HEARINGS AND QUASI-JUDICIAL MATTERS**

- 4. PUBLIC HEARING AND 2ND READING OF ORDINANCES 2023-15 AND 2023-16 AD VALOREM TAX MILLAGE RATE AND BUDGET** Consider a motion to adopt and enact on second reading Final Ad-Valorem Tax Millage Rate and Approved Fiscal 2023-2024 Village Budget.
- 5. 1ST READING OF ORDINANCE 2023-17 - CODE AMENDMENT - R1 SINGLE FAMILY DWELLING DISTRICT - REMOVING REGULATIONS RELATING TO VOLUME AND MASSING OF TWO-STORY SINGLE FAMILY DWELLINGS AND ADDING A GUIDANCE STATEMENT** Consider a motion to adopt and enact Ordinance 2023-17 amending Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances to recognize the state preemption of portions of Ordinance No. 2022-18; Amending Article III, "District Regulations," by amending Section 45-27, "R-1 Single-Family Dwelling District," to remove regulations relating to the volume and massing of two-story single-family dwellings and to add a guidance statement.
- 6. 1ST READING OF ORDINANCE 2023-18 - CODE AMENDMENT - CREATE PLANNING, ZONING AND ADJUSTMENT BOARD** Consider a motion to adopt on first reading Ordinance 2023-18 amending Chapter 21, "Planning and Development," of the Village Code of Ordinances by Amending Article II, "Planning Commission," to create a Planning, Zoning and Adjustment Board and repealing Article III, "Board of Adjustment," in its entirety; amending Article VI, "Rezoning, Variances and Waivers," of Chapter 45 (Appendix C), "Zoning," of the Village Code of Ordinances by Amending Section 45-50, "Variances," to provide procedures for variances and adopting a new Section 45-52, "Administrative Appeals;" replacing all Village Code references to the Planning Commission with the Planning, Zoning and Adjustment Board.
- 7. 1ST READING OF ORDINANCE 2023-19 - CHANGING THE DATE OF THE MARCH 2024 GENERAL ELECTION AND PROVIDE FOR AN ADDITIONAL QUALIFYING PERIOD** Consider a motion to adopt on first reading Ordinance 2023-19 changing the date of the March 2024 General Election to coincide with the Statewide Presidential Preference Primary; establishing the dates for qualification of candidates; providing for commencement and length of term of office; providing for an additional qualifying period for vacancies arising after initial qualifying period; providing for transmittal to the Supervisor of Elections.

**CONSENT AGENDA**

*The Consent Agenda is for the purpose of expediting issues of a routine or pro-forma nature. Councilmembers may remove any item from the Consent Agenda, which would automatically convey that item to the Regular Agenda for separate discussion and vote.*

- 8. RESOLUTION** – Approving a Blanket Purchase Order with Baker and Taylor, LLC in an amount not to exceed \$60,552 for Village Library books.
- 9. RESOLUTION** – Approving a Blanket Purchase Order with Bibliotheca, LLC in an amount not to exceed \$27,000 for Village Library access to electronic books and audiobooks.
- 10. RESOLUTION** – Approving a Blanket Purchase Order in the amount of \$30,000 for the Leisure Services Department with Ani Con Services, LLC for plumbing services.
- 11. RESOLUTION** – Approving a Proposal from Marsh Management Systems, LLC for Pond Bank Stabilization at the North Palm Beach Country Club Golf Course at a total cost of \$50,000; authorizing execution of a Contract; and waiving the Village's purchasing policies and procedures.
- 12. RESOLUTION** – Appointing the Village's Representative and Alternative Representative to the Public Risk Management of Florida ("PRM") Board of Directors.



## **OTHER VILLAGE BUSINESS MATTERS**

- 13. RESOLUTION – JULY 4TH FIREWORKS DISPLAY CONTRACT** Consider a motion to adopt a resolution accepting the proposal of Starfire Corporation to provide the July 4th Fireworks Display at a total annual cost of \$30,000; and authorizing execution of the Contract.
- 14. RESOLUTION – AGREEMENT FOR CANAL DREDGING SERVICES** Consider a motion to adopt a resolution accepting the bid of Coston Marine Services, Inc. at a total cost of \$70,350 and a total project budget including contingency of \$77,385; and authorizing execution of the Agreement.
- 15. RESOLUTION – AMENDMENT TO FEE CONTRACT FOR LIEN FORECLOSURE SERVICES** Consider a motion to adopt a resolution approving an Amendment to the existing Fee Contract with the Law Firm of Goren, Cherof, Doody & Ezrol, P.A. for lien foreclosure services to increase the hourly rate to \$250 per hour; and authorizing execution of the Amendment.

## **COUNCIL AND ADMINISTRATION MATTERS**

### **MAYOR AND COUNCIL MATTERS/REPORTS**

### **VILLAGE MANAGER MATTERS/REPORTS**

### **REPORTS (SPECIAL COMMITTEES AND ADVISORY BOARDS)**

### **ADJOURNMENT**

If a person decides to appeal any decision by the Village Council with respect to any matter considered at the Village Council meeting, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

In accordance with the Americans with Disabilities Act, any person who may require special accommodation to participate in this meeting should contact the Village Clerk's office at 841-3355 at least 72 hours prior to the meeting date.

This agenda represents the tentative agenda for the scheduled meeting of the Village Council. Due to the nature of governmental duties and responsibilities, the Village Council reserves the right to make additions to, or deletions from, the items contained in this agenda.



***DRAFT MINUTES OF THE REGULAR SESSION***  
**VILLAGE COUNCIL OF NORTH PALM BEACH, FLORIDA**  
**AUGUST 24, 2023**

Present:

David B. Norris, Mayor  
Susan Bickel, Vice Mayor  
Darryl C. Aubrey, Sc.D., President Pro Tem  
Mark Mullinix, Councilmember  
Deborah Searcy, Councilmember  
Chuck Huff, Village Manager  
Len Rubin, Village Attorney  
Philippa Davis, Deputy Village Clerk

ROLL CALL

Mayor Norris called the meeting to order at 7:00 p.m. All members of Council were present. All members of staff were present.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Norris gave the invocation and Vice Mayor Bickel led the public in the Pledge.

APPROVAL OF MINUTES

The Minutes of the Regular Session held August 10, 2023 were approved as written.

STATEMENTS FROM THE PUBLIC

Mayor Norris read into the record a public comment received from Ross Goodson and Mike Eissey, residents of Lakeside Drive. In their comment, they expressed their appreciation to Council for their dedication and commitment to the well-being of the Village while also bringing attention to concerns regarding the safety and security of Lakeside Park. Mr. Goodson and Mr. Eissey formally requested a workshop with the Lakeside Park residents, and the Village Police Department to voice their concerns regarding the safety and security of Lakeside Park.

CONSENT AGENDA APPROVED

President Pro Tem Aubrey moved to approve the Consent Agenda. Councilmember Mullinix seconded the motion, which passed unanimously. The following items were approved:

CONSENT AGENDA APPROVED *continued*

Resolution accepting proposals from selected firms to provide General Planning Services to the Village on an as needed basis and authorizing the Village Manager to execute five (5) year non-exclusive Professional Services Consulting Agreements with each of the firms in an amount not to exceed \$50,000 during any fiscal year subject to review by the Village Attorney.

Resolution accepting a proposal from D.S. Eakins Construction Corporation for the installation of a check valve to prevent saltwater intrusion into the North Palm Beach Country Club Golf Course ponds at a total cost of \$34,325; and authorizing execution of the Contract.

Resolution approving a Blanket Purchase Order for the Public Works Department with Al Packer, Inc. in the total amount of \$35,000 for vehicle parts and repairs.

PUBLIC HEARINGS AND QUASI-JUDICIAL MATTERS

ORDINANCE 2023-13 CODE AMENDMENT – HOME OCCUPATIONS

A motion was made by Councilmember Mullinix and seconded by Councilmember Searcy to adopt and enact on second reading Ordinance 2023-13 entitled:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING ARTICLE I, “IN GENERAL,” OF CHAPTER 17, “LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS,” BY AMENDING SECTION 17-3, “HOME OCCUPATIONS,” TO COMPLY WITH FLORIDA LAW; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rubin stated that the ordinance was adopted on first reading at the last Council meeting. Mr. Rubin explained that due to the adoption of Florida Statutes Section 559.995, the Village was required to repeal its existing regulations for home occupations and replace them with the restrictions permitted through the new statute. The proposed ordinance would amend the code to reflect what is contained in the Statutes.

Mayor Norris opened the public hearing.

There being no comments from the public, Mayor Norris closed the public hearing.

Thereafter, the motion to adopt and enact on second reading Ordinance 2023-13 passed unanimously.

ORDINANCE 2023-14 ARTIFICIAL TURF/SYNTHETIC GRASS

A motion was made by Councilmember Mullinix and seconded by President Pro Tem Aubrey to adopt on first reading Ordinance 2023-14 entitled:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING ARTICLE III, “DISTRICT REGULATIONS,” OF APPENDIX C (CHAPTER 45) OF THE VILLAGE CODE OF ORDINANCES BY ADOPTING

ORDINANCE 2023-14 ARTIFICIAL TURF/SYNTHETIC GRASS *continued*

A NEW SECTION 45-29, "ARTIFICIAL TURF/SYNTHETIC GRASS;" PROVIDING FOR PERMITTED LOCATIONS; PROVIDING FOR MATERIAL STANDARDS AND SPECIFICATIONS; PROVIDING REGULATIONS FOR INSTALLATION, MAINTENANCE AND REPAIR; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Community Development Director Caryn Gardner-Young began a presentation regarding the proposal of a new section (Section 45-29) that would allow residents to install artificial turf/synthetic grass on their private property. Mrs. Gardner-Young discussed and explained the advantages and disadvantages associated with having artificial turf or artificial grass. Mrs. Gardner-Young stated that artificial turf/synthetic grass was not currently allowed the Village's code. Mrs. Gardner-Young reviewed and explained the proposed text regulations related to artificial turf/synthetic grass stating that the regulations would only be applicable to single and two-family dwellings and limited to rear and side yards.

The proposed language was reviewed and determined to be consistent with the Village's Comprehensive Plan. Staff was recommending approval of the proposed ordinance. If the Village Council desires to deny the proposed ordinance, then Staff's recommendation is to draft and approve an ordinance denying the use of artificial turf within the Village's municipal boundaries. Mrs. Caryn Gardner-Young concluded the presentation by stating that the Ad Hoc Residential Code Committee recommended approval of the proposed language. The Planning Commission recommended approval of the proposed ordinance presented by Staff but requested to remove the sunset provisions, coverage percentage, and permit only sand and organic infill. The proposed ordinance on second reading reflected the revisions recommended by the Planning Commission. The Environmental Committee recommended denial of the proposed ordinance.

Mayor Norris opened the public hearing.

Rita Budnyk, 804 Shore Drive, stated that she was unsure of whether or not the proposed code addressed homes that reside along the waterways noting that there was concern that the artificial turf would produce chemical waste that would runoff into the waterways.

There being no further comments from the public, Mayor Norris closed the public hearing.

Councilmember Mullinix stated that the proposed code stated that the artificial turf counts as part of the green space but the putting greens did not. Councilmember Mullinix recommended that the code should be consistent and state that the putting greens also count as part of the green space.

Mr. Rubin explained the reason for the proposed code not allowing putting greens to count as green space.

Vice Mayor Bickel explained that she was almost completely opposed to allowing artificial turf because of the effect on the environment. Vice Mayor Bickel recommended that it should only be allowed in applications such as dog runs, putting greens, and underneath children's playground equipment in backyards. Vice Mayor Bickel stated that she was opposed to the proposed ordinance as written.

Councilmember Searcy concurred with Vice Mayo Bickel and stated that she was also opposed to the proposed ordinance.

ORDINANCE 2023-14 ARTIFICIAL TURF/SYNTHETIC GRASS *continued*

Discussion ensued between the Councilmembers and Mrs. Caryn Gardner-Young regarding the amount of artificial turf that would be required in backyards, runoff and the effects on the environment.

Discussion ensued between Councilmembers and Mr. Rubin regarding whether or not to add additional language to the ordinance regarding residences on waterways and potential runoff of chemicals from the artificial turf. Mr. Rubin concluded that he did not think it was necessary to add the additional language.

Mayor Norris re-opened the public hearing for a public comment from Mr. John Samadi.

John Samadi, 512 Marlin Road, expressed that terminology related to drainage design and runoff should be asked of an engineer.

Thereafter, the motion to adopt and enact on second reading Ordinance 2023-14 passed 3 to 2 with Mayor Norris, President Pro Tem Aubrey and Councilmember Mullinix voting aye and Vice Mayor Bickel and Councilmember Searcy voting nay.

RESOLUTION – COMPREHENSIVE PAY PLAN AMENDMENT

A motion was made by Councilmember Mullinix and seconded by Vice Mayor Bickel to adopt a Resolution entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA AMENDING THE COMPREHENSIVE PAY PLAN ADOPTED AS PART OF THE FISCAL YEAR 2023 BUDGET TO REVISE THE PAY GRADE FOR THE POSITIONS OF BUILDING CONSTRUCTION INSPECTOR AND SENIOR BUILDING CONSTRUCTION INSPECTOR; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Huff began a presentation explaining the challenges of recruiting qualified candidates for the Building Construction Inspector and Senior Building Construction Inspector positions. Staff conducted a survey and produced an outline comparing the pay scale of various municipalities and found that North Palm Beach's pay grade was well below the minimum industry standard. Staff's recommendation was for Council to approve a percentile pay rate increase which would attract prospective employees who possess the necessary skills and experience needed by the Village.

President Pro Tem Aubrey expressed that the pay rate increase would help to fill some of the vacant positions within the Village.

Discussion ensued between the Councilmembers regarding the need to establish competitiveness with other municipalities.

Councilmember Searcy expressed concern regarding the entry-level pay and some of the phasing related to a candidate who possesses extensive experience.

Councilmember Mullinix agreed that the pay scale should be consistent with neighboring municipalities so that the best candidates are recruited.

RESOLUTION – COMPREHENSIVE PAY PLAN AMENDMENT *continued*

Discussion continued between Mr. Huff and Councilmembers regarding the proposed pay rates for Building Construction Inspector and Senior Building Construction Inspector.

Mr. Huff stated that changes would be incorporated into the Comprehensive Pay Plan at the first hearing of the budget on September 14<sup>th</sup>. The pay grades for the two (2) building inspector positions could be considered at that time.

Councilmember Mullinix requested that the Village policy entry-level be re-evaluated and staff recommendations be brought back for consideration.

Mr. Rubin stated that he would locate the policy and bring back revisions for consideration at a future Council meeting.

A motion was made by Vice Mayor Bickel and seconded by President Pro Tem Aubrey to table the resolution that would amend the FY 2023 Comprehensive Pay Plan Amendment to revise the pay grades for the positions of the Building Construction Inspector and Senior Building Construction Inspector.

Thereafter the motion to table the aforementioned resolution passed unanimously.

RESOLUTION 2023-68 – COUNTRY CLUB GOLF COURSE NETTING

A motion was made by Councilmember Mullinix and seconded by Vice Mayor Bickel to adopt Resolution 2023-68 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ACCEPTING A BID PROPOSAL FROM ACTION SPORTS NETTING, INC. FOR THE INSTALLATION OF GOLF COURSE NETTING AT THE NORTH PALM BEACH COUNTRY CLUB AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A CONTRACT FOR SUCH SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

Head Golf Professional, Allan Bowman explained that over the past five (5) years, rounds of golf at the Country Club have significantly increased by approximately fifteen thousand more rounds than in past years. The driving range revenues were up by approximately 40% which has raised safety concerns since more golf balls are being hit at the driving range and ending up in the 10<sup>th</sup> fairway. Mr. Bowman stated that the installation of a 75-foot high fence along the right side of the driving range, adjacent to the tenth hole could enhance safety for both the community and golfers. Following the solicitation of a Request for Proposal, the request resulted in only one (1) bid submission. After additional research, Mr. Bowman concluded that other municipalities have had netting projects done by Action Sports Netting, Inc. and that the vendor seems to have the market in the immediate area and the Village cannot piggyback on any contracts since the scope of work varies too greatly between projects.

John Samadi, 512 Marlin Road, expressed concern that the Golf Course Netting item was removed from the July 27<sup>th</sup> Council meeting agenda because of a procedural oversight and that it was not mentioned at the meeting why the item had to be removed. Mr. Samadi complimented the Department Head who caught the oversight and who had requested that the item be pulled from the agenda.



RESOLUTION 2023-68 – COUNTRY CLUB GOLF COURSE NETTING *continued*

Discussion ensued between Councilmembers regarding the height of the netting, the fabric, and the necessity of having the netting for safety.

Thereafter the motion to adopt Resolution 2023-68 passed unanimously.

MAYOR AND COUNCIL MATTERS/REPORTS

Mayor Searcy announced that the last Country Club pool party of the season was taking place on Saturday evening and encouraged everyone to attend.

VILLAGE MANAGER MATTERS/REPORTS

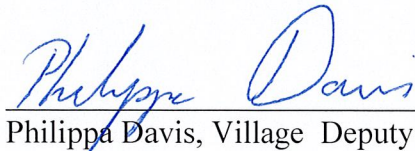
Mr. Huff announced that the electronic machines for the EV vehicles at the Country Club have been installed but were not yet active. There was one (1) two (2)-station charger installed at the north end of the Country Club's parking lot and another two (2)-station charger installed at the east end of the driving range both pending activation by Florida Power and Light.

Mayor Searcy asked Mr. Huff if there was a policy in place regarding the EV station's management and the duration for which a person can park their vehicle.

Mr. Huff explained that the EV machines were strategically positioned in locations to minimize any disruption to major parking lots.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:46 p.m.



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Philippa Davis, Village Deputy Clerk



***DRAFT MINUTES OF THE REGULAR SESSION***  
**VILLAGE COUNCIL OF NORTH PALM BEACH, FLORIDA**  
**SEPTEMBER 14, 2023**

Present:

David B. Norris, Mayor  
Susan Bickel, Vice Mayor  
Darryl C. Aubrey, Sc.D., President Pro Tem  
Deborah Searcy, Councilmember  
Mark Mullinix, Councilmember  
Chuck Huff, Village Manager  
Len Rubin, Village Attorney  
Jessica Green, Village Clerk

Absent:

Mark Mullinix, Councilmember

**ROLL CALL**

Mayor Norris called the meeting to order at 7:00 p.m. All members of Council were present except Councilmember Mullinix who was out of town. All members of staff were present.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Norris gave the invocation and Vice Mayor Bickel led the public in the Pledge.

**AWARDS AND RECOGNITION**

Mayor Norris presented a proclamation for Arbor Day to Zak Sherman, Director of Leisure Services and to members of the Environmental Committee. Karen Marcus, Environmental Committee Chair, thanked Council for the proclamation.

Mayor Norris presented a proclamation for Diaper Needs Awareness Week to Kimberly Gimson, Co-Founder, Board of Directors of Cotton Bottom Diaper Bank. Ms. Gimson thanked Council for the proclamation.

**STATEMENTS FROM THE PUBLIC**

Russell Beverstein, 415 U.S. Highway 1, commented on how well the North Palm Beach Country Club was doing and stated that there have been great improvements at the Farmer's Table Restaurant.

STATEMENTS FROM THE PUBLIC *continued*

Chris Ryder, 118 Dory Road, S, expressed his concerns regarding code changes that would relate to the proposed project at the Twin Cities mall site.

John Samadi, 512 Marlin Road, expressed his concerns regarding the Inspector General's Report regarding a contract that the Village entered into with J.W. Cheatham, Inc.

PUBLIC HEARINGS AND QUASI-JUDICIAL MATTERS

PUBLIC HEARING AND FIRST READING OF AD VALOREM TAX MILLAGE RATE ORDINANCE AND BUDGET ORDINANCE

A motion was made by President Pro Tem Aubrey and seconded by Vice Mayor Bickel to adopt on first reading Ordinance 2023-15 entitled:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ESTABLISHING AND ADOPTING THE FINAL LEVY OF AD VALOREM TAXES FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Councilmember Searcy and seconded by President Pro Tem Aubrey to adopt on first reading Ordinance 2023-16 entitled:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ADOPTING THE ANNUAL BUDGET OF THE VILLAGE OF NORTH PALM BEACH FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024 AND AUTHORIZING ALLOCATIONS, APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE BUDGET AND AS AUTHORIZED BY LAW; APPROVING A COMPREHENSIVE PAY PLAN AND AUTHORIZING THE VILLAGE MANAGER TO MAKE TEMPORARY APPOINTMENTS TO BUDGETED POSITIONS; APPROVING A MASTER FEE SCHEDULE; PROVIDING FOR THE CREATION OF GOVERNMENTAL FUNDS WHEN NECESSARY; PROVIDING FOR THE RECEIPT OF GRANTS OR GIFTS; PROVIDING PROCEDURES FOR BUDGET AMENDMENTS; PROVIDING FOR THE LAPSE OF OUTSTANDING ENCUMBRANCES AND THE RE-APPROPRIATION OF UNEXPENDED APPROPRIATIONS FOR THE PRIOR FISCAL YEAR; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Huff began a presentation on the budget. Mr. Huff reviewed a summary of the General Fund Budget changes, the FY 2024 Combined Budget Summary, and the FY 2024 General Fund Millage and Budget Summary. Mr. Huff explained that at the last Budget Workshop, a rate of \$7.00 mills had been proposed but that Council requested that staff look into lowering the millage rate to \$6.90 and bring back their findings for consideration. Staff's findings concluded that a \$0.10 mil reduction equated to roughly a decrease of \$320,650 in Ad-Valorem Tax Revenue. Mr. Huff explained that the FY 2024 proposed budget would increase by 11.20% which equated to \$4,183,611. Mr. Huff explained that a 2/3 vote was required to pass the millage rate and reviewed the differences between a \$7.00 millage rate versus a \$6.90 millage rate. Mr. Huff stated that the second reading of the millage rate and budget would take place at the next Council meeting on September 28<sup>th</sup>.

**PUBLIC HEARING AND FIRST READING OF AD VALOREM TAX MILLAGE RATE ORDINANCE AND BUDGET ORDINANCE *continued***

Mayor Norris opened the public hearing on the ad valorem tax millage rate and budget.

Chris Ryder, 118 Dory Road S, reviewed and expressed concerns over budget decisions that were made in FY 2021, FY 2022 and FY 2023. Mr. Ryder expressed concerns over the millage rates that were chosen in past fiscal years and the millage rate that was being proposed for FY 2024.

There being no further comments from the public, Mayor Norris closed the public hearing.

Councilmember Searcy stated that she was strongly opposed to lowering the millage rate from 7.0000 mils to 6.9000 mils. Councilmember Searcy stated that the lower millage rate would save taxpayers approximately \$42 per household which would equate to over \$300,000. The \$300,000 that the Village would lose could go to the salaries for two (2) police officers. The Village just had two (2) police officers resign to start employment with the Palm Beach County Sheriff's Office who offered a higher pay rate. Additionally, the approximate \$800,000 in sales tax monies that the Village receives is scheduled to conclude in 2025.

President Pro Tem Aubrey discussed and explained his reasons for supporting the 6.9000 millage rate and stated that it was something to show the residents that the Village recognizes that inflation has caused a burden on finances and the Village is making a small effort to ease the burden.

Vice Mayor Bickel stated that she would like to lower the millage rate but given the fact that it would only equate to approximately \$42 per household per year, she was in support of keeping the millage rate at 7.0000 mils in order to hire additional police officers.

Mayor Norris discussed and explained his reasons for supporting the 6.9000 millage rate. Mayor Norris stated that the Village would be receiving insurance proceeds from the tornado damages that would cover the expense for two additional police officers and the lowered millage rate would be a good effort in helping ease the financial burden of inflation for the Village's residents.

Discussion ensued between Councilmembers regarding keeping the millage rate at 7.0000 mils versus lowering it to 6.9000 mils.

A motion was made by Councilmember Searcy to establish an ad valorem tax millage rate of 7.0000 mils. The motion failed due to lack of a second.

A motion was made by Vice Mayor Bickel and seconded by President Pro Tem Aubrey to establish an ad valorem tax millage rate of 6.9000 mils. Thereafter the motion passed with all present voting aye.

Mayor Norris announced that the rolled back rate was 6.1876 mils, the percentage increase over the rolled back rate was 11.51%, and the millage rate to be levied was 6.9000 mils.

The motion to adopt on first reading Ordinance 2023-15 approving the Ad Valorem Tax Millage Rate passed with all present voting aye.

The motion to adopt on first reading Ordinance 2023-16 approving the Fiscal Year 2023-2024 Annual Budget passed with all present voting aye.

**CONSENT AGENDA APPROVED**

Councilmember Searcy moved to approve the Consent Agenda. President Pro Tem Aubrey seconded the motion, which passed with all present voting aye. The following items were approved:

Resolution approving a Tenth Amendment to the Agreement for Grant Services with RMPK Funding, Inc. with a compensation for Fiscal Year 2023 that shall not exceed \$20,000; and authorizing execution of the Tenth Amendment.

Resolution authorizing the submission of an application for State Aid to Libraries Grant Funding; and authorizing execution of the Grant Agreement.

Resolution amending Resolution No. 2022-100 to modify the purchase of police vehicles from Duval Ford to remove the purchase of one Ford Expedition at a cost of \$54,424 and add the purchase of one Ford F-150 Super Crew Hybrid at a cost of \$46,140 resulting in a revised total purchase price of \$245,268; and authorizing the Village Manager to take all actions necessary to effectuate the purchase.

Resolution approving a \$10,000 increase to the Blanket Purchase Order with Tire Soles of Broward, Inc. for a total amount of \$60,000 for the purchase of tires for Village Vehicles in the Public Works Department.

Resolution approving a Fourth Amendment to the Contract with AK Building Services, Inc. for janitorial services to extend the term for three additional months at a total cost not to exceed \$38,497.11; and authorizing execution of the Fourth Amendment.

Resolution approving a proposal from Briggs Golf Construction, Inc. for re-sodding at the North Palm Beach Country Club Golf Course at a total cost of \$22,650; and authorizing execution of the Contract.

Receive for file Minutes of the Planning Commission meeting held 6/6/23.

Receive for file Minutes of the Library Advisory Board meeting held 6/27/23.

Receive for file Minutes of the Golf Advisory Board meeting held 7/10/23.

Receive for file Minutes of the Recreation Advisory Board meeting held 7/11/23.

Receive for file Minutes of the Planning Commission meeting held 7/11/23.

Receive for file Minutes of the Library Advisory Board meeting held 7/25/23.

**MOTION** – Approving or denying the acceptance of cash donations from the Friends of the Library in excess of \$25,000 for Fiscal Year 2024 and approving or denying the solicitation of donations (sponsorships) for the Anchors Aweigh Fishing Tournament, the Halloween Festival, and Heritage Day.

A motion was made by Vice Mayor Bickel and seconded by Councilmember Searcy to approve the acceptance of cash donations from the Friends of the Library in excess of \$25,000 for Fiscal Year 2024 and approving or denying the solicitation of donations (sponsorships) for the Anchors Aweigh Fishing Tournament, the Halloween Festival, and Heritage Day.

Mr. Sherman explained that the purpose of the motion was to revise the Village's Donation Policy to allow Leisure Services to accept donations without Council approval that are valued at over \$25,000 from specific organizations and events.

Thereafter the motion passed with all present voting aye.

**RESOLUTION 2023-75 – MASTER PLANNING CONTRACT**

A motion was made by Vice Mayor Bickel and seconded by President Pro Tem Aubrey to adopt Resolution 2023-75 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING A CONTRACT WITH TEAM PLAN, INC. TO DEVELOP A MASTER PLAN FOR OSBORNE PARK AND THE COMMUNITY CENTER AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

Director of Leisure Services Zak Sherman discussed and explained that the purpose of the resolution was to approve a contract for design services to develop a Master Plan for Osborne Park. Mr. Sherman explained that staff went through a Request for Qualifications process where three (3) firms submitted their qualification statements. A Selection Committee met and shortlisted all three (3) firms and invited each firm to give a presentation to the Council on August 10<sup>th</sup>. The Village Council selected Team Plan, Inc. as the top ranked firm and authorized staff to commence competitive negotiations with Team Plan, Inc. and to bring back a contract for Park Master Plan services. The resolution would approve a contract with Team Plan, Inc. at a cost not to exceed \$60,000.

John Samadi, 512 Marlin Road, expressed his concerns regarding Village Council's ranking of the firms.

Thereafter the motion to adopt Resolution 2023-75 passed with all present voting aye.

**RESOLUTION 2023-76 – FIREHOUSE KITCHEN AND BATH RENOVATIONS CONTRACT**

A motion was made by Councilmember Searcy and seconded by Vice Mayor Bickel to adopt Resolution 2023-76 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA ACCEPTING A PROPOSAL FROM STUART A. FORTUNATO INC. FOR FIREHOUSE KITCHEN AND BATHROOM RENOVATIONS AT THE PUBLIC SAFETY BUILDING AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A CONTRACT FOR SUCH SERVICES; APPROVING A BUDGET AMENDMENT TO TRANSFER \$108,180 FROM THE CAPITAL RESERVE ACCOUNT TO THE PUBLIC SAFETY BUILDING – CONSTRUCTION AND MAJOR RENOVATION CAPITAL ACCOUNT TO FUND THE PROJECT; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Huff stated that the renovations to the Firehouse kitchens and bathrooms has been in the budget for the past six (6) years. Mr. Huff thanked Fire Chief J.D. Armstrong and Facilities Manager, James Anthony for moving the project forward and getting it done.

Mr. Anthony explained that the Village issued a Request for Proposal. Three (3) proposals were received and based on the Selection Committee's review of the proposals, they chose Stuart A. Fortunato, Inc. to renovate the Firehouse kitchens and bathrooms at a cost not to exceed \$108,180.

Deborah Cross, 2560 Pepperwood Circle S, expressed concerns about what was included in the proposal that was chosen versus the other two (2) proposals that were submitted and wanted to be sure that the same amount of items were being included in all three (3) proposals.



RESOLUTION 2023-76 – FIREHOUSE KITCHEN AND BATH RENOVATIONS CONTRACT  
*continued*

Mr. Anthony explained that all three (3) proposals were similar in the types of items and that the amount of items in each proposal were the same.

Councilmember Searcy requested that someone with an interior design background would make sure that the design layout and items installed were appropriate and functional for a Firehouse.

Thereafter the motion to adopt Resolution 2023-76 passed with all present voting aye.

RESOLUTION 2023-77 – ADOPTING AND CERTIFYING THE NON-AD VALOREM  
ASSESSMENT ROLL FOR THE STORMWATER MANAGEMENT UTILITY ASSESSMENT

A motion was made by Councilmember Searcy and seconded by Vice Mayor Bickel to adopt Resolution 2023-77 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ADOPTING AND CERTIFYING THE NON-AD VALOREM ASSESSMENT ROLL FOR THE STORMWATER MANAGEMENT UTILITY ASSESSMENT FOR PARCELS OF REAL PROPERTY WITHIN THE CORPORATE LIMITS OF THE VILLAGE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Rubin explained that the purpose of the resolution was to adopt the 2023 non-ad valorem assessment. There were no changes to the amount or methodology. The resolution would adopt and certify the non-ad valorem assessment roll for the Stormwater Management Utility Assessment for improved parcels of real property within the Village.

Chris Ryder, 118 Dory Road S, expressed his concerns with Non-Ad Valorem Assessments and gave a review of what was collected in past years.

Councilmember Searcy stated that the stormwater fees were not fairly charged the first year, but that Council rectified the situation by changing the fees the following year. Councilmember Searcy asked Mr. Holloway to come up and discuss projects that have been accomplished from collecting the stormwater fees.

Marc Holloway, Field Operations Manager stated that several projects were either completed or underway. Mr. Holloway stated approximately 2554 linear square feet of swale repair was completed and approximately 1132 feet of stormwater pipe repair. Mr. Holloway continued by giving a brief overview of other projects that were proposed or underway.

Thereafter the motion to adopt Resolution 2023-76 passed with all present voting aye.

MAYOR AND COUNCIL MATTERS/REPORTS

Councilmember Searcy stated that Council had received an email from a concerned resident regarding the use of radioactive phosphogypsum to pave roadways. This resident was requesting that Council be opposed to using this material on the Village's roadways and to write a letter to the Environmental Protection Agency. Councilmember Searcy stated that she was opposed to the material and asked Council for their thoughts on the matter.

MAYOR AND COUNCIL MATTERS/REPORTS *continued*

Vice Mayor Bickel stated that she had meant to do research on the material but did not have a chance before the meeting.

Councilmember Searcy recommended having the Environmental Committee research the material and bring back a recommendation to Council.


VILLAGE MANAGER MATTERS/REPORTS

Mr. Huff thanked Mr. Samadi for bringing the information regarding the Inspector General's report and findings to their attention. Mr. Huff stated that staff was working on refining the Village's procurement process in order to be more efficient and effective in the contracts and agreements that are brought to Council for consideration. Mr. Huff announced that the Touch a Truck event would be taking place on September 23<sup>rd</sup>. Mr. Huff introduced Jennifer Cain as the Village's new Human Resource Director and welcomed her to the team.

Mayor Norris welcomed Ms. Cain to the Village's team.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:01 p.m.

  
Jessica Green, MMC, Village Clerk

## VILLAGE OF NORTH PALM BEACH FINANCE DEPARTMENT

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TO: Honorable Mayor and Council  
THRU: Chuck Huff, Village Manager  
FROM: Samia Janjua, Director of Finance  
DATE: September 28, 2023  
SUBJECT: **ORDINANCE – 2nd Reading of Final Ad Valorem Tax Millage Rate; and  
2nd Reading of Approved Fiscal Year 2023-2024 Village Budget**

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The attached Ad Valorem Tax Ordinance and Annual Budget Ordinance have been prepared for Council's use in setting the Village's Ad Valorem Tax Millage Rate and Annual Budget for the upcoming 2023-24 fiscal year. Council's budget and millage rate adjustments have been incorporated into Budget Summary and Notice of Proposed Tax Increase advertisements have been published in the Palm Beach Post prior to the Village's final Ad Valorem Tax Millage Rate and Annual Budget hearing, as required.

The attached Ordinances establish and adopt the Village's Fiscal Year 2023-2024 budget and set its annual millage rate at **\$6.9000 mils. This millage rate is 11.51% above the Village's Fiscal Year 2023-2024 Rolled-Back Rate of \$6.1876 mils.**

This year's Budget Ordinance provides for the following appropriations:

- \$700,194 to be transferred to the Capital Projects Fund to finance the General Fund's Capital Improvement Plan;
- \$725,000 to be transferred to the Special Projects Fund to finance some safety-related capital projects; and
- \$450,000 to be transferred to the Country Club Fund for the following items:
  - \$350,000 to finance the Pool & Tennis operations; and
  - \$100,000 for the contribution towards the community share of the Country Club Renewal & Replacement Fund

At its September 14<sup>th</sup> Regular Session, Council approved Millage Ordinance # 2023-15 and Budget Ordinance # 2023-16 on 1st Reading without modification.

The attached Ordinances have been prepared and/or reviewed by the Village Attorney for legal sufficiency.

### **Recommendation:**

**The Administration recommends Council actions as outlined below:**

1. Attorney reads title of Ordinance establishing and adopting an Ad Valorem tax millage rate for the fiscal year commencing 10/1/23 and ending 09/30/24.

2. Attorney reads title of Ordinance adopting a budget for the fiscal year commencing 10/01/23 and ending 09/30/24.
3. Motion to adopt an Ordinance establishing the Ad Valorem Tax Millage Rate as required by Statute.
4. Motion to adopt an Ordinance adopting the Budget for Fiscal Year 2023-2024.
5. Staff presentation on BOTH Ad Valorem Tax Millage Rate and Budget.
6. Mayor Opens Public Hearing on BOTH Ad Valorem Tax Millage Rate and Budget.
7. Public Comment.
8. Mayor closes public hearing on BOTH Ad Valorem Tax Millage Rate and Budget.
9. Council discussion on BOTH Ad Valorem Tax Millage Rate and Budget.
10. Mayor publicly announces: (1) rolled back rate; (2) percentage INCREASE over rolled back rate; (3) millage rate to be levied.
11. Council vote on Motion to Adopt Ordinance establishing the Ad Valorem Tax Millage Rate on 2<sup>nd</sup> reading.
12. Council vote on Motion to Adopt Ordinance adopting the Budget on 2<sup>nd</sup> reading.

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VILLAGE ATTORNEY

**ORDINANCE NO. 2023-\_\_\_\_\_**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ADOPTING THE ANNUAL BUDGET OF THE VILLAGE OF NORTH PALM BEACH FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024 AND AUTHORIZING ALLOCATIONS, APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE BUDGET AND AS AUTHORIZED BY LAW; APPROVING A COMPREHENSIVE PAY PLAN AND AUTHORIZING THE VILLAGE MANAGER TO MAKE TEMPORARY APPOINTMENTS TO BUDGETED POSITIONS; APPROVING A MASTER FEE SCHEDULE; PROVIDING FOR THE CREATION OF GOVERNMENTAL FUNDS WHEN NECESSARY; PROVIDING FOR THE RECEIPT OF GRANTS OR GIFTS; PROVIDING PROCEDURES FOR BUDGET AMENDMENTS; PROVIDING FOR THE LAPSE OF OUTSTANDING ENCUMBRANCES AND THE RE-APPROPRIATION OF UNEXPENDED APPROPRIATIONS FOR THE PRIOR FISCAL YEAR; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 14, 2023 and September 28, 2023, the Village Council conducted duly advertised public hearings to review the proposed Annual Budget for the fiscal year commencing October 1, 2023 and ending September 30, 2024 ("Fiscal Year 2023/2024") and has adopted a final Annual Budget to meet the needs and requirements of the Village and its residents for the upcoming fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The proposed Annual Budget for Fiscal Year 2023/2024 attached hereto as Exhibit "A" and incorporated herein by this reference is hereby adopted and established as the Village of North Palm Beach's Annual Budget for Fiscal Year 2023/2024.

Section 2. The amounts allocated in the Annual Budget for expenditure effective October 1, 2023 are authorized in accordance with the purposes as set forth in the Annual Budget.

Section 3. The Annual Budget includes an appropriation in the amount of \$700,194 to be transferred to the Capital Projects Fund to finance the General Fund's Capital Improvement Plan; an appropriation in the amount of \$725,000 to be transferred to the Special Projects Fund to finance certain safety-related capital projects and an appropriation of \$450,000 to be transferred to the Country Club Fund to both finance pool and tennis operations and contribute toward the community share of the Country Club Renewal and Replacement Fund.

Section 4. Except as otherwise provided herein, the Annual Budget establishes limitations on expenditures by fund, and the total appropriation of each fund may not be increased or decreased without specific authorization by a duly enacted Ordinance effecting such amendment or transfer.



1 Section 5. The Comprehensive Pay Plan, as set forth in the Annual Budget, is hereby  
2 approved. In the event that an authorized position is vacant and monies are available within a  
3 department's salary appropriation to fund a temporary appointment to the vacant position, the  
4 Village Manager may appoint a temporary employee to fill said vacant position for a period not to  
5 exceed 90 days. Said temporary appointment may be renewable for an additional 90-day period  
6 and may only be made for the period pending the filling of the authorized position by a permanent  
7 employee. The pay for a temporary employee shall be within the pay scale of an approved Village  
8 Pay Plan position. The Village Council may revise the Comprehensive Pay Plan by Resolution  
9 during the Fiscal Year without need to amend this Ordinance.

10  
11 Section 6. The Master Fee Schedule for Fiscal Year 2023/2024, as set forth in the Annual  
12 Budget, is hereby approved and adopted. The Village Council may revise the Master Fee Schedule  
13 by Resolution during the Fiscal Year without need to amend this Ordinance.

14  
15 Section 7. When the Village receives monies from any private or governmental source by gift,  
16 grant, contribution, or revenue share, to which there is attached as a condition of acceptance any  
17 limitation regarding the use or expenditure of the monies received, the funds so received need not  
18 be shown in the Annual Budget nor shall the Budget be subject to amendment or expenditure as a  
19 result of the receipt of said monies. Said monies shall only be disbursed and applied toward the  
20 purposes for which said funds were received. All monies received as contemplated by this section  
21 shall be segregated and accounted for based on Generally Accepted Accounting Principles  
22 (GAAP) and where appropriate, placed into separate and individual Governmental Fund accounts  
23 from which monies are disbursed and applied in accordance with the terms and conditions of the  
24 gift, grant, or contribution.

25  
26 Section 8. The omnibus appropriation and expenditure authorization set forth herein may be  
27 temporarily or permanently suspended by Resolution of the Village Council if at any time it  
28 appears that the projected revenue supporting the above-described budget is below anticipated  
29 levels or may be temporarily or permanently suspended by Resolution of the Village Council for  
30 any other reason or purpose deemed proper by the Village Council.

31  
32 Section 9. Except as otherwise provided herein, in the event a variation from the total budget  
33 appropriation is or becomes necessary, such variation shall only become legally effective upon the  
34 adoption of an amending Ordinance consistent with Florida Statutes, the Village Charter and the  
35 Village Code of Ordinances.

36  
37 Section 10. All outstanding encumbrances for Non-Capital and Capital Expenditures on  
38 September 30, 2023 shall lapse at that time, and all unexpended Capital Expenditure encumbrances  
39 and appropriations and other encumbrances specifically designated to be carried over to the  
40 subsequent year may be added to the corresponding approved 2023/2024 available budget balances  
41 and be simultaneously re-appropriated for expenditure, as previously approved in the 2022/2023  
42 Fiscal Year.

43  
44 Section 11. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for  
45 any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void,  
46 such holding shall not affect the remainder of this Ordinance.

1 Section 12. All ordinances or parts of ordinances and resolutions or parts of resolutions in  
2 conflict herewith are hereby repealed to the extent of such conflict.  
3

4 Section 13. This Ordinance shall be effective immediately upon adoption and shall be  
5 implemented October 1, 2023.  
6

7 PLACED ON FIRST READING THIS 14<sup>th</sup> DAY OF SEPTEMBER, 2023.  
8

9 PLACED ON SECOND, FINAL READING AND PASSED THIS 28<sup>th</sup> DAY OF  
10 SEPTEMBER, 2023.  
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14 (Village Seal)

\_\_\_\_\_  
MAYOR

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17 ATTEST:  
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20 VILLAGE CLERK  
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22 APPROVED AS TO FORM AND  
23 LEGAL SUFFICIENCY:  
24

25 \_\_\_\_\_  
26 VILLAGE ATTORNEY

**VILLAGE OF NORTH PALM BEACH**  
**VILLAGE ATTORNEY'S OFFICE**

---

TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Leonard G. Rubin, Village Attorney

DATE: September 28, 2023

SUBJECT: **ORDINANCE 1st Reading - Amending the R-1 Zoning Regulations to Repeal Portions of Ordinance No. 2022-18 (Massing of Two-Story Single-Family Dwellings) due to State Preemption and Providing a Guidance Statement**

---

**Background:**

Through the adoption of Ordinance No. 2022-18 on October 27, 2022, the Village Council implemented the recommendations of the Ad Hoc Committee and the Planning Commission and adopted new regulations to address the volume and massing of two-story single-family dwellings in the R-1 single-family zoning district. These regulations are summarized as follows:

- Increasing the second-story front yard setback to 30 feet;
- Increasing the second-story rear yard setback to 25 feet;
- Increasing the second-story side yard setback to 15 feet;
- Requiring building wall articulation on all walls with an unbroken plane in excess of 15 feet in height and 30 feet in length in the form of a wall perpendicular to the property line at a minimum distance of 2 feet and extending parallel to the property line a minimum of 10 feet; and
- Limiting the floor area of the second-story to 75% of the floor area of the first story.

Through the enactment of Section 14 of Chapter 2023-304, Florida Statutes (Senate Bill 250), the Florida Legislature prohibited the Village from proposing more restrictive or burdensome amendments to its land development regulations retroactive to September 28, 2022. That legislation declared any such amendments *void ab initio* (of no force and effect as of the date of adoption).

**Discussion:**

After approval by the Governor, Staff brought the impact of Senate Bill 250 to the attention of the Council. The Council discussed the issue and recognized the preemption of the provisions listed above. However, in conjunction with the repeal of the preempted provisions, the Village Council directed Staff to include a guidance statement encouraging property owners to use the former regulations as guidelines when constructing or substantially altering two-story single-family dwellings. The Village Council further indicated that it wished to readopt the regulations upon expiration of the preemption provision of Senate Bill 250 on October 1, 2024. Both the guidance statement and the Council's intention to readopt the preempted provisions are codified in Section 45-27(E) of the attached Ordinance.

At its September 12, 2023 meeting, the Planning Commission conducted a public hearing on the proposed Ordinance and unanimously recommended approval.

There is no fiscal impact.

The attached Ordinance has been prepared by this office and reviewed for legal sufficiency.

**Recommendation:**

Staff requests Village Council approval on first reading of the attached Ordinance amending the Village's Zoning Code to repeal the provisions relating to the volume and massing of two-story single-family dwellings preempted by Senate Bill 250, providing a guidance statement encouraging the use of the now repealed regulations when constructing or substantially altering single-family dwellings; and indicating the Council's intent to readopt the regulations upon the expiration of the preemption provision of Senate Bill 250.

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WHEREAS, through the adoption of Ordinance No. 2022-18 on October 27, 2022, the Village Council implemented the recommendations of the Ad Hoc Committee and adopted new regulations to address the volume and massing of two-story single-family dwellings, including additional second-story setbacks, building wall articulation requirements, and a limitation on the floor area of the second story; and

WHEREAS, the Village Council wishes to recognize the preemption of the regulations set forth in Ordinance No. 2022-18 and provide a guidance statement encouraging voluntary compliance with such regulations; and

WHEREAS, having considered the recommendation of the Planning Commission and conducted all required advertised public hearings, the Village Council determines that the adoption of this Ordinance is in the interests of the health, safety, and welfare of the residents of the Village of North Palm Beach.

**Section 1.** The foregoing recitals are ratified as true and correct and are incorporated herein.

Page 1 of 9

1           **Sec. 45-27. R-1 single-family dwelling district.**  
2

3           A.     *Uses permitted.* Within any R-1 single-family dwelling district no  
4 building, structure, land or water shall be used except for one (1) or  
5 more of the following uses:  
6

- 7                     1.     Single-family dwellings with accessory buildings customarily  
8                             incident thereto, subject to each of the requirements set forth in  
9                             this section and throughout this chapter.
- 10                    2.     Public schools.
- 11                    3.     Parks and recreation facilities owned or leased by or operated  
12                             under the supervision of the Village of North Palm Beach.
- 13                    4.     Detached fence storage areas.
- 14                    5.     Satellite dish antenna.
- 15                    6.     Community residential homes. Community residential homes  
16                             of six (6) or fewer residents which otherwise meet the definition  
17                             of a community residential home, provided that such homes  
18                             shall not be located within a radius of one thousand (1,000) feet  
19                             of another existing such home with six (6) or fewer residents.
- 20                    7.     Family day care home.
- 21                    8.     Lamp post.
- 22                    9.     Decorative post structure.

23           B.     *Building height regulations.* All single-family dwellings shall be  
24 limited to two (2) stories and thirty feet (30') in height. For the purposes  
25 of this subsection, height shall be measured from the average elevation  
26 of the existing grade prior to land alteration for properties outside of  
27 special flood hazard areas and from the required design flood elevation  
28 for properties within special flood hazard areas. Height shall be  
29 measured to the highest point of the following:  
30

- 31                     1.     the coping of a flat roof and the deck lines on a mansard roof;
- 32                     2.     the average height level between the eaves and roof ridges or  
33                             peak for gable, hip or gambrel roofs; or
- 34                     3.     the average height between high and low points for a shed roof.

35           Decorative architectural elements, chimneys, mechanical equipment,  
36 non-habitable cupolas, elevator shafts or similar appurtenances shall be  
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1 excluded from the foregoing height restrictions. Rooftops shall not be  
2 used for pools, decks, or other spaces to congregate.

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4 C. *Building site area regulations.* The minimum lot or building site area  
5 for each single-family dwelling shall be seven thousand five hundred  
6 (7,500) square feet and have a width of not less than seventy-five (75)  
7 feet, measured at the building line.

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9 D. *Yard space regulations.*

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11 1. *Front yard.* There shall be a front yard of not less than twenty-  
12 five (25) feet ~~for the first story and thirty (30) feet for the second~~  
13 ~~story~~ measured from the street line to the front building line.

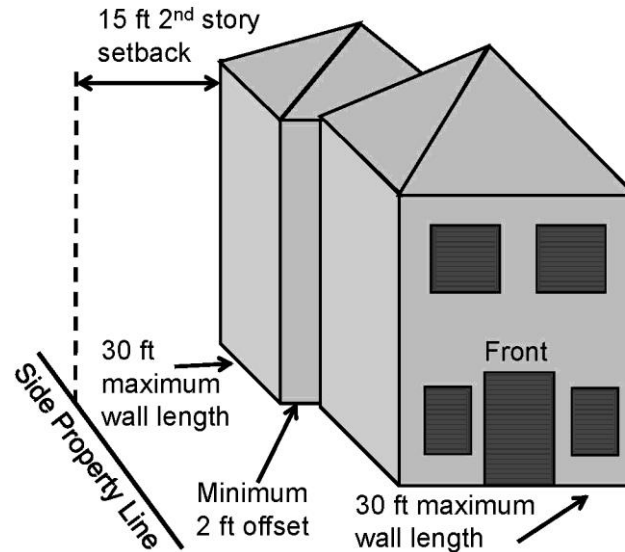
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15 2. *Rear yard.* There shall be a rear yard of not less than twenty  
16 (20) feet ~~for the first story and twenty five (25) feet for the~~  
17 ~~second story~~ measured from the rear building line to the rear lot  
18 line.

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20 3. *Side yards.* There shall be a side yard on each side of the side  
21 building line of not less than ten (10) feet ~~for the first story and~~  
22 ~~fifteen (15) feet for the second story.~~ In the case of corner lots,  
23 no building and no addition to any building shall be erected or  
24 placed nearer than twenty (20) feet to the side street line of any  
25 such lot.

26  
27 (a) For a distance of one block on streets intersecting U.S.  
28 #1, measured from the right-of-way line of said U.S. #1,  
29 side yards of at least twenty-five (25) feet in depth shall  
30 be provided.

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32 4. ~~*Applicability of second story setback.* The second story setback~~  
33 ~~shall apply only to the roofed portion of the second story of a~~  
34 ~~two-story, single family dwelling and shall not apply to non-~~  
35 ~~roofed second story patios or balconies. The second story~~  
36 ~~setback for the rear yard shall not apply if any portion of the~~  
37 ~~rear lot line abuts a waterway.~~

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39 E. ~~*Building wall articulation.* Building wall articulation shall be provided~~  
40 ~~on all walls with an unbroken plane in excess of fifteen (15) feet in~~  
41 ~~height and thirty (30) feet in length. Window and door openings shall~~  
42 ~~not be considered a plane break. The articulation shall be in the form~~  
43 ~~of a wall perpendicular to the property line at a minimum distance of~~  
44 ~~two (2) feet and extending parallel to the property line a minimum of~~  
45 ~~ten (10) feet. The articulation must extend evenly over the entire height~~  
46 ~~of the building wall (See Figure 1 below).~~

**Figure 1 Building Wall Articulation**

F. ~~*Second-story floor area.* The floor area of the second story of a single-family dwelling shall not exceed seventy five percent (75%) of the floor area of the first story. For the purpose of this subsection, floor area shall include all areas lying within the building perimeter established by the interior side of the exterior walls of the building, including garages, covered patios, and other open-air exterior areas that are under roof. The floor area for the second story shall include areas open to below.~~

E. *Guidance on volume and massing of single-family dwellings.* Due to the legislature's enactment of Chapter 2023-304, Laws of Florida (Senate Bill No. 250), the village was required to repeal recently adopted regulations relating to the volume and massing of single-family dwellings. However, to preserve the character of the village's existing single-family neighborhoods, the village encourages the use of the following guidelines when constructing or substantially altering single-family dwellings:

1. Second-story setbacks should be five (5) feet greater than the required first-story setbacks. These enhanced setbacks should apply to the roofed portion of the second story of a two-story, single-family dwelling.
2. Building wall articulation should be provided on all walls with an unbroken plan in excess of fifteen (15) feet in height and thirty (30) feet in length. The articulation should be in the form of a wall perpendicular to the property line at a minimum distance of two (2) feet, extending parallel to the property line a minimum of ten (10) feet, and should extend evenly over the entire height of the building wall (see Figure 1 above).

3. The second-story of a single-family dwelling should not exceed seventy-five percent (75%) of the floor area of the first story. Floor area includes all areas lying within the building perimeter established by the interior side of the exterior walls of the building, including garages, covered patios and open-air exterior areas under roof. The floor area of the second story should include areas open to below.

The village council intends to readopt these regulations as of October 1, 2024.

Ⓔ F. *Off street parking regulations.* At least one parking space measuring at least nine (9) feet by eighteen (18) feet (one hundred sixty-two (162) square feet) shall be provided. All parking spaces shall consist of a durable surfaced area as approved by the community development director, and may be enclosed in the dwelling, in an accessory building or in an unenclosed area or a driveway. All vehicles parking on a lot must be parked on a durable surface.

Ⓔ G. *Accessory structures.* One detached automobile garage and one open-air pavilion may be constructed on any lot within the R-1 single-family dwelling district provided that all requirements of this chapter are met. Open air pavilions shall be subject to the following additional conditions and restrictions:

1. *Permitting.*

(a) All open-air pavilions must be permitted in accordance with all Florida Building Code and Village Code requirements.

(b) Open-air pavilions meeting the definition of a traditional chickee hut are exempt from the Florida Building Code but shall be subject to consistency review by the village. Consistency shall be demonstrated through the issuance of a zoning permit and shall require the submittal of the following information:

(1) A survey that includes scaled dimensions of the proposed structure, including setbacks;

(2) Proof that the builder of the chickee hut is a member of either the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida (such proof consisting of a copy of the tribal member's identification card); and

(3) Drawings of the proposed structure depicting, at a minimum, the overall design, dimensions, roof materials, and height.

2. *Dimensions.* Open-air pavilions shall not exceed two hundred (200) square feet in floor area. The floor area shall be measured from outside the support posts, provided that the roof overhang does not exceed three (3) feet from the support posts. If the roof overhang exceeds three (3) feet, the floor area shall consist of the entire roofed area. For structures supported by a single-pole, i.e., umbrella shape, the floor area shall be measured from the drip line of the roof material.

3. *Height.* Open-air pavilions shall not exceed twelve (12) feet in height or the height of the principal building located on the lot, whichever is more restrictive. For sloped roofs, the height shall be measured at the mean roof height.

4. *Location and Setbacks.*

(a) No open-air pavilion may be erected within ten (10) feet of the side property line. This side setback shall be increased to twenty (20) feet for corner lots.

(b) No open-air pavilion may be erected within seven and one-half (7½) feet of the rear property line.

(c) No open-air pavilion or any portion thereof may be erected between the front line of the principal building and the front property lot line, within a utility or drainage easement, or within a required landscape buffer.

5. *Use restrictions.*

(a) An open-air pavilion shall be used only for private recreational activities as an accessory use to the principal residential use and shall not be used for habitation, for a tool room, storage room or workshop, or for any commercial purpose whatsoever.

(b) Open-air pavilions shall not be used for storage of items of personal property, including, but not limited to, the following:

(1) Operable or inoperable vehicles, boats, boat trailers, utility trailers or similar items of personal property;

(2) Building materials, lawn equipment, tools or similar items; and

(3) Ice boxes, refrigerators and other types of food storage facilities with the exception of under-counter units.

(c) No gas, charcoal or propane grills, stoves or other types of cooking devices may be stored or utilized within a traditional chickee hut.

6. *Maintenance.* Open-air pavilions shall be maintained in good repair and in sound structural condition. Painted or stained surfaces shall be free of peeling paint, mold and mildew and void of any evidence of deterioration.

7. *Design.*

(a) Open-air pavilions, with the exception of traditional chickee huts, pergolas and other structures with only partial or slatted roofs, shall incorporate the same types of building materials and be consistent with the architectural theme or style of the main or principal building.

(b) At the request of a property owner, the community development director may approve the use of different building materials or alternate architectural themes or styles when such materials, themes or styles are complementary to the main or principal building.

(c) Should the community development director deny the request for different building materials or alternate architectural themes or styles, a property owner may appeal this decision to the planning commission by submitting a written request for a hearing to the community development director within thirty (30) calendar days of the date of the determination. The appeal shall be placed on the next available agenda and the decision of the planning commission shall be final, subject only to judicial review by writ of certiorari.

I H. *Mechanical equipment.* All non-roof-mounted mechanical equipment shall be located behind the front building face of the principal structure in either the side yard or the rear yard. Such equipment shall be located adjacent to the principal structure whenever practicable, provided, however, that all mechanical equipment shall be located at least five (5) feet from the side property line and at least seven and one-half feet (7½) from the rear property line.

‡ I. *Minimum landscaped area.*

1. All single-family dwellings shall have a minimum landscaped area of thirty percent (30%).
2. All single-family dwellings (both one and two story) shall provide a minimum landscaped area of fifty percent (50%) in the required twenty-five-foot (25') front yard setback. Properties with frontage along urban collector roads (Lighthouse Drive and Prosperity Farms Road) shall provide a minimum landscaped area of forty percent (40%) in the required twenty-five-foot (25') front yard setback. Properties having an irregular lot shape, meaning a lot which is not close to rectangular or square and in which the width of the property at the front property line is less than required by the underlying zoning district, shall provide a minimum landscaped area of twenty-five percent (25%) in the required twenty-five-foot (25') front yard setback.
3. A property owner who meets the overall minimum landscaped area requirement set forth in subsection (1) above and who does not meet the minimum landscaped area requirement in the twenty-five-foot (25') front yard setback set forth in subsection (2) above may request a waiver of up to five percent (5%) of the minimum required area by filing a request with the Community Development Department. The request shall be forwarded to the Planning Commission for final action. A property owner seeking such a waiver shall be required to demonstrate to the Planning Commission that he or she has made a reasonable attempt to comply with the required minimum landscaped area within the front yard setback and has mitigated any deficiency through the installation of enhanced landscaping materials, the use of permeable hardscape materials or some other acceptable means.

For the purposes of this subsection, the term minimum landscaped area shall mean a pervious landscaped area unencumbered by structures, buildings, paved parking lots, sidewalks, sports courts, pools, decks, or any impervious surface. Landscape material shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, or decorative rock or bark. No landscape material shall be used for parking. However, pervious surfaces used for the parking of recreational equipment in side and rear yards shall be included in the calculation of the minimum landscaped area.

With respect to building permits for renovations of existing single-family dwellings, the minimum landscaped area standards shall apply

only to the extent that the proposed scope of work impacts the applicable standard.

I J. *Maximum driveway width in swale.* The total width of driveways from the edge of the public roadway to the abutting privately-owned property shall not exceed a total of thirty-two feet (32') in width at the property line, excluding flares. For lots with ninety (90) or more feet of public roadway frontage, the total width of driveways from the edge of the public roadway to the abutting privately-owned private shall not exceed a total of forty feet (40') in width at the property line, excluding flares. Each side of a flared driveway shall be no more than three feet (3') wider than the rest of the driveway.

Section 3. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 4. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall take effect immediately upon adoption.

PLACED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

PLACED ON SECOND, FINAL READING AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY

## VILLAGE OF NORTH PALM BEACH COMMUNITY DEVELOPMENT DEPARTMENT

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Interim Village Manager

FROM: Caryn Gardner-Young, Community Development Director

DATE: September 28, 2023

SUBJECT: **ORDINANCE 1st Reading** – Amendments to Chapter 21, Article II to create the Planning, Zoning and Adjustment Board, Repeal Chapter 21, Article III referencing Board of Adjustment, Amending Chapter 45, Article VI Section 45-30 to provide procedures for variances and adopting a new section called administrative appeals and replacing all Village code references to the Planning Commission with the Planning, Zoning and Adjustment Board,

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### **Background**

The Village's Code of Ordinances created a Planning Commission whose powers include:

- (1) Perform any duties which lawfully may be assigned to it by the village council.
- (2) Perform any other duties which may be assigned to it under this Code.
- (3) The planning commission of the village is hereby designated as the governmental entity to act as the "local planning agency" in accordance with chapter 163, Florida Statutes.
- (4) The planning commission shall serve as the village's board of adjustment to consider variances and administrative appeals.
- (5) The planning commission has additional duties that include site plan and appearance review (see sections [6-30](#) through [6-60](#)); the responsibility to make recommendations on special exceptions (see [section 45-16.2](#)); and the authority to approve waivers on land in the C-MU and C-NB zoning districts only (see [section 45-51](#)).

The Village's Code of Ordinances also created a Board of Adjustment, whose duties are to hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any land development regulation and to authorize variances from the terms of the Code of Ordinances.

On March 19, 2019 the Village Council, through the adoption of Ordinance 2019-01, approved a zoning text amendment which required the Planning Commission to assume the duties of the Board of Adjustment. However, the Ordinance never eliminated the Board of Adjustment. It has been four years since this change was made, and the Planning Commission has successfully assumed all the duties and responsibilities of the Board of Adjustment.



Village Staff is proposing to formally eliminate the Board of Adjustment and fully incorporate its duties in the newly created Planning & Zoning Adjustment Board. The proposed amendment will continue the process to streamline development issues for both residents and developers. Combining the boards together provides more efficiency which will only improve with the elimination of the Board of Adjustment. Additionally, providing a more appropriate name to the new board will avoid any confusion regarding the development process within the Village. There are no proposed changes to the functions, duties or responsibilities of the Planning Commission.

As for the variance process, Village Staff is proposing several changes which are summarized as follows:

1. Format – the proposed amendments will move all relevant provisions to one location so the applicant does not have to look at several code provisions to find out what is needed for a variance;
2. Process – the proposed amendments will streamline the development process and provide a clear application process so the applicant knows what to include with the application to avoid multiple submittals;
3. Burden of Proof – the proposed amendments will add a burden of proof so the applicant knows he/she/they have to show their request meets the variance requirements;
4. Expiration – the proposed amendments will add an expiration of the variance within one (1) year if a building permit has not been issued or if the permit expires to prevent a variance from lingering;
5. Administrative Appeals – the proposed amendments will streamline the appeal process by including what is required for the application, defining what powers the new Board has, delineating the burden of proof needed and requiring that appeals be filed within 15 days from the administrative decision or order.

### **Legal Review**

The attached Ordinance has been prepared/reviewed by the Village Attorney for legal sufficiency.

### **Fiscal Impacts**

N/A

### **Recommendation:**

Village Staff recommends Village Council consideration and approval on first reading of the attached Ordinance creating a Planning, Zoning and Adjustment Board.

**ORDINANCE NO. 2023-\_\_**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING CHAPTER 21, "PLANNING AND DEVELOPMENT," OF THE VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE II, "PLANNING COMMISSION," TO CREATE A PLANNING, ZONING AND ADJUSTMENT BOARD AND REPEALING ARTICLE III, "BOARD OF ADJUSTMENT," IN ITS ENTIRETY; AMENDING ARTICLE VI, "REZONING, VARIANCES AND WAIVERS," OF CHAPTER 45 (APPENDIX C), "ZONING," OF THE VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 45-50, "VARIANCES," TO PROVIDE PROCEDURES FOR VARIANCES AND ADOPTING A NEW SECTION 45-52, "ADMINISTRATIVE APPEALS;" REPLACING ALL VILLAGE CODE REFERENCES TO THE PLANNING COMMISSION WITH THE PLANNING, ZONING AND ADJUSTMENT BOARD; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council wishes to revise Chapter 21, "Planning and Development," and Chapter 45 (Appendix C), "Zoning," of the Village Code of Ordinances to create a Planning, Zoning and Adjustment Board and transfer the criteria and procedures for variances and administrative appeals from Chapter 21 to Chapter 45; and

WHEREAS, on September 12, 2023, the Planning Commission, sitting as the Local Planning Agency, conducted a public hearing to review this Ordinance and provided a recommendation to the Village Council; and

WHEREAS, having considered the recommendation of the Planning Commission and conducted all required advertised public hearings, the Village Council determines that the adoption of this Ordinance is in the interests of the health, safety, and welfare of the residents of the Village of North Palm Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and correct and are incorporated herein.

Section 2. The Village Council hereby amends Article II, "Planning Commission," of Chapter 21, "Planning and Development," of the Village Code of Ordinances to read as follows (additional language is underlined and deleted language is ~~stricken through~~):

**ARTICLE II. PLANNING, ZONING AND ADJUSTMENT BOARD ~~COMMISSION~~**

**Sec. 21-11. Composition; conduct generally.**

- (a) *Created.* A planning, zoning and adjustment board ~~commission~~ for the village is hereby created.

- 1 (b) *Membership; terms.* The planning, zoning and adjustment board ~~commission~~  
2 shall consist of seven (7) members. The village council shall appoint  
3 members on an annual basis during April of each year to take effect the  
4 following May 1 of each year for staggered terms of two (2) years as  
5 determined by the village council. The planning, zoning and adjustment  
6 ~~board commission~~ shall consist of one (1) land use planner or architect, one  
7 (1) architect, one (1) civil engineer, one (1) person engaged in business within  
8 the corporate limits of the village, and three (3) members who need not be  
9 engaged in any particular business or profession.
- 10
- 11 (c) *Meetings.* The planning, zoning and adjustment board ~~commission~~ shall meet  
12 at least once each month on a date to be determined by the ~~planning~~  
13 ~~commission board~~.
- 14
- 15 (d) *Powers, duties.* The planning, zoning and adjustment board ~~commission~~ shall  
16 have the following powers and duties:
- 17
- 18 (1) Perform any duties which lawfully may be assigned to it by the village  
19 council.
- 20
- 21 (2) Perform any other duties which may be assigned to it under this Code.
- 22
- 23 (3) The planning, zoning and adjustment board ~~commission~~ of the village  
24 is hereby designated as the governmental entity to act as the "local  
25 planning agency" in accordance with chapter 163, Florida Statutes.
- 26
- 27 (4) The planning, zoning and adjustment board ~~commission~~ shall ~~serve~~  
28 ~~as the village's board of adjustment to consider~~ have the authority to  
29 grant variances in accordance with section 45-50 and consider and  
30 adjudicate administrative appeals in accordance with section 45-52.
- 31
- 32 (5) The planning, zoning and adjustment board ~~commission~~ has  
33 additional duties that include site plan and appearance review (see  
34 sections 6-30 through 6-60); the responsibility to make  
35 recommendations on special exceptions (see section 45-16.2); and the  
36 authority to approve waivers on land in the C-MU and C-NB zoning  
37 districts only (see section 45-51).
- 38

39 **Sec. 21-12. Changes to zoning ordinances.**

40

- 41 (a) The village council may amend or supplement the regulations and districts  
42 established by this Code after receiving the recommendation of the planning,  
43 zoning and adjustment board commission. Proposed changes may be  
44 suggested by the village council or the village manager. Changes to zoning  
45 district boundaries may be requested in accordance with section 45-49.
- 46
- 47 (b) The planning, zoning and adjustment board ~~commission~~, regardless of the  
48 source of the proposed change, shall hold a public hearing or hearings  
49 thereon, with due public notice, but shall in any case, if any change is to be  
50 considered by the planning, zoning and adjustment board commission,

1 submit in writing its recommendations on the proposed change to the village  
2 council for official action. The village council shall hold a public hearing  
3 thereon, with due public notice, if any change is to be considered and shall  
4 then act on the proposed change. If the recommendation of the planning,  
5 zoning and adjustment board ~~commission~~ is adverse to the proposed change,  
6 such change shall not become effective except by an affirmative vote of a  
7 majority of the entire membership of the village council, after due public  
8 notice.

9  
10 Section 3. The Village Council hereby deletes Article III, "Board of Adjustment," of Chapter 21,  
11 "Planning and Development," of the Village Code of Ordinances in its entirety (deleted language is  
12 ~~stricken through~~):

13  
14 **~~ARTICLE III. – BOARD OF ADJUSTMENT~~**

15  
16 **~~Sec. 21-21. Composition; conduct generally.~~**

17  
18 ~~(a) — *Created.* A board of adjustment for the village is hereby created.~~

19  
20 ~~(b) — *Membership.* The members of the planning commission shall serve as the~~  
21 ~~board of adjustment.~~

22  
23 ~~(c) — *Powers, duties.* The board of adjustment shall have the following powers and~~  
24 ~~duties:~~

25  
26 ~~(1) — *Appeals.* To hear and decide appeals when it is alleged that there is~~  
27 ~~error in any order, requirement, decision or determination made by an~~  
28 ~~administrative official in the enforcement of any land development~~  
29 ~~regulation.~~

30  
31 ~~(2) — *Variances:*~~

32  
33 ~~a. — To authorize such variances from the terms of this code as will~~  
34 ~~not be contrary to the public interest when, owing to special~~  
35 ~~conditions, a literal enforcement of the provisions of the~~  
36 ~~ordinance would result in unnecessary and undue hardship. In~~  
37 ~~order to authorize any variance, the board of adjustment must~~  
38 ~~find:~~

39  
40 ~~1. — That special conditions and circumstances exist which~~  
41 ~~are peculiar to the land, structure or building involved~~  
42 ~~and which are not applicable to other lands, structures~~  
43 ~~or buildings in the same zoning district;~~

44  
45 ~~2. — That the special conditions and circumstances do not~~  
46 ~~result from the actions of the applicant;~~

47  
48 ~~3. — That granting the variance requested will not confer on~~  
49 ~~the applicant any special privilege that is denied by the~~

ordinance to other lands, buildings or structures in the same zoning district;

4. ~~That literal interpretation of the provisions of the subject ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;~~

5. ~~That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;~~

6. ~~That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.~~

b. ~~In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this code.~~

c. ~~The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both.~~

d. ~~Under no circumstances, except as permitted above, shall the board of adjustment grant a variance to permit a use not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.~~

e. ~~The concurring vote of a majority of all members of the board shall be necessary to grant a variance pursuant to this section.~~

(d) ~~Review of administrative orders.~~ In exercising its powers, the board of adjustment may, upon appeal and in conformity with provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance or regulation adopted pursuant to this part, and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of all the members

1 of the board shall be necessary to reverse any order, requirement, decision or  
2 determination of any such administrative official or to decide in favor of the  
3 applicant on any matter upon which the board is required to pass under any  
4 such ordinance.

5  
6 (e) ~~Appeals to board from decision of administrative official.~~ Appeals to the board  
7 of adjustment may be taken by any person aggrieved or by any officer, board  
8 or bureau of the governing body affected by any decision of an administrative  
9 official under any zoning ordinance enacted pursuant to this part. Such appeal  
10 shall be taken within thirty (30) days after rendition of the order, requirement,  
11 decision or determination appealed from by filing with the officer from whom  
12 the appeal is taken and with the board of adjustment a notice of appeal  
13 specifying the grounds thereof. The appeal shall be in the form prescribed by  
14 the rules of the board. The administrative official from whom the appeal is  
15 taken shall, upon notification of the filing of the appeal, forthwith transmit to  
16 the board of adjustment all the documents, plans, papers or other materials  
17 constituting the record upon which the action appealed from was taken.

18  
19 (f) ~~Stay of work and proceedings on appeal.~~ An appeal to the board of adjustment  
20 stays all work on the premises and all proceedings in furtherance of the action  
21 appealed from, unless the official from whom the appeal was taken shall certify  
22 to the board of adjustment that, by reason of facts stated in the certificate, a  
23 stay would cause imminent peril to life or property. In such case, proceedings  
24 or work shall not be stayed except by a restraining order which may be granted  
25 by the board of adjustment or by a court of record on application, on notice to  
26 the officer from whom the appeal is taken and on due cause shown.

27  
28 (g) ~~Hearing of appeals.~~ The board of adjustment shall fix a reasonable time for the  
29 hearing of the appeal and decide the same within a reasonable time. Public  
30 notice of all hearings shall be provided as required by section 21-3 of this  
31 Code. Upon the hearing, any party may appear in person, by agent or by  
32 attorney. Appellants may be required to assume such reasonable costs in  
33 connection with appeals as may be determined by the governing body through  
34 action in setting of fees to be charged for appeals.

35  
36 (h) ~~Judicial review of decisions of board.~~ Any person or persons, jointly or  
37 severally, aggrieved by any decision of the board of adjustment, or any officer,  
38 department, board, commission or bureau of the governing body, may apply to  
39 the circuit court in the judicial circuit where the board of adjustment is located  
40 for judicial relief within thirty (30) days after rendition of the decision by the  
41 board of adjustment. Such an appeal shall not be a hearing de novo, but shall  
42 be limited to appellate review of the record created before the board of  
43 adjustment.

44  
45 Section 4. The Village Council hereby amends Article VI, "Rezoning; Variances; Waivers," of  
46 Chapter 45 (Appendix C), "Zoning," of the Village Code of Ordinances to read as follows (additional  
47 language is underlined and deleted language is ~~stricken through~~):

48  
49 ARTICLE VI. REZONINGS; VARIANCES; WAIVERS; ADMINISTRATIVE APPEALS  
50

**Sec. 45-50. Variances.**

(1) Generally. All applications for variances to regulations or restrictions established by this ~~ordinance~~ chapter or otherwise permitted by this code shall be initiated by application to the village. The application may be made by any property owner or tenant or by a governmental office, department, board or bureau and filed with the community development department of the village. Any such application, except by a governmental agency, must be accompanied by the filing fee established in the master fee schedule adopted annually as part of the village budget.

~~(2) All applications concerning variances shall be upon forms to be supplied by the community development department.~~

~~(3) Criteria for decisions on variance applications are provided in section 21-21 of the village code.~~

~~(4) Public notice of all hearings shall be provided as required by section 21-3 of the village Code.~~

(2) Variance application process.

a. Generally. Upon receipt of an application for a variance, the community development director shall schedule the variance for review and processing. Variances shall be processed and noticed pursuant to section 23-3.

b. Application requirements. Variance requests shall contain information sufficient in detail to reasonably apprise the community development director or his/her designee, and the planning, zoning and adjustment board of the nature and substance of the proposed variance. Variance requests shall be filed by written application to the community development department. Each application shall be accompanied by the applicable fee and shall contain the following information or as otherwise required on the community development department application submittal checklist:

1. A legal description of the subject property with a sealed land survey prepared by a registered land surveyor.

2. A detailed description of the requested variance and a justification statement detailing how the variance meets each of the criteria set forth in subsection (3)b below.

3. Dimensioned plans showing the improvements that are the subject of the variance request.

4. The person filing the application must be the property owner or an agent of the property owner. Proof of ownership must be

1 provided. If the applicant is other than the owner of record, a  
2 power of attorney from the owner of record to the applicant  
3 shall accompany the application affirming that the owner has  
4 granted full authority to the applicant to apply for the relief  
5 requested in the application. If the applicant representing the  
6 property owner is an attorney licensed to practice in this state,  
7 no power of attorney shall be required; however, the attorney  
8 shall sign the application and indicate his or her representative  
9 capacity.

- 10  
11 5. Copy of a list of property owners within five hundred (500) feet  
12 of the subject property from the Palm Beach County Property  
13 Appraiser's Office and stamped and addressed envelopes for  
14 the surrounding property owners within five hundred (500) feet  
15 of the subject property.

16  
17 (3) Variance standards, notice, guidelines, and review criteria.  
18

- 19 a. Burden of proof. The burden of demonstrating that the request meets  
20 the variance review criteria shall be on the applicant.  
21  
22 b. Public notice. Public notice of the variance application shall be  
23 provided as required by section 21-3 of the village code.  
24  
25 c. Review criteria. A variance is subject to the following criteria unless  
26 otherwise specified in this chapter, and shall not be granted unless and  
27 until the planning, zoning and adjustment board determines that:  
28  
29 1. That special conditions and circumstances exist which are  
30 peculiar to the land, structure or building involved and which  
31 are not applicable to other lands, structures or buildings in the  
32 same zoning district;  
33  
34 2. That the special conditions and circumstances do not result  
35 from the actions of the applicant;  
36  
37 3. That granting the variance requested will not confer on the  
38 applicant any special privilege that is denied by the ordinance  
39 to other lands, buildings, or structures in the same zoning  
40 district;  
41  
42 4. That literal interpretation of the provisions of the subject  
43 ordinance would deprive the applicant of rights commonly  
44 enjoyed by other properties in the same zoning district under  
45 the terms of the ordinance and would work unnecessary and  
46 undue hardship on the applicant;  
47  
48 5. That the variance granted is the minimum variance that will  
49 make possible the reasonable use of the land, building or  
50 structure;



6. That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

d. Conditions and safeguards. In granting a variance, the planning, zoning and adjustment board may prescribe appropriate conditions and safeguards as are, in the board's opinion, necessary to protect the public interest. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

e. Use variances not authorized. Under no circumstances, except as expressly authorized, shall the planning, zoning and adjustment board grant a variance to allow a use not permitted in the applicable zoning district involved or any use expressly or by implication prohibited in the zoning district by the terms of the code. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(4) Expiration of variance.

a. Unless otherwise set forth in the written order, the variance shall expire one (1) year from the date of the planning, zoning and adjustment board's order granting the variance if a building permit, where required by law, has not been issued in accordance with the plans and conditions upon which the variance was granted; and

b. The variance shall expire if a building permit issued in accordance with the plans and conditions upon which the variance was granted expires and is not renewed pursuant to the applicable provisions regarding renewal of building permits.

(5) Decision and written order. A concurring vote of four (4) of the seven (7) board members shall be necessary to grant a variance. The planning, zoning and adjustment board's decision on a variance application shall be set forth in a written order. An order granting a variance shall contain all appropriate conditions and safeguards as determined by the board. The order shall be forwarded to the village clerk and shall be sent to the applicant and/or the applicant's agent and shall become part of the public records.

(6) Judicial review. Any person or persons, jointly or severally, aggrieved by any decision of the planning, zoning and adjustment board may seek judicial review in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida within thirty (30) days after rendition of the decision by the planning, zoning and adjustment board. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the planning, zoning and adjustment board.

\* \* \*

**Sec. 45-52. Administrative appeals.**

- (1) Review by the planning, zoning and adjustment board. The planning, zoning and adjustment board shall review and decide appeals from any person who has been adversely affected by a decision or order of an administrative official in the interpretation or application of the zoning code or any land development regulation. The planning, zoning and adjustment board may modify, reverse, or affirm the administrative official's decision or order interpreting or applying the provisions of the zoning code or any land development regulation.
- (2) Filing. Administrative appeals shall be filed by written application using the form provided by the community development department. All applications shall be accompanied by the processing fee established by the village council and all supporting evidence pertaining to the appeal. All appeals shall be filed with the community development department within fifteen (15) days of the administrative decision, act, interpretation, or order to which the appeal is directed.
- (3) Processing.
  - a. All applications for administrative appeals shall be scheduled for a hearing before the planning, zoning and adjustment board on the next available agenda.
  - b. The applicant or the applicant's agent or attorney shall present the appeal at a public hearing before the planning, zoning and adjustment board. The burden of demonstrating an error in such decision or order shall be on the applicant.
  - c. The administrative official whose decision or order is being challenged shall present evidence, through testimony, documents or otherwise, supporting in the initial decision or order.
  - d. The concurring vote of four (4) of the seven (7) board members shall be necessary to reverse any order, requirement, or decision of an administrative official.
  - e. Upon a decision, the planning, zoning and adjustment board shall issue a written order. The order shall be forwarded to the village clerk and shall be sent to the applicant and/or the applicant's agent and shall become part of the public records
- (4) Judicial review. Any person or persons, jointly or severally, aggrieved by any decision of the planning, zoning and adjustment board may seek judicial review in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida within thirty (30) days after rendition of the decision by the planning, zoning and adjustment board. Such an appeal shall not be a hearing de novo, but shall

be limited to appellate review of the record created before the planning, zoning and adjustment board.

(5) Stay of work and proceedings on appeal. An appeal to the planning, zoning and adjustment board stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the planning, zoning and adjustment board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by order of the planning, zoning and adjustment board or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

Section 5. All other references to the Planning Commission or to the Board of Adjustment in the Village Code of Ordinances, to the extent not specifically addressed in this Ordinances, shall be changed to the Planning, Zoning and Adjustment Board.

Section 6. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 7. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 8. All ordinances or parts of ordinances and resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. This Ordinance shall take effect immediately upon adoption.

PLACED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

PLACED ON SECOND, FINAL READING AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE ATTORNEY



**COMMUNITY DEVELOPMENT DEPARTMENT REPORT AND RECOMMENDATION**

**Subject/Agenda Item:**

**ZTA-2023-001 Ordinance for PZAB Zoning Text Amendment**

**Consideration of Approval:** A request from Village Staff to create a new Board called the Planning & Zoning Adjustment Board which will serve as the Planning Commission and Board of Appeals and to clarify and streamline the Variance process.

☒ Recommendation to APPROVE

☐ Recommendation to DENY

☐ Quasi-Judicial

☐ Legislative

☒ Public Hearing

**Originating Department:**

**Planning & Zoning**

Project Manager

\_\_\_\_\_  
Caryn Gardner-Young, AICP

**Reviewed By:**

Community Development Director

\_\_\_\_\_  
Caryn Gardner-Young, AICP

**Village Council Action:**

☒ **Approval**

☐ **Approve with conditions**

☐ **Denial**

☐ **Continued to:** \_\_\_\_\_

**Public Notice:**

☒ Required

☐ Not Required

Dates:

Paper: Sun Sentinel

Mailing

☐ Required

☒ Not Required

Notice Distance:

**Attachments:**

- PZAB Ordinance

## **I. Executive Summary**

Village of North Palm Beach (Village) Staff is proposing changes to Chapter 21 of the Village Code by amending Article II “Planning Commission” to create a new Planning & Zoning Adjustment Board, changes to Chapter 21 and 45 by amending Article III, Article IV and Sections 45-50 and 45-52 by deleting or amending language to provide for procedures for variances and replacing all Village Code references to the Planning Commission with the Planning & Zoning Adjustment Board.

## **II. Proposed Code Provision Modifications:**

Please see attached Ordinance

## **III. Staff Analysis:**

### ***Background:***

The Village’s Code of Ordinances created a Planning Commission which powers included:

- (1) Perform any duties which lawfully may be assigned to it by the village council.
- (2) Perform any other duties which may be assigned to it under this Code.
- (3) The planning commission of the village is hereby designated as the governmental entity to act as the "local planning agency" in accordance with chapter 163, Florida Statutes.
- (4) The planning commission shall serve as the village's board of adjustment to consider variances and administrative appeals.
- (5) The planning commission has additional duties that include site plan and appearance review (see sections [6-30](#) through [6-60](#)); the responsibility to make recommendations on special exceptions (see [section 45-16.2](#)); and the authority to approve waivers on land in the C-MU and C-NB zoning districts only (see [section 45-51](#)).

The Village’s Code of Ordinances also created a Board of Adjustment, whose duties are to hear and decide appeals when it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any land development regulation and to authorize variances from the terms of the Code of Ordinances.

On March 19, 2019 the Village Council, through Ordinance 2019-01 approved a zoning text amendment which required the Planning Commission to assume the duties of the Board of Adjustment. However, the Ordinance never eliminated the Board of Adjustment. It has been four years since this change was made and the Planning Commission has successfully assumed all the duties and responsibilities of the Board of Adjustment.

Village Staff is proposing to formally eliminate the Board of Adjustment and fully incorporate its duties in the newly created Planning & Zoning Adjustment Board. The proposed amendment will continue the process to streamline development issues for both residents and developers. Combining the boards together provides more efficiency which will only improve with the elimination of the Board of Adjustment. Additionally, providing a more appropriate name to the new board will avoid any confusion regarding the development process within the Village. There are no proposed changes to the functions, duties or responsibilities of the Planning Commission.

As for the variance process, Village Staff is proposing several changes which are summarized as follows:

1. Format – the proposed amendments will move all relevant provisions to one location so the applicant does not have to look at several code provisions to find out what is needed for a variance;
2. Process – the proposed amendments will streamline the development process and provide a clear application process so the applicant knows what to include with the application to avoid multiple submittals;
3. Burden of Proof – the proposed amendments will add a burden of proof so the applicant knows he/she/they have to show their request meets the variance requirements;
4. Expiration – the proposed amendments will add an expiration of the variance within one (1) year if a building permit has not been issued or if the permit expires to prevent a variance from lingering;
5. Administrative Appeals – the proposed amendments will streamline the appeal process by including what is required for the application, defining what powers the new Board has, delineating the burden of proof needed and requiring that appeals be filed within 15 days from the administrative decision or order.

### ***Analysis:***

#### **Consistency with the Comprehensive Plan**

##### ***Future Land Use Element***

Objective 6 states that the Village shall encourage infill development and redevelopment along the Northlake Blvd and U.S. Highway No. 1 corridor. By streamlining processes, developers may be more willing to consider redevelopment within the Village's municipal boundaries.

##### ***Housing Element***

Policy 3.9 states that the Village shall maintain land development regulations and permit review processes related thereto for the purpose of eliminating excessive requirements and supplementing existing requirements in order to increase private sector participation in meeting defined housing needs. By streamlining processes, developers may be more willing to consider redevelopment within the Village's municipal boundaries.

## **Consistency with the Code of Ordinances**

The Department of Community Development Planning Division is responsible for updating the Village's land development regulations and to assist village administration with development or redevelopment planning concepts. The proposed text amendments are to promote the economic health of the village and ensure the Department's operations are efficient and effective and to streamline the zoning relief procedures in a manner that would offer the public a continued opportunity to engage with the Village. Thus, the proposed text amendments and their effects are consistent with the overall Code of Ordinances, insofar as no proposed amendment directly conflicts with or otherwise hinders the implementation or enforcement of other standards currently embedded in the Code of Ordinances that are not subject to this amendment. The proposed amendments further the goals of the Village Council.

## **IV. Staff Recommendation:**

### *Adoption of Ordinance*

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#### **PLANNING COMMISSION ACTION–September 12, 2023**

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On a Motion by Board Member Hogarth and a second by Board Member Kennedy the Planning Commission approved the Ordinance as presented with the elimination of an Administrative Variance process.

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#### **VILLAGE COUNCIL ACTION– September 28, 2023**

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#### **VILLAGE COUNCIL ACTION– October 12, 2023**

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**VILLAGE OF NORTH PALM BEACH  
VILLAGE ATTORNEY'S OFFICE**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Leonard G. Rubin, Village Attorney

DATE: September 28, 2023

SUBJECT: **ORDINANCE 1st Reading** – Changing the date of the March 2024 Election to coincide with the Presidential Preference Primary and providing for an additional Qualifying Period

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The Palm Beach County Supervisor of Elections has advised the Village that the County voting system will not be available for the March 12, 2024 general election because March 19, 2024 has been established as the date for the statewide Presidential Preference Primary. Consequently, in order to utilize both the County voting system and the services of the Supervisor of Elections, the Village is required to move the date of its election to coincide with the Presidential Preference Primary as authorized by Section 101.75(3), Florida Statutes. To that end, the attached Ordinance:

- Establishes March 19, 2024 as the date of the Village's general election (with a runoff election, if required, on April 2, 2024).
- Provides for candidate qualifying from November 21, 2023 through November 28, 2023 (as set forth in Section 10-5 of the Village Code).

Due to concerns that elected officials may resign prior to the end of the calendar year due to the new financial disclosure requirements imposed by state law, the Supervisor of Elections has agreed to allow municipalities with vacancies caused by such resignations to reopen qualifying in January, with ballot language submitted by noon on January 12, 2024. This would only apply if a Councilmember resigned from a seat that was not already scheduled to be filled at the March 2024 general election. To that end, the Ordinance provides for an additional qualifying period during regular business hours from January 4, 2024 through January 11, 2024.

There is no fiscal impact.

The attached Ordinance has been drafted by this office and reviewed for legal sufficiency.

**Recommendation:**

**Village Staff requests Village Council consideration and approval on first reading of the attached Ordinance changing the date of the March 2024 general election to March 19, 2024 and providing for an additional qualifying period for vacancies due to resignations in accordance with Village policies and procedures.**



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WHEREAS, the Palm Beach County Supervisor of Elections has advised the Village that the County voting system will not be available for the March 12, 2024 general election because the Florida Legislature has established March 19, 2024 as the date for the Presidential Preference Primary; and

WHEREAS, Section 101.75(3), Florida Statutes, provides that the governing body of a municipality may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or countywide election; and

WHEREAS, due to recent changes regarding financial disclosure requirements for municipal elected officials, the Supervisor of Elections has authorized an additional qualifying period for any additional open seat that may arise after the initial qualifying period has ended; and

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

**Section 2.** The Village Council hereby establishes Tuesday, March 19, 2024 as the date of the Village's general municipal election for 2020. A runoff election, if required, shall be held on April 2, 2024. Any qualified elector may become a candidate for any office to be filled at the March 2024

1 general election by paying the applicable qualifying fee and filing with the Village Clerk during regular  
2 business hours from November 21, 2023 through November 28, 2023. The term of office for  
3 candidates elected at the March 2024 general election shall commence as set forth in Article III,  
4 Section 2 of the Village Charter.

5  
6 Section 3. In the event of an additional open seat on the Village Council due to the resignation  
7 of a seated Councilmember not up for reelection in 2024 after the close of the qualifying period  
8 set forth in Section 2 but prior to the end of the calendar year, the Village shall reopen the  
9 qualifying period. Any qualified elector may become a candidate for such seat by paying the  
10 applicable qualifying fee and filing with the Village Clerk during regular business hours from  
11 January 4, 2024 through January 11, 2024.

12  
13 Section 4. Upon adoption, the Village Council directs the Village Clerk to provide a copy of  
14 this Ordinance to the County Supervisor of Elections.

15  
16 Section 5. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for  
17 any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void,  
18 such holding shall not affect the remainder of this Ordinance.

19  
20 Section 6. All ordinances or parts of ordinances or resolutions or parts of resolutions in  
21 conflict herewith are hereby repealed to the extent of such conflict.

22  
23 Section 7. This Ordinance shall take effect immediately upon adoption.

24  
25 PLACED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

26  
27 PLACED ON SECOND, FINAL READING AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_,  
28 2023.

29  
30  
31 (Village Seal)

\_\_\_\_\_  
MAYOR

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34 ATTEST:

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36 \_\_\_\_\_  
37 VILLAGE CLERK

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40 APPROVED AS TO FORM AND  
41 LEGAL SUFFICIENCY:

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43 \_\_\_\_\_  
44 VILLAGE ATTORNEY

**VILLAGE OF NORTH PALM BEACH**  
**Public Library**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Zakariya M. Sherman, Director of Leisure Services

DATE: September 28, 2023

SUBJECT: **RESOLUTION** - Approval of FY 2024 Blanket Purchase Order for Baker & Taylor

---

In accordance with the Village's purchasing policy, Council approval is required for a blanket purchase order when the aggregate fiscal year spending for a vendor is anticipated to exceed \$25,000. Administration is requesting the approval of one blanket purchase order be issued to the following vendor: Baker & Taylor (\$60,552).

The North Palm Beach Library primarily purchases Books from our book wholesaler Baker and Taylor, pursuant to State Term Contract 55000000-23-NY-ACS Books, Serials, Databases, and Library Resource Management Products, for the period of 04/10/2023 through 08/31/2027, and is expected to expend \$45,000 for FY 2024. For Leased Books, the Library also purchases through Baker and Taylor, but pursuant to Palm Beach County Term Contract #20004C Books, New and Popular, Leased, for the period of 08/01/2023 through 07/31/2024, and is expected to expend \$15,552 for FY 2024.

For budgeting purposes, Staff allocate the lease costs to the state aid expense budget line, with this expense typically being offset by the state aid to libraries grant. In total, for FY 2024, the Library anticipates spending \$60,552 through Baker and Taylor.

**Account Information:**

Fund	Department	Account Number	Account Description	Amount
General Fund	Library	A7927-33126	State Aid Expense	\$15,552
General Fund	Library	A7927-35442	Books, Adult	\$ 27,000
General Fund	Library	A7927-35443	Books, Children	\$ 15,000
General Fund	Library	A7927-35448	Books, Young Adult	\$ 3,000

**This Blanket Purchase Order will be effective October 1, 2023.**

**Recommendation:**

Village Administration requests Council consideration and approval of the attached resolution approving the required blanket purchase order with Baker and Taylor at a total cost of \$60,552 with funds expended as follows: \$15,552 from Account No. A7927-33126 (State Aid Expense); \$27,000 from Account No. A7927-35442 (Books-Adult); \$15,000 from Account No. A7927-35443 (Books-Children); and \$3,000 from Account No. A7927-35448 (Books-Young Adult) in accordance with Village policies and procedures.

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA APPROVING A BLANKET PURCHASE ORDER WITH BAKER AND TAYLOR, LLC. IN AN AMOUNT NOT TO EXCEED \$60,552 FOR VILLAGE LIBRARY BOOKS PURSUANT TO PRICING ESTABLISHED BY EXISTING STATE AND COUNTY TERM CONTRACTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village's Purchasing Policies and Procedures authorize the use of blanket purchase orders for materials purchased over a certain period of time not to exceed a single fiscal year, and blanket purchase orders in excess of \$25,000 require approval by the Village Council; and

WHEREAS, Village Staff requested approval of a blanket purchase order in the amount of \$60,552 with Baker and Taylor, LLC for the purchase of books pursuant to pricing established in an existing State Term Contract (55000000-23-NY-ACS Books, Serials, Databases, and Library Resource Management Products) and the lease of books pursuant to pricing established in an existing Palm Beach County Term Contract (20-004C Books, New and Popular, Leased); and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby approves the issuance of a blanket purchase order in the amount of \$60,552 with Baker and Taylor, LLC for the purchase of books pursuant to pricing established in an existing State Term Contract (55000000-23-NY-ACS Books, Serials, Databases, and Library Resource Management Products) and the lease of books pursuant to pricing established in an existing Palm Beach County Term Contract (20-004C Books, New and Popular, Leased), with funds expended as follows: \$15,552 from Account No. A7927-33126 (State Aid Expense); \$27,000 from Account No. A7927-35442 (Books-Adult); \$15,000 from Account No. A7927-35443 (Books-Children); and \$3,000 from Account No. A7927-35448 (Books-Young Adult).

Section 3. This Resolution shall take effect October 1, 2023.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK



**Purchasing Department**

50 South Military Trail, Suite 110  
West Palm Beach, FL 33415-3199

(561) 616-6800

FAX: (561) 242-6744

[www.pbcgov.com/purchasing](http://www.pbcgov.com/purchasing)

**Palm Beach County  
Board of County  
Commissioners**

Gregg K. Weiss, Mayor

Maria Sachs, Vice Mayor

Maria G. Marino

Michael A. Barnett

Marci Woodward

Sara Baxter

Mack Bernard

**County Administrator**

Verdenia C. Baker

"An Equal Opportunity  
Affirmative Action Employer"

Form L

July 11, 2023

Baker & Taylor, LLC  
Ms. Lee Ann Queen, Director – Pricing Services  
3584 Old Maysville Road  
Commerce, GA 30529

TERM CONTRACT #20004C

Dear Vendor:

This is to inform you that Palm Beach County Board of County Commissioners ("County") is entering into a Term Contract with your company for Books, New and Popular, Leased based on:

[X] RENEWAL OF CONTRACT based on SOLICITATION #20-004/KP in accordance with all original terms, conditions, specifications and prices with no deviation.

The term of this contract is 08/01/2023 through 07/31/2024, and has an estimated dollar value of \$1,600,000.

If applicable, Vendor shall maintain all insurance coverage(s) throughout the entire term of the contract, including any renewals or extensions thereof.

County User Departments will issue individual "Delivery Orders" against this contract as your authorization to deliver. The original invoice must be sent to the address on the Delivery Order ("DO") and must reference the DO number (e.g., DO 680 XY030305000000001111). A copy of the invoice may be sent to the County User Department. Invoices submitted on carbon paper shall not be accepted. In order for the County to make payment, the Vendor's Legal Name; Vendor's Address; and Vendor's TIN/FEIN Number on the Vendor's bid/quote/response must be exactly the same as it appears on the invoice and in the County's VSS system that can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. Failure to comply with the foregoing may result in a delay in processing payment.

If you have any questions, please contact Kerry L. Parker, Buyer at 561.616.6824 or [kparker@pbcgov.org](mailto:kparker@pbcgov.org).

Sincerely,

Melody Thelwell  
Director

c: Alicia Garrow, Director Library Finance and Administration  
File



**BOARD OF COUNTY COMMISSIONERS  
NOTICE OF SOLICITATION  
IFB #20-004/KP**

**BOOKS, NEW AND POPULAR, LEASED, TERM CONTRACT**

**BID SUBMISSION DATE: MARCH 19, 2020 AT 4:00 P.M.**

It is the responsibility of the bidder to ensure that all pages are included. Therefore, all bidders are advised to closely examine this package. Any questions regarding the completeness of this package should be immediately directed to Palm Beach County Purchasing Department at (561) 616-6800.

**BIDDERS SHALL PROVIDE A RESPONSE IN A SEALED PACKAGE OR CONTAINER SIGNED BY AN AGENT OF THE COMPANY HAVING AUTHORITY TO BIND THE COMPANY OR FIRM. FAILURE TO DO SO SHALL BE CAUSE FOR REJECTION OF YOUR BID.**

Protests can be accepted only during the five (5) business day posting period.

**C A U T I O N**

In order to do business with Palm Beach County, vendors are required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If bidder intends to use subcontractors, bidder must also ensure that all subcontractors are registered as vendors in VSS. All subcontractor agreements must include a contractual provision requiring that the subcontractor register in VSS. County will not finalize a contract award until the County has verified that the contractor and all of its subcontractors are registered in VSS. As they are issued, all amendments to solicitations will be posted under the applicable solicitation on our VSS system. It is the vendor's sole responsibility to routinely check our VSS system for any amendments that may have been issued prior to the deadline for receipt of bids.

Palm Beach County shall not be responsible for the completeness of any Invitation for Bid that was not downloaded from our VSS system or obtained directly from the Purchasing Department.

**In accordance with the provisions of ADA,  
this document may be requested in an alternate format.**

**50 South Military Trail, Suite 110, West Palm Beach, FL 33415-3199  
(561) 616-6800**

**BOARD OF COUNTY COMMISSIONERS**  
Palm Beach County  
**INVITATION FOR BID**

<b>IFB #20-004/KP</b>	<b>IFB TITLE: BOOKS, NEW AND POPULAR, LEASED, TERM CONTRACT</b>	
<b>PURCHASING DEPARTMENT CONTACT: Kerry L. Parker, Buyer</b>		<b>TELEPHONE NO.: (561) 616-6814</b>
<b>FAX NO.: (561) 242-6714</b>	<b>E-MAIL ADDRESS: <a href="mailto:kparker@pbcgov.org">kparker@pbcgov.org</a></b>	

All bid responses must be received on or before March 19, 2020, prior to 4:00 p.m., Palm Beach County local time. **SUBMIT BID TO:** Palm Beach County Purchasing Department, Attention: Kerry L. Parker, Buyer, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415-3199.

This Invitation for Bid, General Conditions, Instructions to Bidders, Special Conditions, Specifications, Attachments, Amendments (if issued), and / or any other referenced document form a part of this bid solicitation and response thereto, and by reference are made a part thereof. The selected awardee shall be bound by all terms, conditions and requirements in these documents.

**PURPOSE AND EFFECT:** It is the purpose and intent of this solicitation to secure bids for item(s) and / or services as listed herein. The selected awardee is hereby placed on notice that acceptance of its bid by Palm Beach County shall constitute a binding contract.

## GENERAL CONDITIONS, INSTRUCTIONS AND INFORMATION FOR BIDDERS

### GENERAL CONDITIONS

#### 1. GENERAL INFORMATION

Bidders are advised that this package constitutes the complete set of specifications, terms, and conditions which forms the binding contract between Palm Beach County and the successful bidder. Changes to this Invitation for Bid may be made only by written amendment issued by the County Purchasing Department. Bidders are further advised to closely examine every section of this document, to ensure that all sequentially numbered pages are present, and to ensure that it is fully understood. Questions or requests for explanations or interpretations of this document must be submitted to the Purchasing Department contact in writing in sufficient time to permit a written response prior to the published bid submission time. Oral explanations or instructions given by any County agent are not binding and should not be interpreted as altering any provision of this document. Bidder certifies that this bid is made without reliance on any oral representations made by the County.

The County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Board of County Commissioners ("Board") for subsequent fiscal years.

#### 2. LEGAL REQUIREMENTS

- a. **COMPLIANCE WITH LAWS AND CODES:** Federal, State, County and local laws, ordinances, rules and regulations that in any manner affect the items covered herein apply. Lack of knowledge by the bidder shall in no way be a cause for relief from responsibility. The successful bidder shall strictly comply with Federal, State and local building and safety codes. Equipment shall meet all State and Federal Safety regulations. Bidder certifies that all products (materials, equipment, processes, or other items supplied in response to this bid) contained in its bid meets all ANSI, NFPA, and all other Federal and State requirements. Bidder further certifies that, if it is the successful bidder, and the product delivered is subsequently found to be deficient in any of the aforementioned requirements in effect on date of delivery, all costs necessary to bring the product into compliance shall be borne by the bidder.

Any toxic substance provided to the County as a result of this solicitation or resultant contract shall be accompanied by its Safety Data Sheet (SDS).

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the successful bidder and Palm Beach County for any terms and

conditions not specifically stated in the Invitation for Bid.

- b. **COMMERCIAL NON-DISCRIMINATION:**  
**Item 1: Bidder's Representations and Agreement.**

The Bidder represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, the Bidder shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Bidder retaliate against any person for reporting instances of such discrimination. The Bidder shall provide equal opportunity for subcontractors, subconsultants vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Bidder understands and agrees that a material violation of this clause shall be considered a material breach of contract and may result in termination of the contract, disqualification or debarment of the Bidder from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

**Item 2: Bidder's Agreement to Apply to Subcontracts**

The bidder covenants and agrees to include the commercial non-discrimination clause in all subcontractor agreements.

- c. **DISCRIMINATION PROHIBITED:** Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R-2017-1770, as may be amended, the successful bidder warrants and represents that throughout the term of the contract, including any renewals thereof, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression,



or genetic information. Failure to meet this requirement shall be considered a default of contract.

- d. **INDEPENDENT CONTRACTOR RELATIONSHIP:** The successful bidder is, and shall be, in the performance of all work, services, and activities under the Contract, an Independent Contractor and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to the 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 COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.
- e. **CRIMINAL HISTORY RECORDS CHECK ORDINANCE:** Pursuant to Palm Beach County Code Section 2-371 through 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), the County will conduct fingerprint based criminal history record checks on all persons not employed by the County who repair, deliver, or provide goods or services for, to, or on behalf of the County. A fingerprint based criminal history record check shall be conducted on all employees of vendors, contractors, and subcontractors of contractors, including repair persons and delivery persons, who are unescorted when entering a facility determined to be either a critical facility ("Critical Facilities") or a criminal justice information facility ("CJI Facilities"), which are critical to the public safety and security of the County. County facilities that require this heightened level of security are identified in Resolution R-2003-1274, as amended. In October 2013, compliance with the requirements of the U. S. Federal Bureau of Investigations CJI Security Policy was added to the Ordinance, which includes a broad list of disqualifying offenses. The bidder is solely responsible for understanding the financial, schedule, and / or staffing implications of this Ordinance. Further, the bidder acknowledges that its bid price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE / FBI fees that shall be paid by the County.
- f. **PUBLIC ENTITY CRIMES:** F.S. 287.133 requires Palm Beach County to notify all bidders of the following: "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 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 F.S. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."
- g. **NON-COLLUSION:** Bidder certifies that it has entered into no agreement to commit a fraudulent, deceitful, unlawful, or wrongful act, or any act which may result in unfair advantage for one or more bidders over other bidders. Conviction for the Commission of any fraud or act of collusion in connection with any sale, bid, quotation, proposal or other act incident to doing business with Palm Beach County may result in permanent debarment.  
  
No premiums, rebates or gratuities are permitted; either with, prior to or after any delivery of material or provision of services. Any such violation may result in award cancellation, return of materials, discontinuation of services, and removal from the vendor bid list(s), and / or debarment or suspension from doing business with Palm Beach County.
- h. **LOBBYING:** Bidders are advised that the "Palm Beach County Lobbyist Registration Ordinance" prohibits a bidder or anyone representing the bidder from communicating with any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a

particular contract regarding its bid, i.e., a "Cone of Silence".

The "Cone of Silence" is in effect from the date / time of the deadline for submission of the bid, and terminates at the time that the Board or a County Department authorized to act on their behalf, awards or approves a contract, rejects all bids, or otherwise takes action which ends the solicitation process.

Bidders may, however, contact any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a particular contract, via written communication, i.e., facsimile, e-mail or U.S. mail.

Violations of the "Cone of Silence" are punishable by a fine of \$250.00 per violation.

- i. **CONFLICT OF INTEREST:** All bidders shall disclose with their bid the name of any officer, director, or agent who is also an employee or a relative of an employee of Palm Beach County. Further, all bidders shall disclose the name of any County employee or relative of a County employee who owns, directly or indirectly, an interest of ten percent or more in the bidder's firm or any of its branches.
- j. **SUCCESSORS AND ASSIGNS:** The County and the successful bidder each binds itself and its successors and assigns to the other party in respect to all provisions of the Contract. Neither the County nor the successful bidder shall assign, sublet, convey or transfer its interest in the Contract without the prior written consent of the other.
- k. **INDEMNIFICATION:** Regardless of the coverage provided by any insurance, the successful bidder shall indemnify, save harmless and defend the County, its agents, servants, or employees from and against any and all claims, liability, losses and / or causes of action which may arise from any negligent act or omission of the successful bidder, its subcontractors, agents, servants or employees during the course of performing services or caused by the goods provided pursuant to these bid documents and / or resultant contract.
- l. **PUBLIC RECORDS, ACCESS AND AUDITS:** The bidder agrees that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to the Contract which have been created as a part of the bidder's services or authorized by the COUNTY as a reimbursable expense, whether generated directly by the bidder, or by or in conjunction or consultation with any other party whether or not a party to the Contract, whether or not in privity of contract with the COUNTY or the bidder, and wherever located shall be the property of the COUNTY.  
  
Any material submitted in response to this solicitation is considered a public document in accordance with Section 119.07, F.S. This includes material which the responding bidder might consider to be confidential. All submitted information that the responding bidder believes to be confidential and exempt from disclosure (i.e., a trade secret or as provided for in Section 119.07 and Section 812.081, F.S.) must be specifically identified as such. Upon receipt of a public records request for such information, a determination will be made as to whether the identified information is, in fact, confidential.

The COUNTY shall have the right to request and review bidder's books and records to verify bidder's compliance with the Contract, adherence to the Equal Business Opportunity ("EBO") Program and its bid. The COUNTY shall have the right to interview subcontractors, and workers at the work site to determine Contract compliance. The bidder shall maintain records related to all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of the Contract. Bidder shall retain all books and records pertaining to this Contract, including, but not limited to, subcontractor payment records, for five (5) years after project completion date. The COUNTY and the Palm Beach County Inspector General shall have access to

such records as required in this Section for the purpose of inspection or audit during normal business hours, in Palm Beach County at any reasonable time during the five (5) years. .

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Bidder: **(i) provides a service; and (ii) acts on behalf of the COUNTY as provided under Section 119.011(2), F.S.**, the Bidder shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Bidder is specifically required to:

1. Keep and maintain public records required by the COUNTY to perform services provided under the Contract.
2. Upon request from the COUNTY's Custodian of Public Records ("County's Custodian") or COUNTY's representative/liaison, on behalf of the County's Custodian, provide the COUNTY 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 Chapter 119 or as otherwise provided by law. The Bidder further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
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 contract term and following completion of the Contract, if the Bidder does not transfer the records to the public agency. Nothing contained herein shall prevent the disclosure of or the provision of records to the COUNTY.
4. Upon completion of the Contract, the Bidder shall transfer, at no cost to the COUNTY, all public records in possession of the Bidder unless notified by COUNTY's representative/liaison, on behalf of the County's Custodian, to keep and maintain public records required by the COUNTY to perform the service. If the Bidder transfers all public records to the COUNTY upon completion of the Contract, the Bidder shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Bidder keeps and maintains public records upon completion of the Contract, the Bidder shall meet all applicable requirements for retaining public records. All records stored electronically by the Bidder must be provided to the COUNTY, upon request of the County's Custodian or the COUNTY's representative/liaison, on behalf of the County's Custodian, in a format that is compatible with the information technology systems of COUNTY, at no cost to COUNTY.

Bidder acknowledges that it has familiarized itself with the requirements of Chapter 119, F. S., and other requirements of state law applicable to public records not specifically set forth herein. Failure of the Bidder to comply with the requirements of this Section, Chapter 119, F.S. and other applicable requirements of state law, shall be a material breach of the Contract. COUNTY shall have the right to exercise any and all remedies available to it for breach of contract, including but not limited to, the right to terminate for cause.

**IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BIDDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, PLEASE CONTACT**

**THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT [RECORDSREQUEST@PBCGOV.ORG](mailto:RECORDSREQUEST@PBCGOV.ORG) OR BY TELEPHONE AT 561-355-6680.**

- m. **INCORPORATION, PRECEDENCE, JURISDICTION, GOVERNING LAW:** This Invitation for Bid shall be included and incorporated in the final award. The order of contractual precedence shall be the bid document (original terms and conditions), bid response, and purchase order or term contract order. Any and all legal action necessary to enforce the award or the resultant contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the award or the resultant contract will be held in a court of competent jurisdiction located in Palm Beach County, Florida.
- n. **LEGAL EXPENSES:** The County shall not be liable to a bidder for any legal fees, court costs, or other legal expenses arising from the interpretation or enforcement of the contract, or from any other matter generated by or relating to the contract.
- o. **NO THIRD PARTY BENEFICIARIES:** No provision of the Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to the Contract, including but not limited to any citizen or employees of the County and / or successful bidder.
- p. **SCRUTINIZED COMPANIES**
  - 1) **SCRUTINIZED COMPANIES:**  
As provided in F.S. 287.135, by entering into a Contract or performing any work in furtherance hereof, the Bidder certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if Bidder is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the resulting Contract from this Invitation for Bid may be terminated at the option of the County.

- 2) **SCRUTINIZED COMPANIES (WHEN CONTRACT VALUE IS GREATER THAN \$1 MILLION):**  
As provided in F.S. 287.135, by entering into a Contract or performing any work in furtherance hereof, the Bidder certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by Bidder, the resulting Contract from this Invitation for Bid may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.

### 3. BID SUBMISSION

- a. **SUBMISSION OF RESPONSES:** All bid responses must be submitted on the provided Invitation for Bid "Response" Form. Bid responses on vendor letterhead / quotation forms shall not be accepted. Responses must be typewritten, written in ink or a photocopy and must be signed by an agent of the company having authority to bind the company or firm. **FAILURE TO SIGN THE BID RESPONSE FORM AT THE INDICATED PLACES SHALL BE CAUSE FOR REJECTION OF THE BID.** Bid responses are to be submitted to the Palm Beach County Purchasing Department no later than the time indicated on the solicitation preamble, and must be submitted in a sealed envelope or container bearing the bid number for proper handling.
- b. **CERTIFICATIONS, LICENSES AND PERMITS:** Unless otherwise directed in sub-paragraph d. (Local Preference) or the Special Conditions of this bid, bidder should include with its bid a copy of all applicable Certificates of Competency issued by the State of Florida or the Palm Beach County Construction Industry Licensing Board in the name of the bidder shown on the bid response page. It shall also be the responsibility of the successful bidder to maintain a current Local Business Tax Receipt (Occupational License) for Palm Beach County and all permits required to complete the contractual service at no additional cost to Palm Beach County. A Palm Beach County Local Business Tax Receipt (Occupational License) is required unless specifically exempted by law. In lieu of a Palm Beach County Local Business Tax Receipt (Occupational License), the bidder should include the current Local Business Tax Receipt (Occupational License) issued to the bidder in the response. It is the responsibility of the successful bidder to ensure that all required certifications, licenses and permits are maintained in force and current throughout the term of the contract. Failure to meet this requirement shall be considered default of contract.

c. **S/M/WBE - EBO REQUIREMENTS**

Please note that all forms related to the EBO Program, including waiver forms and good faith effort documentation can be found at:  
<http://discover.pbcgov.org/oebp/Pages/Documents.aspx>

**Item 1 – Policy**

It is the policy of the Board that all segments of its business population, including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. To that end, the Board adopted an Equal Business Opportunity Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code, (EBO Ordinance) which sets forth the County's requirements for the EBO Program, and which is incorporated in this solicitation. The provisions of the EBO Ordinance are applicable to this solicitation, and shall have precedence over the provisions of this solicitation in the event of a conflict.

**Item 2 – Waiver of Affirmative Procurement Initiatives (APIs) Requirements**

In accordance with the EBO Ordinance, the Affirmative Procurement Initiatives (APIs) have been waived for this solicitation. However, if any Bidder intends to utilize any subcontractors/subconsultants as part of their response to this solicitation, the applicable OEBO Schedules must be submitted with their response for compliance tracking purposes.

**Item 3 – Bid Submission Documentation**

S/M/WBE bidders, bidding as prime contractors or consultants, are advised that they must complete Schedule 1 and Schedule 2, listing the work to be performed by their own workforce, as well as the work to be performed by all subcontractor or subconsultant, including S/M/WBE subcontractors and subconsultants. Failure to include this information on Schedule 1 will result in the participation by the S/M/WBE prime bidders own workforce NOT being counted towards meeting the - S/M/WBE goal. This requirement applies even if the S/M/WBE bidder intends to perform 100% of the work with their own

workforce S/M/WBE subcontractor/subconsultant documentation. If applicable, shall be submitted as follows:

**Schedule 1 - List of Proposed Subcontractors/ Subconsultants**

A completed Schedule 1 submitted by the prime shall list the names of all subcontractors/subconsultants intended to be used in performance of the contract, if awarded. The total proposed percentage of S/M/WBE participation shall also be included on this form. This schedule shall also be used if an S/M/WBE Prime Contractor/consultant is performing all or any portion of this contract with their work force.

**Schedule 2 - Letter of Intent**

A completed Schedule 2 is a binding document between the Prime Contractor/consultant and a subcontractor/subconsultant (or any tier) and should be treated as such. The Schedule 2 shall contain bolded language indicating that by signing the Schedule 2, both parties recognize this Schedule as a binding document. Each Schedule 2 shall be properly executed by the Prime Contractor/consultant and by the proposed subcontractor/subconsultant. If the Prime Contractor/consultant is an S/M/WBE, a Schedule 2 shall be submitted to document work to be performed by its workforce. All S/M/WBE(s) shall specify, in detail, the type of work they will perform along with the dollar amount they will be compensated and/or percentage of work they will perform. If any subcontractor/subconsultant intends to subcontract any portion of their work, they are required to list the dollar amount and the name of the subcontractor/subconsultant on this form. All named subcontractors/subconsultants on this form must also complete and submit a separate Schedule 2. The Prime may count toward its S/M/WBE goal second and third tiered certified S/M/WBE(s); provided that the Prime Contractor/consultant submits a completed Schedule 2 form for each S/M/WBE.

A detailed quote or proposal may be attached with a signed Schedule 2.

Failure to submit a properly executed Schedule 1 and Schedule 2 will result in no S/M/WBE consideration given.

In the event of a conflict between Schedules 1 and 2 when calculating S/M/WBE participation, the information provided on Schedule 2 shall have precedence.

In the event of mathematical error(s), the unit price, if available, shall prevail and the vendor's total offer shall be corrected accordingly. If the County's issuance of an alternate or change order on a project results in changes in the scope of work to be performed by a subcontractor/subconsultant listed at the time of bid submission, the Prime must submit a, completed and properly executed Schedule 2 that specifies the revised scope of work to be performed by the subcontractor/subconsultant, along with the price and /or percentage.

**Item 4 – S/M/WBE Certification**

Only those firms certified by Palm Beach County at the time of bid submission shall be counted toward the established S/M/WBE goals. Upon receipt of a completed application, **IT TAKES UP TO NINETY (90) BUSINESS DAYS TO BECOME CERTIFIED AS AN S/M/WBE WITH PALM BEACH COUNTY.** It is the responsibility of the bidder to confirm the certification of any proposed S/M/WBE; therefore, it is recommended that bidders visit the online Vendor Directory at [www.pbcgov.org/oebp](http://www.pbcgov.org/oebp) to verify S/M/WBE certification status. Firms must continue to recertify during the life of the contract as the County may only count toward the established goal, work performed by an S/M/WBE during the time their certification dates are valid.

**Item 5 – Responsibilities After Contract Award**

**Schedule 3 – Subcontractor Activity Form**

The Prime Contractor shall submit a completed Activity Report form (Schedule 3) with each invoice, or payment application when any subcontractor/subconsultant has provided services during the period in which the Prime is requesting payment. This

form shall contain the names of all subcontractors/subconsultants, and specify the contracted dollar amount, approved change orders; revised contract amount; amount drawn this period; amount drawn to date; and payments to date issued to all subcontractors with their starting date.

#### **Schedule 4 – Payment Certification Form**

A fully executed Schedule 4 shall be submitted for each subcontractor/subconsultant after receipt of payment from the Prime Contractor/consultant. The Prime Contractor/consultant shall submit this form with each payment application or invoice submitted to the County when the County has paid the Prime Contractor/consultant on the previous payment application for services provided by a subcontractor/subconsultant. If any subcontractor/subconsultant intends to disburse funds associated with this payment to another subcontractor/subconsultant for labor provided on this contract, the amount and name of the subcontractor/subconsultant shall be listed on this form. All named subcontractors/subconsultants on this form must also complete and submit a separate Schedule 4 after receipt of payment. If the Prime Contractor/consultant is a certified S/M/WBE, a Schedule 4 shall be submitted to reflect the amount of payment retained by the Prime Contractor/consultant for services performed by its own workforce.

All bidders hereby agree and assure that they will meet the S/M/WBE participation percentages submitted in their respective bids with the subcontractors/subconsultants contained on Schedules 1 and 2 and at the dollar values specified. Respondents or bidders agree to provide any additional information requested by the County to substantiate participation.

Upon letter notification by the County that the EBO payment portal/tracking system is available for use, the Bidder is required to input all subcontractor/subconsultant payment information directly into the EBO payment portal prior to submitting a payment application.

#### **Item 6 – S/M/WBE Substitutions**

After contract award, the Prime Contractor/consultant will only be permitted to substitute a certified S/M/WBE that is unwilling or unable to perform. The Prime Contractor/consultant will only be permitted to modify the scope of work or price of an S/M/WBE listed at bid opening or date/time for submission of the response to the solicitation as a result of the County's issuance of an amendment, alternate or change orders on a project. Substitutions shall be done with like certified S/M/WBEs in order to maintain the participation percentages submitted with the bid or proposal.

All requests for modifications or substitutions shall be submitted to the COUNTY and the Office of EBO on the EBO Request for S/M/WBE Substitution Modification Removal Form for review. Upon receiving an approval for substitution, the Prime Contractor/consultant shall submit a completed and signed Schedule 2 for the new S/M/WBE; the new S/M/WBE shall specify the type of work to be performed, and the dollar amount and/or percentage shall also be specified upon receiving approval for modification or substitution.

The Prime Contractor/consultant shall submit a new properly executed Schedule 2 that specifies the revised scope of work to be performed by the S/M/WBE, along with the revised dollar amount and/or percentage. A detailed quote or proposal may be attached with a properly executed Schedule 2.

#### **Item 7 – EBO Program Compliance - Penalties**

Under the EBO Ordinance, the OEBO is required to implement and monitor S/M/WBE utilization during the term of any contract resulting from this solicitation. It is the County's policy that S/M/WBEs shall have the maximum feasible opportunity to participate in the performance of County contracts. All Bidders are required to comply with the EBO Ordinance and shall be expected to comply with the API(s) applicable to this solicitation, as well as the S/M/WBE utilization proposed by a Bidder in its

Bid, which utilization plan forms a part of any resulting Contract.

The Director of the OEBO or designee may require such reports, information, and documentation from the Bidder/Vendor as are reasonably necessary to determine compliance with the EBO Ordinance requirements. Vendor shall correct all non-compliance issues within fifteen (15) calendar days of a written notice of noncompliance by the department procuring the goods or services or the OEBO. If the Bidder does not resolve the non-compliance within fifteen (15) days of receipt of written notice of non-compliance,, then upon recommendation of sanctions by the Director of EBO or designee in consultation with the COUNTY regarding the failure of a contractor, vendor, respondent or bidder or other business representative to comply with any portion of the EBO Ordinance, the Director of the EBO or designee (for purposes of imposing penalties, the Purchasing Director shall serve as the EBO designee) may impose any or all of the following penalties on the non-complying party any or all of the following penalties:

- a. Suspension of contract;
  - b. Withholding of funds;
  - c. Termination of contract based upon a material breach of contract pertaining to EBO Program compliance;
  - d. Suspension or Debarment of a respondent or bidder, contractor or other business entity from eligibility for providing goods or services to the County for a period not to exceed three (3) years; and
  - e. Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the contract, and the dollar value of S/M/WBE participation as actually achieved, if applicable.
- d. **LOCAL PREFERENCE ORDINANCE:** In accordance with the Palm Beach County Local Preference Ordinance, a preference may be given to (1) bidders having a permanent place of business in Palm Beach County or (2) bidders having a permanent place of business in the Glades that are able to provide the goods or services within the Glades.
1. **Glades Local Preference:** Pursuant to the Palm Beach County Local Preference Ordinance, a 5% Glades Local Preference is given when a Glades business offers to provide the goods or services that will be procured for use in the Glades. If the lowest responsive, responsible bidder is a non-Glades business, all bids received from responsive, responsible Glades businesses will be decreased by 5%. The original bid amount is not changed. The 5% decrease given for the Glades Local Preference is calculated only for the purpose of determining local preference.
  2. **Local Preference:** Pursuant to the Palm Beach County Local Preference Ordinance, a 5% Local Preference is given to bidders having a permanent place of business in Palm Beach County. If the lowest responsive, responsible bidder is a non-local business; all bids received from responsive, responsible local businesses will be decreased by 5%. The original bid amount is not changed. The 5% decrease given for the Local Preference is calculated only for the purpose of determining local preference.
  3. To receive a Glades Local Preference or a Local Preference (collectively referred to as "local preference"), a bidder must have a permanent place of business in existence prior to the County's issuance of this Notice of Solicitation / Invitation for Bid. A permanent place of business means that the bidder's headquarters is located in Palm Beach County or in the Glades, as applicable; or, the bidder has a permanent office or other site in Palm Beach County or in the Glades, as applicable, where the bidder will produce a substantial portion of the goods or services to be purchased.
  4. A valid Business Tax Receipt issued by the Palm Beach County Tax Collector is required, unless the bidder is exempt from the business tax receipt requirement by law, and will be used to verify that the bidder had a permanent place of business prior to the issuance of this Notice of

Solicitation / Invitation for Bid. In addition, the attached "Certification of Business Location" and Business Tax Receipt must accompany the bid at the time of bid submission. The Palm Beach County Business Tax Receipt and this Certification are the sole determinant of local preference eligibility. Errors in the completion of this Certification or failure to submit this completed Certification will cause the bidder / proposer to not receive a local preference.

- e. **DRUG FREE WORKPLACE CERTIFICATION:** In compliance with Florida Statute (Section 287.087) attached form "Drug-Free Workplace Certification" should be fully executed and submitted with bid response in order to be considered for a preference whenever two (2) or more bids which are equal with respect to price, quality, and service are received by Palm Beach County.
- f. **CONDITIONED OFFERS:** Bidders are cautioned that any condition, qualification, provision, or comment in their bid, or in other correspondence transmitted with their bid, which in any way modifies, takes exception to, or is inconsistent with the specifications, requirements, or any of the terms, conditions, or provisions of this solicitation, is sufficient cause for the rejection of their bid as non-responsive.
- g. **PRICING:**
  - 1. Prices offered must be the price for new merchandise and free from defect. Unless specifically requested in the bid specifications, any bids containing modifying or escalation clauses shall be rejected.
  - 2. The price offered must be in accordance with the unit of measure provided on the bid response page(s). One (1) space or line requires only one (1) single, fixed unit price. Anything other than a single, fixed unit price shall result in the rejection of your bid.
  - 3. All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.
  - 4. Bidder warrants by virtue of bidding that prices shall remain firm for a period of ninety (90) days from the date of bid submission to allow for evaluation and award.
  - 5. Bidder warrants by virtue of bidding that prices shall remain firm for the initial and any subsequent term.
  - 6. In the event of mathematical error(s), the unit price shall prevail and the bidder's total offer shall be corrected accordingly. **BIDS HAVING ERASURES OR CORRECTIONS MUST BE INITIALED BY THE BIDDER PRIOR TO BID SUBMISSION; HOWEVER, IF THE CORRECTION IS NOT PROPERLY INITIALED, BUT THE INTENT OR LEGIBILITY OF THE CORRECTION IS CLEAR, THE BID SHALL NOT BE REJECTED.**
  - 7. Bidders may offer a cash discount for prompt payment. However, such discounts shall not be considered in determining the lowest net cost for bid evaluation purposes unless otherwise specified in the special conditions. Bidders should reflect any discounts to be considered in the unit prices bid.
- h. **SUBMITTING NO BID or NO CHARGE:** Bidders not wishing to bid on some items sought by this solicitation should mark those items as "no bid". If some items are to be offered at no charge, bidders should mark those items as "no charge". Items left blank shall be considered a "no bid" for that item, and the bid shall be evaluated accordingly.
- i. **ACCEPTANCE / REJECTION OF BIDS:** Palm Beach County reserves the right to accept or to reject any or all bids. Palm Beach County also reserves the right to (1) waive any non-substantive irregularities and technicalities; (2) reject the bid of any bidder who has previously failed in the proper performance of a contract of a similar nature, who has been suspended or debarred by another governmental entity, or who is not in a position to perform properly under this award; and (3) inspect all facilities of bidders in order to make a determination as to its ability to perform.

Palm Beach County reserves the right to reject any offer or bid if the prices for any line items or subline items are materially unbalanced. An offer is materially unbalanced if it is mathematically unbalanced, and if there is reason to believe that the offer would not result in the lowest overall cost to the County, even though it is the lowest evaluated offer. An offer is mathematically unbalanced if it is based on prices which are significantly less than fair market price for some bid line item and significantly greater than fair market price for other bid line items. Fair market price shall be determined based on industry standards, comparable bids or offers, existing contracts, or other means of establishing a range of current prices for which the line items may be obtained in the market place. The determination of whether a particular offer or bid is materially unbalanced shall be made in writing by the Purchasing Director, citing the basis for the determination.

- j. **NON-EXCLUSIVE:** The County reserves the right to acquire some or all of these goods and services through a State of Florida contract under the provisions of Section 287.042, Florida Statutes, provided the State of Florida contract offers a lower price for the same goods and services. This reservation applies both to the initial award of this solicitation and to acquisition after a term contract may be awarded. Additionally, Palm Beach County reserves the right to award other contracts for goods and services falling within the scope of this solicitation and resultant contract when the specifications differ from this solicitation or resultant contract, or for goods and services specified in this solicitation when the scope substantially differs from this solicitation or resultant contract.
- k. **OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES:** Palm Beach County encourages and agrees to the successful bidder extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder.
- l. **PERFORMANCE DURING EMERGENCY:** By submitting a bid, bidder agrees and promises that, immediately preceding, during and after a public emergency, disaster, hurricane, flood, or act of God, Palm Beach County shall be given "first priority" for all goods and services under the contract. Bidder agrees to provide all goods and services to Palm Beach County immediately preceding, during and after a public emergency, disaster, hurricane, flood, or act of God, at the terms, conditions, and prices as provided in this solicitation on a "first priority" basis. Bidder shall furnish a 24-hour phone number to the County. Failure to provide the goods or services to the County on a first priority basis immediately preceding, during and after a public emergency, disaster, hurricane, flood, or act of God, shall constitute breach of contract and subject the bidder to sanctions from doing further business with the County.
- m. **SALES PROMOTIONS / PRICE REDUCTIONS / MOST FAVORED CUSTOMER:** Should sales promotions occur during the term of the contract that lower the price of the procured item, the successful bidder shall extend to the County the lower price offered by the manufacturer on any such promotional item. Further, any price decreases effectuated during the contract period by reason of market change or otherwise, shall be passed on to Palm Beach County. Additionally, any time after award, the successful bidder may offer a reduced price which shall remain in effect for the duration of the contract. The successful bidder warrants that the price(s) shall not exceed the successful bidder's price(s) extended to its most favored customer for the same or similar goods or services in similar quantities, or the current market price, whichever is lower. In the event the successful bidder offers more favorable pricing to one of its customer(s), the successful bidder shall extend to the County the same pricing or the then current market price, whichever is lower.
- n. **BIDDER'S COMMERCIAL NON-DISCRIMINATION CERTIFICATION:** In accordance with Palm Beach County Code Section 2-80.24, the undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its response to this solicitation, the Bidder has considered all proposals submitted from qualified, potential subcontractors and

suppliers, and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Policy as set forth in Resolution 2017-1770 as amended, to wit: discrimination in the solicitation, selection or commercial treatment of any Subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor'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 the County's relevant marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the County to reject the bid submitted by the bidder for this Solicitation, and to terminate any contract awarded based on the response.

At the time of bid submission, the bidder shall provide to the County a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the bidder discriminated against its subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.

**Bidder shall indicate its agreement to the foregoing by signing the Bid Response Page.**

Bidder's failure to meet these requirements shall render its bid response non-responsive.

#### 4. **BID SUBMISSION TIME / AWARD OF BID**

- a. **OBSERVING THE PUBLISHED BID SUBMISSION TIME:** The published bid submission time shall be scrupulously observed. It is the sole responsibility of the bidder to ensure that their bid arrives in the Purchasing Department prior to the published bid submission time. Any bid delivered after the precise published time of bid submission shall not be considered. Bid responses by telephone, electronics, or facsimile shall not be accepted. Bidders shall not be allowed to modify their bids after the published bid submission time.
- b. **POSTING OF AWARD RECOMMENDATION:** Recommended awards shall be publicly posted for review, at the Purchasing Department and on the Purchasing Department website at [www.pbcgov.org/purchasing](http://www.pbcgov.org/purchasing) prior to final approval, and shall remain posted for a period of five (5) business days. The official posting on the Purchasing Department website shall prevail if a discrepancy exists between the referenced listings.
- c. **PROTEST PROCEDURE:** Protest procedures are provided in the Palm Beach County Purchasing Code. Protests must be submitted in writing, addressed to the Director of Purchasing, via hand delivery, mail or fax to (561) 242-6705. Protest must identify the solicitation, specify the basis for the protest, and be received by the Purchasing Department within five (5) business days of the posting date of the recommended award. The protest is considered filed when it is received by the Purchasing Department. Failure to file a protest as outlined in the Palm Beach County Purchasing Code shall constitute a waiver of proceedings under the referenced County Code.

#### 5. **CONTRACT ADMINISTRATION**

- a. **DELIVERY AND ACCEPTANCE:** Deliveries of all items shall be made as soon as possible. Deliveries resulting from this bid are to be made during the normal working hours of the County. Time is of the essence and delivery dates must be met. Should the successful bidder fail to deliver on or before the stated dates, the County reserves the right to CANCEL the order or contract and make the purchase elsewhere. The successful bidder shall

be responsible for making any and all claims against carriers for missing or damaged items.

Delivered items shall not be considered "accepted" until an authorized agent for Palm Beach County has, by inspection or test of such items, determined that they appear to fully comply with specifications. The Board may return, at the expense of the successful bidder and for full credit, any item(s) received which fail to meet the County's specifications or performance standards.

- b. **FEDERAL AND STATE TAX:** Palm Beach County is exempt from Federal and State taxes. The authorized agent for Purchasing shall provide an exemption certificate to the successful bidder, upon request. Successful bidders are not exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the County, nor are successful bidders authorized to use the County's Tax Exemption Number in securing such materials. Any sales tax paid by successful bidders to their suppliers for materials to fulfill contractual obligations with the County are not reimbursable by the County to the successful bidder.
- c. **PAYMENT:** In order for Palm Beach County to make payment, the Vendor's Legal Name; Vendor's Address; and Vendor's TIN/FEIN Number on the successful bidder's bid; must be exactly the same as it appears on the invoice and in Palm Beach County's VSS system which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>.

Successful bidders shall send **ALL ORIGINAL** invoices to the following address and may send copies of invoices to the Palm Beach County Department requesting the goods/services. Invoices submitted on carbon paper shall not be accepted.

**PALM BEACH COUNTY  
FINANCE DEPT.  
P.O. BOX 4036  
WEST PALM BEACH, FL 33402-4036**

Payment shall be made by the County after goods / services have been received, accepted and properly invoiced as indicated in the contract and / or order. Invoices must bear the order number. The Florida Prompt Payment Act is applicable to this solicitation. Interest penalties will only be paid in accordance with the Florida Prompt Payment Act, Florida Statute 218.70.

**Note: Palm Beach County Vendors can now be paid by Credit Card via the County's voluntary Payment Manager Program.** For vendors who don't have a merchant account, one is needed to utilize the Program. For vendors with a merchant account, you will need to enroll with the Palm Beach County Clerk & Comptroller's Office. For information, contact the Palm Beach County Clerk & Comptroller at [pbcpaymentmgr@mypalmbeachclerk.com](mailto:pbcpaymentmgr@mypalmbeachclerk.com).

- d. **CHANGES:** The Director of Purchasing, Palm Beach County, by written notification to the successful bidder may make minor changes to the contract terms. Minor changes are defined as modifications which do not significantly alter the scope, nature, or price of the specified goods or services. Typical minor changes include, but are not limited to, place of delivery, method of shipment, minor revisions to customized work specifications, and administration of the contract. The successful bidder shall not amend any provision of the contract without written notification to the Director of Purchasing, and written acceptance from the Director of Purchasing or the Board.
- e. **DEFAULT:** The County may, by written notice of default to the successful bidder, terminate the contract in whole or in part if the successful bidder fails to satisfactorily perform any provisions of this solicitation or resultant contract, or fails to make progress so as to endanger performance under the terms and conditions of this solicitation or resultant contract, or provides repeated non-performance, or does not remedy such failure within a period of 10 days (or such period as the Director of Purchasing may authorize in writing) after receipt of notice from the Director of

Purchasing specifying such failure. In the event the County terminates the contract in whole or in part because of default of the successful bidder, the County may procure goods and / or services similar to those terminated, and the successful bidder shall be liable for any excess costs incurred due to this action.

If it is determined that the successful bidder was not in default or that the default was excusable (e.g., failure due to causes beyond the control of, or without the fault or negligence of, the successful bidder), the rights and obligations of the parties shall be those provided in Section 5f, "Termination for Convenience".

- f. **TERMINATION FOR CONVENIENCE:** The Director of Purchasing may, whenever the interests of the County so require, terminate the contract, in whole or in part, for the convenience of the County. The Director of Purchasing shall give five (5) days prior written notice of termination to the successful bidder, specifying the portions of the contract to be terminated and when the termination is to become effective. If only portions of the contract are terminated, the successful bidder has the right to withdraw, without adverse action, from the entire contract.

Unless directed differently in the notice of termination, the successful bidder shall incur no further obligations in connection with the terminated work, and shall stop work to the extent specified and on the date given in the notice of termination. Additionally, unless directed differently, the successful bidder shall terminate outstanding orders and / or subcontracts related to the terminated work.

- g. **REMEDIES:** No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law, or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**6. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**

**AUDIT REQUIREMENTS:** Pursuant to Palm Beach County Code, Section 2-421 – 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

7. **BUSINESS INFORMATION:** If bidder is a Joint Venture for the goods / services described herein, bidder shall, upon request of Palm Beach County, provide a copy of the Joint Venture Agreement signed by all parties.

**THIS IS THE END OF "GENERAL CONDITIONS"**



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## SPECIAL CONDITIONS

### 8. GENERAL / SPECIAL CONDITION PRECEDENCE

In the event of conflict between General Conditions and Special Conditions, the provisions of the Special Conditions shall have precedence.

### 9. QUALIFICATION OF BIDDERS

This bid shall be awarded only to a responsive and responsible bidder, qualified to provide the goods and/or service specified. The bidder shall, upon request, promptly furnish the County sufficient evidence in order to confirm a satisfactory performance record. Such information may include an adequate financial statement of resources, the ability to comply with required or proposed delivery or performance schedule, a satisfactory record of integrity and business ethics, the necessary organization, experience, accounting and operation controls, and technical skills, and be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The bidder should submit the following information with their bid response; however, if not included, it shall be the responsibility of the bidder to submit all evidence, as solicited, within a time frame specified by the County (normally within two working days of request). Failure of a bidder to provide the required information within the specified time frame is considered sufficient cause for rejection of their bid. **Information submitted with a previous bid shall not satisfy this provision.**

- A. List a minimum of three (3) references in which similar goods and/or services have been provided within the past three (3) years including scope of work, contact names, addresses, e-mail addresses, telephone numbers and dates of service on the attached reference sheet included herein. A contact person shall be someone who has personal knowledge of the bidder's performance for the specific requirement listed. Contact person must have been informed that they are being used as a reference and that the County may be calling them. **DO NOT** list persons who are unable to answer specific questions regarding the requirement.

### 10. AWARD (ALL-OR-NONE)

Palm Beach County shall award this bid to the lowest, responsive, responsible bidder on an all-or-none, total offer basis.

### 11. METHOD OF ORDERING (TERM CONTRACT)

A contract shall be issued for a term of twelve (12) months or until the estimated amount is expended, at the discretion of the County. The County will order on an "as needed" basis.

### 12. LOCATIONS (ADDITIONS / DELETIONS)

The locations listed herein are now in service. Palm Beach County reserves the sole right to add or delete locations from the contract, if the need should arise, at no additional cost to the County.

### 13. F.O.B. POINT

The F.O.B. point shall be destination. Exact delivery point will be indicated on the term contract delivery order (DO). Bid responses showing other than F.O.B. destination shall be rejected. Bidder retains title and assumes all transportation charges, responsibility, liability and risk in transit, and shall be responsible for the filing of claims for loss or damages.

### 14. DELIVERY

Palm Beach County will notify the successful bidder as to the time and place of delivery. The quantity to be delivered will depend upon the County's need at the time of request.

Inside delivery shall be required at each library location.

### 15. AS SPECIFIED

A term contract delivery order (DO) will be issued to the successful bidder with the understanding that all items delivered must meet the specifications herein. Palm Beach County will return, at the expense of the successful bidder, items not delivered as specified.



**16. INVOICING AND SHIPPING INSTRUCTIONS**

Bidder shall send original invoice to:

Board of County Commissioners  
Palm Beach County Finance Department  
P. O. Box 4036  
West Palm Beach, FL 33402

Bidder shall also send copy of original invoice to:

Palm Beach County Library System  
Library Annex / Acquisitions  
4289 Cherry Rd.  
West Palm Beach, FL 33409

All costs incurred in shipping and returning books, shall be the responsibility of the successful bidder. All shipments shall contain packing slips indicating the number of copies per title sent, publication date, and back order or cancellation information.

**17. QUANTITY**

The quantities shown are estimated. Palm Beach County reserves the right to increase or decrease the total quantities as necessary to meet actual requirements. Unless stipulated otherwise, Palm Beach County will accept NO minimum order requirements. Additionally, bidders are cautioned to bid in accordance with the unit specified on the Bid Response page.

**18. RENEWAL OPTION**

The successful bidder shall be awarded a contract for twelve (12) months with the option to renew for four (4) additional twelve (12) month period(s). The option for renewal shall only be exercised upon mutual written agreement and with all original terms, conditions and unit prices adhered to with no deviations. The unit prices bid shall apply for the initial term and each renewal period. Any renewal shall be subject to the appropriation of funds by the Board of County Commissioners. A renewal shall be revoked if the successful bidder is suspended by the Purchasing Department prior to the commencement of the renewal period.

**19. INSURANCE REQUIRED**

It shall be the responsibility of the successful bidder to provide evidence of the following minimum amounts of insurance coverage to Palm Beach County, c/o Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415, Attention: Kerry L. Parker, Buyer, unless otherwise directed by the County. Subsequently, the successful bidder shall, during the term of the Contract, and prior to each renewal thereof, provide evidence of insurability to Palm Beach County Purchasing Department, prior to the expiration date of each and every insurance required herein.

**Commercial General Liability Insurance.** Successful bidder shall maintain Commercial General Liability Insurance, or similar form, at a limit of liability not less than \$500,000 Each Occurrence for Bodily Injury, Personal Injury and Property Damage Liability. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Completed Operations, Personal Injury/Advertising Liability, Contractual Liability and Broad Form Property Damage coverages. Coverage for the hazards of explosion, collapse and underground property damage (X-C-U) must also be included when applicable to the work to be performed. **This coverage shall be endorsed to include Palm Beach County as an Additional Insured.**

**Business Auto Liability Insurance.** Successful bidder shall maintain Business Auto Liability Insurance at a limit of liability not less than \$500,000 Combined Single Limit Each Accident for all owned, non-owned, and hired automobiles. (In this context, the term "Autos" is interpreted to mean any land motor vehicle, trailer or semi-trailer designed for travel on public roads.) In the event successful bidder neither owns nor leases automobiles, the Business Auto Liability requirement shall be amended allowing successful bidder to maintain only Hired & Non-Owned auto Liability and shall provide either an affidavit or a letter on company letterhead signed by the bidder indicating either the bidder does not own any vehicles, and if vehicles are acquired throughout the term of the contract, bidder agrees to purchase "Owned Auto" coverage as of the date of acquisition. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

**Workers' Compensation and Employer's Liability Insurance.** Successful bidder shall maintain Workers' Compensation & Employer's Liability Insurance in accordance with Florida Statute Chapter 440.

A signed Certificate or Certificates of Insurance, evidencing that required insurance coverages have been procured by the successful bidder in the types and amounts required hereunder shall be transmitted to the County via the Insurance Company/Agent within a time frame specified by the County (normally within 2 working days of request). Failure to provide required insurance shall render your bid non-responsive.

Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional liability, when applicable), said Certificate(s) shall clearly confirm that coverage required by the contract has been endorsed to include Palm Beach County as an Additional Insured.

Said Certificate(s) of Insurance shall, to the extent allowable by the insurer, include a minimum thirty (30) day endeavor to notify due to cancellation (10 days for nonpayment of premium) or non-renewal of coverage. The Certificate Holder shall read: Palm Beach County Board of County Commissioners c/o Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415. It is the responsibility of the successful bidder to ensure that all required insurance coverages are maintained in force throughout the term of the contract. Failure to maintain the required insurance shall be considered default of contract.

All insurance must be acceptable to and approved by County as to form, types of coverage and acceptability of the insurers providing coverage.

Bidder shall agree that all insurance coverage required herein shall be provided by bidder to County on a primary basis.

## SPECIFICATIONS IFB #20-004/KP

### BOOKS, NEW AND POPULAR, LEASED, TERM CONTRACT

#### **PURPOSE AND INTENT**

The sole purpose and intent of this Invitation for Bid (IFB) is to secure firm, fixed pricing and establish a term contract for leased new and popular adult, teen, children hard cover, trade paperback, mass market, and Spanish titles for the Palm Beach County Library System (PBCLS).

#### **SCOPE OF WORK**

The successful bidder shall have a title database with no less than 500,000 titles, and shall provide hardcover and paperback books, and services necessary to fill orders placed by the County for adult, teen and children leased books, including regular, large print, trade, mass market, and Spanish titles. Books and services for processing, cataloging, and shipping, shall be supplied prepaid to the County. Books shall be processed and shipped monthly to reach each delivery location as close to publication date as possible. The County estimates leasing approximately 90,000 books per year.

#### **THE COUNTY'S RESPONSIBILITIES**

The County shall:

1. Order on an as needed basis.
2. Supply barcode labels, as needed.

#### **SUCCESSFUL BIDDER'S RESPONSIBILITIES**

The successful bidder shall provide all services necessary to fill orders placed by the County for leased books, including, but not limited to, the following:

Platform software and User Logins: shall include, at no additional cost to the County, a platform software system with a minimum of 30 user logins, and compatible with SirsiDynix ILS and Windows 2007 or later.

Training and Support: shall provide training and support to the County staff on the platform software and user logins procedures, at no additional cost to the County.

Customer Service: shall be required to provide an assigned representative for information, to respond to requests, and problems by telephone and e-mail. Representative shall be available Monday through Friday, 8:00 a.m. to 5:00 p.m.

Collection Development Services: shall provide monthly selection lists of popular and bestselling titles in regular and large print, fiction and nonfiction for adult, teen and children, and popular Spanish titles.

Acquisitions Services: shall include an online ordering and invoicing system.

Processing and Cataloging Services: shall provide bibliographic information and physical processing for shelf-ready books.

#### **COLLECTION DEVELOPMENT SERVICES**

1. Selection Sources:
  - a. The successful bidder shall supply a monthly list of current best sellers and other popular books in high demand that are in stock and ready to ship.
  - b. The successful bidder shall supply a monthly list of new and forthcoming titles from which books are to be chosen by the libraries. The monthly list shall include: adult, teen and children, and Spanish regular and large print, of the popular and bestselling books of current fiction and nonfiction; including series and special categories with titles of current interest.
  - c. The County shall select or reject books within the supplier's list of available titles which shall consist of a minimum of 100 annotated titles per month, with the option to order any trade title from forthcoming books or current reviewing media. Filling of orders for bestsellers (New York Times and Publisher's Weekly) must be given first priority by the successful bidder, and shipped immediately.
  - d. For each annotation, the successful bidder must cite professional reviews, large first printing, major advertising, author tours, major motion picture tie-ins, TV tie-ins, paperback rights, serialization in major publications, first novel, and previous titles by the author.
  - e. The successful bidder shall provide an automatic plan for receiving a designated number of copies of New York Times Best Seller List books.

2. Quantity and Fill Rate:

- a. The successful bidder shall have in stock, a sufficient quantity of titles from the monthly selection list/catalog, in order to process and ship within ten (10) days after date of publication. Changes in publication dates shall be the only acceptable exception.
- b. The successful bidder shall provide new books that are guaranteed against defect of materials. If materials are delivered with defects, the vendor shall provide replacement or credit correct number of monthly allotments.

3. Inventory / Allowance:

- a. The successful bidder shall allow each library location to choose to order above or below a monthly allotment of books, as long as the yearly contract allotment is maintained. The monthly allotment of books for a given location may be increased or decreased with thirty (30) days written notice, at the County's discretion. The allotment size by location is not currently available. The successful bidder shall not obligate the County to return a designated number of books per month. The County shall retain, at no charge, up to 40% of items ordered annually. Items that are lost or damaged beyond use will be reported and deducted from the County's leased inventory, at no penalty. The County shall return by quantity, not by title.
- b. The County shall be exempt from all list price limits up to \$40.00, so that a chosen title shall count as one (1) unit without regard to price.

4. Reports:

- a. The successful bidder shall provide each library location with monthly reports on inventory status. This report shall include the number of books ordered, books shipped, books not yet published, released, or canceled and balanced to order.
- b. The successful bidder shall provide a monthly management report summarizing ordering and inventory status, by library location.

#### ACQUISITIONS SERVICES

1. Automated Ordering:

- a. The successful bidder shall have the ability to provide an on line or other type of automated ordering/invoicing system compatible with SirsiDynix ILS and Windows 7 or later, or provide a compatible ordering/invoicing system, at no additional cost to the County.
- b. The successful bidder shall allow all ordering to be placed at a central site, with shipments being sent to each library location.
- c. The successful bidder shall provide training to library staff on the ordering system and procedures, at no additional cost to the County.

#### PROCESSING AND CATALOGING SERVICES

1. Processing:

- a. The successful bidder shall provide and attach protective Mylar covers for books with dust jackets or attach protective laminate covers on all paperback books.
- b. The successful bidder shall provide an exterior label showing the library name, and the owning branch library name and address. The title's shelf location, or classification, shall be displayed on the book spine. These labels shall be affixed under the protective coverings.
- c. The successful bidder shall provide and attach a blank matte label (1-3/4" x 1/2") on the outside of the protective covers and below the exterior library label. No protective covering should be applied to this label.
- d. The successful bidder shall provide and attach a barcode label to each book. Barcode labels may be supplied by the County for use by the successful bidder, or the successful bidder may create barcode labels according to specifications provided by the County.
- e. The successful bidder shall provide and attach a programmed universal RFID tag to each book, located inside the back cover, near the spine, randomly placed top to bottom. The universal RFID tag shall be programmed by the successful bidder to match the barcode. The universal RFID tag must be compatible with the current library security system.
- f. The barcode labels shall be attached to the front cover, upper left corner, protected underneath the Mylar cover, or by a laminate.
- g. The spine labels shall be attached on the bottom spine edge protected by either the Mylar cover or laminate.

## 2. Cataloging:

- a. The successful bidder shall provide a MARC bibliographic record for each unique title, at the time of shipment. The County shall accept either modified AACR2 or RDA cataloging standards for MARC records. These records shall be in electronic format and include individual copy information in a 949 field(s). The County shall provide the successful bidder with required information to create 949 subfields. At this time, the County requires three (3) 949 subfields: call number; item ID; and holding code. The County may add/delete/change the number of fields at their sole discretion at no additional cost to the County.
- b. The successful bidder shall provide access to prepublication title records. Library staff shall be permitted to download these records into our catalog, so that holds may be placed three (3) months in advance of the projected publication date. Pre-publication title records shall include a valid publisher's ISBN as required by SirsiDynix bibliographic record matching protocols. The successful bidder shall provide any training and/or support needed to access and download pre-publication titles, at no additional cost to the County.
- c. The successful bidder shall provide leased fiction titles, with the shelf location, FIC, above the author's entire last name, and biographies have the shelf location, BIO, above the biographies' entire last name. Nonfiction titles are classed according to the latest edition of Dewey Decimal Classification (DDC). DDC numbers should rarely exceed five (5) places beyond the decimal point, never end in a zero, and are usually shortened at the second prime mark (or diagonal slash). Large print, teen, and children leased titles follow the same classification guidelines with the addition of LP, YA, or J at the top of the spine label display. Spanish leased titles shall follow the same classification guidelines specified herein, with the addition of the language designation, SP, at the top of the spine label display.

## 3. Contract Termination:

- a. If the service is terminated, the County shall have a period of ninety (90) days after the effective date of termination in which to return, purchase or otherwise clear the successful bidder's inventory.
- b. The successful bidder shall not charge the County for books lost, damaged, or stolen.

## 4. Contract Turnover:

- a. If the successful bidder is not the current incumbent, the new successful bidder shall ensure that there will be no disruption in leased book service.

**CURRENT DELIVERY LOCATIONS FOR PALM BEACH COUNTY LIBRARY SYSTEM**

Books by Mail - Bookmobile 4289 Cherry Rd. West Palm Beach, FL 33409	Library Annex 4289 Cherry Rd. West Palm Beach, FL 33409
Acreage Branch 15801 Orange Blvd. Loxahatchee, FL 33470	Okeechobee Boulevard Branch 5689 Okeechobee Blvd. West Palm Beach, FL 33417
Main Library 3650 Summit Blvd. West Palm Beach, FL 33406	Royal Palm Beach Branch 500 Civic Center Way Royal Palm Beach, FL 33411
Gardens Branch 11303 Campus Dr. Palm Beach Gardens, FL 33410	West Boca Branch 18685 State Rd. 7 Boca Raton, FL 33498
Belle Glade Branch 725 NW 4 <sup>TH</sup> St. Belle Glade, FL 33430	Tequesta Branch 461 Old Dixie Hwy. North Tequesta, FL 33469
Clarence E. Anthony Branch 375 SW 2 <sup>ND</sup> Ave. South Bay, FL 33493	Hagen Ranch Road Branch 14350 Hagen Ranch Rd. Delray Beach, FL 33446
Greenacres Branch 3750 Jog Rd. Greenacres, FL 33467	West Boynton Branch 9451 Jog Rd. Boynton Beach, FL 33437
Jupiter Branch 705 Military Tr. Jupiter, FL 33458	Lantana Branch 4020 Lantana Rd. Lake Worth, FL 33462
Glades Road Branch 20701 95 <sup>TH</sup> Ave. South Boca Raton, FL 33434	Wellington Branch 1951 Royal Fern Dr. Wellington, FL 33414
Loula V. York Branch 525 Bacom Point Rd. Pahokee, FL 33476	Minimum of three (3) floating collection locations TBD at one of the branches listed

**BID RESPONSE**  
**IFB #20-004/KP**

**BOOKS, NEW AND POPULAR, LEASED, TERM CONTRACT**

ITEM NO.	DESCRIPTION	ESTIMATED 12 MONTH QUANTITY	UNIT	UNIT PRICE	TOTAL OFFER
1.	Leased Books, New And Popular, as specified herein.	90,000	EA	\$ _____	\$ _____

All unit prices bid should be within two (2) decimal points. If vendor's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

Acknowledge Qualification of Bidders information is included, per Term #9?

YES/INITIAL \_\_\_\_\_

Acknowledge Insurance requirements, per Term #19?

YES/INITIAL \_\_\_\_\_

**\* PLEASE AFFIX SIGNATURE WHERE INDICATED**  
**(FAILURE TO DO SO SHALL RESULT IN THE REJECTION OF YOUR BID)**

By signature on this document, bidder acknowledges and agrees that its offer includes and accepts all terms, conditions, and specifications of the County's bid solicitation as originally published, without exception, change or alteration of any kind, except as may have been published by the County in official amendments prior to this date of submittal.

Per General Term and Condition #7., if bidder is a Joint Venture for the goods/services described herein, bidder shall, upon request of the County, provide a copy of the Joint Venture Agreement signed by all parties.

**Commercial Non-Discrimination Certification:**

By signing below, bidder hereby certifies, per General Term and Condition #3n. that: (i) the information set forth therein is true and correct to the best of the bidder's knowledge; and (ii) there are no legal/administrative proceedings required to be disclosed, except as disclosed in bidder's response.

FIRM NAME: (Enter the entire legal name of the bidding entity)

DATE:

**\* SIGNATURE:** \_\_\_\_\_

PRINT NAME:

PRINT TITLE:

ADDRESS: \_\_\_\_\_

CITY / STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE # (     )

E-MAIL:

TOLL FREE # (     )

FAX #: (     )

APPLICABLE LICENSE(S) NUMBER # \_\_\_\_\_ TYPE: \_\_\_\_\_

FEDERAL ID # \_\_\_\_\_

## QUALIFICATION OF BIDDERS REFERENCES FOR IFB #20-004/KP

Bidder shall list references in accordance with the requirements set forth in the Qualifications of Bidders.

<b>REFERENCE NAME:</b>		
<b>ADDRESS:</b>		
<b>CONTACT NAME:</b>		← This Contact must be informed that they are listed as a reference, and the County may be calling them.
<b>CONTACT INFORMATION:</b>	<b>PHONE:</b>  <b>FAX:</b>	<b>CELL PHONE:</b>  <b>EMAIL:</b>
<b>SCOPE OF WORK:</b>		
<b>CONTRACT DATES:</b>		

<b>REFERENCE NAME:</b>		
<b>ADDRESS:</b>		
<b>CONTACT NAME:</b>		← This Contact must be informed that they are listed as a reference, and the County may be calling them.
<b>CONTACT INFORMATION:</b>	<b>PHONE:</b>  <b>FAX:</b>	<b>CELL PHONE:</b>  <b>EMAIL:</b>
<b>SCOPE OF WORK:</b>		
<b>CONTRACT DATES:</b>		

<b>REFERENCE NAME:</b>		
<b>ADDRESS:</b>		
<b>CONTACT NAME:</b>		← This Contact must be informed that they are listed as a reference, and the County may be calling them.
<b>CONTACT INFORMATION:</b>	<b>PHONE:</b>  <b>FAX:</b>	<b>CELL PHONE:</b>  <b>EMAIL:</b>
<b>SCOPE OF WORK:</b>		
<b>CONTRACT DATES:</b>		

**FIRM NAME:** \_\_\_\_\_

## CERTIFICATION OF BUSINESS LOCATION

### IFB #20-004/KP

In accordance with the Palm Beach County Local Preference Ordinance, as amended, a preference may be given to: (1) bidders having a permanent place of business in Palm Beach County ("County") or (2) bidders having a permanent place of business in the Glades that are able to provide the goods and/or services to be utilized within the Glades. To receive a local preference, bidders must have a permanent place of business within the County or the Glades, as applicable, prior to the County's issuance of the solicitation. A Business Tax Receipt which is issued by the Palm Beach County Tax Collector, authorizes the bidder to provide the goods/services being solicited by the County, and will be used to verify that the bidder had a permanent place of business prior to the issuance of the solicitation. The bidder must submit this Certification of Business Location ("Certification") along with the required Business Tax Receipt at the time of bid or quote submission. The Business Tax Receipt and this Certification are the sole determinant of local preference eligibility. Errors in the completion of this Certification or failure to submit this completed Certification will cause the bidder to not receive a local preference.

In instances where the bidder is exempt by law from the requirement of obtaining a Business Tax Receipt, the bidder must: (a) provide a citation to the specific statutory exemption; and (b) provide other documentation which clearly establishes that the bidder had a permanent place of business within the County or the Glades prior to the date of issuance of the solicitation. The County hereby retains the right to contact said bidders for additional information related to this requirement after the bid/quote due date.

I. Bidder is a: \_\_\_\_\_

Local Business: A local business has a permanent place of business in Palm Beach County.

(Please indicate):

\_\_\_\_\_ Headquarters located in Palm Beach County  
 \_\_\_\_\_ Permanent office or other site located in Palm Beach County from which a vendor will produce a substantial portion of the goods or services.

\_\_\_\_\_ Glades Business: A Glades business has a permanent place of business in the Glades.

(Please indicate):

\_\_\_\_\_ Headquarters located in the Glades  
 \_\_\_\_\_ Permanent office or other site located in the Glades from which a vendor will produce a substantial portion of the goods or services.

II. The attached copy of bidder's County Business Tax Receipt verifies bidder's permanent place of business.

THIS CERTIFICATION is submitted by \_\_\_\_\_, as  
 (Name of Individual)

\_\_\_\_\_, of \_\_\_\_\_  
 (Title/Position) (Firm Name of Bidder)

who hereby certifies that the information stated above is true and correct and that the County Business Tax Receipt is a true and correct copy of the original. Further, it is hereby acknowledged that any misrepresentation by the bidder on this Certification will be considered an unethical business practice and be grounds for sanctions against future County business with the bidder.

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Date)

**DRUG-FREE WORKPLACE CERTIFICATION**  
**IFB #20-004/KP**

**IDENTICAL TIE BIDS/QUOTES** - In accordance with Section 287.087, F.S., a preference shall be given to vendors submitting with their bids/quotes the following certification that they have implemented a drug-free workplace program which meets the requirements of Section 287.087; provided, however, that any preference given pursuant to Section 287.087, shall be made in conformity with the requirements pursuant to the Palm Beach County Code, Chapter 2, Article III, Sections 2-80.21 thru 2-80.34. In the event tie bids/quotes are received from vendors who have not submitted with their bids/quotes a completed Drug-Free Workplace Certification form, the award will be made in accordance with Palm Beach County's purchasing procedures pertaining to tie bids/quotes.

This Drug-Free Workplace Certification form must be executed and returned with the attached bid/quote, and received on or before the published bid/quote submission deadline to be considered. The failure to execute and/or return this certification shall not cause any bid/quote to be deemed non-responsive.

Whenever two (2) or more bids/quotes which are equal with respect to price, quality, and service are received by Palm Beach County for the procurement of commodities or contractual services, a bid/quote received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. 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 number (1).
- (4) In the statement specified in number (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation Section 287.087, Florida Statutes.

THIS CERTIFICATION is submitted by \_\_\_\_\_ the  
(Individual's Name)

\_\_\_\_\_ of \_\_\_\_\_  
(Title/Position with Company/Vendor) (Name of Company/Vendor)

who does hereby certify that said Company/Vendor has implemented a drug-free workplace program which meets the requirements of Section 287.087, Florida Statutes, which are identified in numbers (1) through (6) above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## OEBO SCHEDULE 1

## LIST OF PROPOSED CONTRACTOR/CONSULTANT AND SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

SOLICITATION/PROJECT/BID NAME: \_\_\_\_\_

SOLICITATION/PROJECT/BID No.: \_\_\_\_\_

NAME OF PRIME RESPONDENT/BIDDER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

SOLICITATION OPENING/SUBMITTAL DATE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

PLEASE LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY THE **PRIME CONTRACTOR/CONSULTANT** ON THIS PROJECT.  
 PLEASE ALSO LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY ALL SUBCONTRACTORS/SUBCONSULTANTS ON THE PROJECT.

Name, Address and Phone Number	(Check all Applicable Categories)			DOLLAR AMOUNT OR PERCENTAGE OF WORK				
	Non-SBE	M/WBE Minority/Women Business	SBE Small Business	Black	Hispanic	Women	Caucasian	Other (Please Specify)
1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____

(Please use additional sheets if necessary)

Total \_\_\_\_\_

Total Bid Price \$ \_\_\_\_\_

Total SBE - M/WBE Participation \_\_\_\_\_

I hereby certify that the above information is accurate to the best of my knowledge: \_\_\_\_\_

Signature

Title

- Note:
1. The amount listed on this form for a Subcontractor/Subconsultant must be supported by price or percentage listed on the properly executed Schedule 2 or attached signed proposal.
  2. Firms may be certified by Palm Beach County as an SBE and/or an M/WBE. If firms are certified as both an SBE and/or M/WBE, please indicate the dollar amount under the appropriate category.
  3. Modification of this form is not permitted and will be rejected upon submittal.

## OEBO LETTER OF INTENT – SCHEDULE 2

**A completed Schedule 2 is a binding document between the Prime Contractor/consultant and a Subcontractor/subconsultant (for any tier) and should be treated as such. The Schedule 2 shall contain bolded language indicating that by signing the Schedule 2, both parties recognize this Schedule as a binding document.** All Subcontractors/Subconsultants, including any tiered Subcontractors/subconsultants, must properly execute this document. Each properly executed Schedule 2 must be submitted with the bid/proposal.

SOLICITATION/PROJECT NUMBER: \_\_\_\_\_

SOLICITATION/PROJECT NAME: \_\_\_\_\_

Name of Prime: \_\_\_\_\_

**(Check box(es) that apply)**

☐ SBE   ☐ WBE   ☐ MBE   ☐ M/WBE   ☐ Non-S/M/WBE   Date of Palm Beach County Certification (if applicable): \_\_\_\_\_

The undersigned affirms they are the following (select one from each column **if applicable**):

**Column 1**

**Column 2**

**Column 3**

☐ Male   ☐ Female

☐ African-American/Black   ☐ Asian American   ☐ Caucasian American

☐ Supplier

☐ Hispanic American   ☐ Native American

**S/M/WBE PARTICIPATION** – S/M/WBE Primes must document all work to be performed by their own work force on this form. Failure to submit a properly executed Schedule 2 for any **S/M/WBE** participation may result in that participation not being counted. Specify in detail, the scope of work to be performed or items supplied with the dollar amount and/or percentage for each work item. S/M/WBE credit will only be given for the areas in which the S/M/WBE is certified. A detailed proposal may be attached to a properly executed Schedule 2.

Line Item	Item Description	Unit Price	Quantity/Units	Contingencies/Allowances	Total Price/Percentage

The undersigned Subcontractor/subconsultant is prepared to self-perform the above-described work in conjunction with the aforementioned project at the following total price or percentage: \_\_\_\_\_

**If the undersigned intends to subcontract any portion of this work to another Subcontractor/subconsultant, please list the business name and the amount below accompanied by a separate properly executed Schedule 2.**

\_\_\_\_\_ Price or Percentage: \_\_\_\_\_  
**Name of 2<sup>nd</sup>/3<sup>rd</sup> tier Subcontractor/subconsultant**

\_\_\_\_\_  
 Print Name of Prime

\_\_\_\_\_  
 Print Name of Subcontractor/subconsultant

By: \_\_\_\_\_  
 Authorized Signature

By: \_\_\_\_\_  
 Authorized Signature

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**OEBO SCHEDULE 3  
SUBCONTRACTOR ACTIVITY FORM**

SUBCONTRACTOR ACTIVITY FOR MONTH ENDING \_\_\_\_\_ PROJECT # \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

PRIME CONTRACTOR NAME \_\_\_\_\_

PROJECT SUPERVISOR \_\_\_\_\_

Schedule 3 is used to show the monthly payment activity for work performed by each Subcontractor on the project and in conformity with the Subcontractor(s) submitted on Schedule 2. It also shows approved change orders as they impact all Subcontractors. Schedule 3 is to be submitted by the Prime Contractor with each payment request to Palm Beach County. In the Subcontracting Information section, list the name(s) of each Subcontractor, including each S/M/WBE subcontractor on the project and the total contracted amount for each Subcontractor on the project. As the project proceeds, please complete each column under the Subcontractor Information section. If a subcontractor is an S/M/WBE, please check the appropriate categories applicable.

SUBCONTRACTING INFORMATION								Subcontractor Category (check all applicable)						
Name of Subcontractor(s)	Total Contract Amount	Approved Change Orders	Revised Contract Amount	Amount drawn for Sub this Period	Amount drawn for Sub to Date	Amount Paid to Date for Subcontractor	Actual Starting Date	Minority/ Women Business (√)	Small Business (√)	Black (√)	Hispanic (√)	Women (√)	Caucasian (√)	Other (Please Specify) (√)

I hereby certify that the above information is accurate to the best of my knowledge \_\_\_\_\_  
(Signature)
(Title)

Additional Sheets May Be Used As Necessary

**NOTE:** Firms may be certified as an SBE and/or an M/WBE. If firms are certified as both an SBE and M/WBE, the dollar amount will not be counted twice.

## OEBO SCHEDULE 4 – SUBCONTRACTOR/SUBCONSULTANT PAYMENT CERTIFICATION

A properly executed Schedule 4 shall be submitted for each Subcontractor/subconsultant after receipt of payment from the Prime. The Prime shall submit this form with each payment application or invoice submitted to the County when the COUNTY has paid the Prime on the previous payment application for services provided by a Subcontractor/subconsultant. All named Subcontractors/subconsultants on this form must also complete and submit a separate Schedule 4 after receipt of payment. If the Prime is an S/M/WBE, completion of a Schedule 4 is also required to document all portions of work performed by their work force. **A completed release of lien form can be submitted in lieu of a Schedule 4.**

This is to certify  
that \_\_\_\_\_ received a  
(Subcontractor/subconsultant Name)

(Monthly) or (Final) payment of \$ \_\_\_\_\_ from \_\_\_\_\_  
(Prime Contractor Name)

On \_\_\_\_/\_\_\_\_/\_\_\_\_ for my \_\_\_\_ Invoice for labor and/or materials supplied  
MM      DD      YYYY      Month

On \_\_\_\_\_ / \_\_\_\_\_  
(Project Name)      (Project No.)

DEPT.: \_\_\_\_\_ TASK ORDER/WORK ORDER/DELIVERY ORDER/PURCHASE ORDER/ NO.: \_\_\_\_\_

PRIME CONTRACTOR/CONSULTANT VENDOR CODE: \_\_\_\_\_

SUBCONTRACTOR/SUBCONSULTANT VENDOR CODE: \_\_\_\_\_

If the undersigned intends to distribute any portion of this payment to another Subcontractor/subconsultant, please list the business name and the amount below accompanied by a separate properly executed Schedule 4.

Price or Percentage: \_\_\_\_\_  
 \_\_\_\_\_  
 Name of 2<sup>nd</sup>/3<sup>rd</sup> tier Subcontractor/subconsultant

By: \_\_\_\_\_  
 (Signature of Subcontractor/subconsultant)      (Name & Title of Person executing on behalf of Subcontractor/subconsultant)

STATE OF FLORIDA  
 COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day  
 of \_\_\_\_\_, \_\_\_\_ (year), by \_\_\_\_\_ (name of person acknowledging).

\_\_\_\_\_  
 Notary Public, State of Florida

\_\_\_\_\_  
 Print, Type or Stamp Commissioned Name of Notary

Personally Known \_\_\_\_ OR Produced Identification \_\_\_\_ Type of Identification \_\_\_\_\_



## Renewal Notice

BAKER & TAYLOR BOOK LEASING SYSTEM  
251 MT. OLIVE CHURCH ROAD  
COMMERCE, GA 30599-2300

To renew your Book Leasing Account, please make any changes necessary, then sign and return to Baker & Taylor Book Leasing System along with your purchase order, if applicable.

Service Inquiries: 800-775-3800 or FAX: 877-460-6011

### RENEWAL AUTHORIZATION:

Chuck Huff, Village Manager

Name / Title (Please Print)

Please Confirm Phone Numbers

Phone (561) 841-3383

Fax (561) 848-2874

Signature

Chuck Huff 8/23/23

### For Internal Use Only

Contract #: 017

Master #: 510840

Acct #: F936427

Territory ID: 414

Plan BV040 Beginning On: 10/01/2023 Ending On: 09/30/2024

Total Contract Amt: \$7,776.00

**Bill To:** The Village of North Palm Beach Library  
Lease Plan  
303 Anchorage Drive  
North Palm Beach, FL 33408

**Ship To:** The Village of North Palm Beach Library  
Lease Plan  
303 Anchorage Drive  
North Palm Beach, FL 33408

### Service Requested:

Book Plan

Monthly Quota Allowance 40

Annual Quota Allowance: 480

### Quota Cutoff:

Cutoff: \$50.00

2nd Cutoff: \$999,999.99

3rd Cutoff: \$0.00

### Cataloging: (SAME)

\_\_\_\_ Dewey/LC Subject Headings

\_\_\_\_ LC/LC Subject Headings

\_\_\_\_ Pocket on Front Flyleaf

\_\_\_\_ Pocket on Back Flyleaf

\_\_\_\_ Mylar Jacket Only

\_\_\_\_ Machine Readable Cataloging Records

### Payment Plan Chosen:

1. Monthly Payments of:

2. Quarterly Payments of:

3. Semi-Annual Payments of:

4. Annual Payments of: \$7,776.00

-- 2% discount for annual payment of program within 60 days of invoice date

-- 1% discount for semi-annual payment of program within 30 days of invoice date  
Credit card payments are not eligible for any prepay discount.

**\*\*PLUS TAXES WHERE APPLICABLE\*\***

### Management Report Sequence: (SAME)

- ☐ Author  
☐ Title  
☐ Ship Date  
☒ Summary Only

### Invoicing Instructions:

1. Purchase order number, if applicable:

2. Library systems only:

\_\_\_\_ Separate invoices by branch

\_\_\_\_ One combined invoice

### Book Identification: (SAME)

Each book will have a white adhesive label that will readily identify it as a Baker & Taylor Lease Book. Please indicate below exactly how you wish your library name and address to appear on the label.

Line 1 \_\_\_\_\_

Line 2 \_\_\_\_\_

Line 3 \_\_\_\_\_





## Renewal Notice

BAKER & TAYLOR BOOK LEASING SYSTEM  
251 MT. OLIVE CHURCH ROAD  
COMMERCE, GA 30599-2300

To renew your Book Leasing Account, please make any changes necessary, then sign and return to Baker & Taylor Book Leasing System along with your purchase order, if applicable.

Service Inquiries: 800-775-3800 or FAX: 877-460-6011

### RENEWAL AUTHORIZATION:

Chuck Huff, Village Manager  
Name / Title (Please Print)

Please Confirm Phone Numbers

Phone (561) 841-3383

Fax (561) 848-2874

Signature

Chuck Huff 8/25/23

For Internal Use Only

Contract #: 009

Master #: 510840

Acct #: F950949

Territory ID: 414

Plan BV040 Beginning On: 10/01/2023 Ending On: 09/30/2024

Total Contract Amt: \$7,776.00

**Bill To:** The Village of North Palm Beach Library  
NYT Lease Plan  
303 Anchorage Drive  
North Palm Beach, FL 33408

**Ship To:** The Village of North Palm Beach Library  
NYT Lease Plan  
303 Anchorage Drive  
North Palm Beach, FL 33408

### Service Requested:

Book Plan

Monthly Quota Allowance	40
Annual Quota Allowance:	480

### Quota Cutoff:

Cutoff:	\$50.00
2nd Cutoff:	\$999,999.99
3rd Cutoff:	\$0.00

-- 2% discount for annual payment of program within 60 days of invoice date  
-- 1% discount for semi-annual payment of program within 30 days of invoice date  
Credit card payments are not eligible for any prepay discount.

### Cataloging: (SAME)

☐ Dewey/LC Subject Headings  
☐ LC/LC Subject Headings  
☐ Pocket on Front Flyleaf  
☐ Pocket on Back Flyleaf  
☐ Mylar Jacket Only  
☐ Machine Readable Cataloging Records

### Payment Plan Chosen:

1. Monthly Payments of:
2. Quarterly Payments of:
3. Semi-Annual Payments of:
4. Annual Payments of: \$7,776.00

**\*\*PLUS TAXES WHERE APPLICABLE\*\***

### Management Report Sequence: (SAME)

- ☐ Author  
☐ Title  
☐ Ship Date  
☒ Summary Only

### Invoicing Instructions:

1. Purchase order number, if applicable:  
\_\_\_\_\_
2. Library systems only:  
☐ Separate invoices by branch  
☐ One combined invoice

### Book Identification: (SAME)

Each book will have a white adhesive label that will readily identify it as a Baker & Taylor Lease Book. Please indicate below exactly how you wish your library name and address to appear on the label.

Line 1 \_\_\_\_\_  
Line 2 \_\_\_\_\_  
Line 3 \_\_\_\_\_



**Alternate Contract Source (ACS)  
No. 55000000-23-NY-ACS**

**For  
Books, Serials, Databases, and Library Resource Management  
Products**

This Alternate Contract Source No. 55000000-23-NY-ACS Books, Serials, Databases, and Library Resource Management Products (Contract), is between the Department of Management Services (Department), an agency of the State of Florida (State), located at 4050 Esplanade Way, Tallahassee, FL 32399 and Baker & Taylor, LLC (Contractor), located at 2810 Coliseum Centre Drive, Suite 300, Charlotte, NC 28217, collectively referred to herein as the "Parties."

**WHEREAS**, the Department is authorized by section 287.042(16), Florida Statutes:

To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined by the Secretary of Management Services in writing to be cost-effective and the best value to the state, to enter into a written agreement authorizing an agency to make purchases under such contract;

**WHEREAS**, the lead State of New York, competitively procured and executed No. PC69889, Books, Serials, Databases, and Library Resource Management Products (Master Contract), with the Contractor; and

**WHEREAS**, the Secretary evaluated the Master Contract and determined that use of the Master Contract is cost-effective and the best value to the state.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Term and Effective Date.**

The Master Contract became effective March 22, 2023, and its term currently ends on August 31, 2027. The Master Contract has five years of renewals available. The Contract will become effective on April 1, 2023, or on the date signed by all Parties, whichever is later. The Contract will expire on August 31, 2027, unless terminated earlier or renewed in accordance with Exhibit B, Special Contract Conditions.

**2. Order of Precedence.**

This Contract document and the attached exhibits constitute the Contract and the entire understanding of the Parties. Exhibits A, B, and C, and this Contract document constitute the Enterprise Alternate Contract Source to the Master Contract and modify or supplement

**Alternate Contract Source (ACS)  
No. 55000000-23-NY-ACS  
For  
Books, Serials, Databases, and Library Resource Management Products**

the terms and conditions of the Master Contract. All exhibits listed below are incorporated by reference into, and form part of, this Contract. In the event of a conflict, the following order of precedence shall apply:

- a) This Contract document
- b) Exhibit A: ACS Additional Special Contract Conditions
- c) Exhibit B: Special Contract Conditions
- d) Exhibit C: [Price Sheet](#)
- e) Exhibit D: Preferred Pricing Affidavit
- f) Exhibit E: [Master Contract](#) (including any amendments made prior to the effective date of this Contract and any subsequent amendments added to this Contract in accordance with the Modifications Section listed below)

Where the laws and regulations of a state other than the State of Florida are cited or referenced in the Master Contract, such citation or reference shall be replaced by the comparable Florida law or regulation.

**3. Purchases off this Contract.**

Upon execution of this Contract, agencies, as defined in section 287.012, Florida Statutes, may purchase products and services under this Contract. Any entity making a purchase off of this Contract acknowledges and agrees to be bound by the terms and conditions of this Contract. The Contractor shall adhere to the terms included in any contract or purchase orders issued pursuant to this Contract.

**4. Primary Contacts.**

**Department's Contract Manager:**

Brittany Kiekieta  
Division of State Purchasing  
Florida Department of Management Services  
4050 Esplanade Way, Suite 360  
Tallahassee, Florida 32399-0950  
Telephone: (850) 488-6904  
Email: [Brittany.Kiekieta@dms.fl.gov](mailto:Brittany.Kiekieta@dms.fl.gov)

**Contractor's Contract Manager:**

Lee Ann Queen  
Baker & Taylor, LLC  
2810 Coliseum Centre Drive, Suite 300  
Charlotte, NC 28217  
Telephone: (704) 219-4952  
Email: [Bids@baker-taylor.com](mailto:Bids@baker-taylor.com)



**Alternate Contract Source (ACS)**  
**No. 55000000-23-NY-ACS**  
**For**  
**Books, Serials, Databases, and Library Resource Management Products**

**5. Modifications.**

Any amendments to this Contract must be in writing and signed by the Parties. If amendments are made to the Master Contract after the effective date of this Contract, the Contractor shall: 1) notify the Department of such amendments; and 2) provided the Department is amenable to incorporating the amendments into this Contract, enter into a written amendment with the Department reflecting the addition of such amendments to this Contract.

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract to be executed by their duly authorized undersigned officials.

**CONTRACTOR**  
Baker & Taylor, LLC

DocuSigned by:  
  
A88E24D586924BA...

5/17/2023 | 3:37 PM EDT

**Date:**

**DEPARTMENT OF MANAGEMENT SERVICES**

DocuSigned by:  
  
5E91ABD389EB47C...  
**Pedro Allende, Secretary**

5/18/2023 | 8:35 AM EDT

**Date:**



## **EXHIBIT A ADDITIONAL SPECIAL CONTRACT CONDITIONS**

The Contractor and agencies, as defined in section 287.012, Florida Statutes acknowledge and agree to be bound by the terms and conditions of the Master Contract except as otherwise specified in the Contract, which includes the Special Contract Conditions and these Additional Special Contract Conditions.

- A. Orders: Contractor must be able to accept the State of Florida Purchasing Card and MyFloridaMarketPlace (MFMP) purchase orders.
- B. Contractor and Subcontractors, Affiliates, Partners, Resellers, Distributors, and Dealers: By execution of a Contract, the Contractor acknowledges that it will not be released of its contractual obligations to the Department or state agencies because of any failure of an affiliate, partner, subcontractor, reseller, distributor, or dealer. The Contractor is responsible for ensuring that its affiliates, partners, subcontractors, resellers, distributors, and dealers providing commodities and performing services in furtherance of the Contract do so in compliance with the terms and conditions of the Contract. The Contractor is fully responsible for satisfactory completion of all work performed under the Contract.
- C. Preferred Pricing: It is the responsibility of the Contractor to provide a completed Preferred Pricing Affidavit upon Contract execution and annually thereafter throughout the Contract term in accordance with the Special Contract Conditions.
- D. Purchases Prerequisites: Contractor must ensure that entities receiving payment directly from Customers under this Contract must have met the following requirements:
  - Have an active registration with the Florida Department of State, Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)), or, if exempt from the registration requirements, provide the Department with the basis for such exemption.
  - Be registered in the MFMP Vendor Information Portal (<https://vendor.myfloridamarketplace.com>).
  - Have a current W-9 filed with the Florida Department of Financial Services (<https://flvendor.myfloridacfo.com>)
- E. Punchout Catalog and Electronic Invoicing.

The Contractor is encouraged to provide a MFMP punchout catalog. The punchout catalog provides an alternative mechanism for suppliers to offer the State access to Products awarded under the Contract. The punchout catalog also allows for direct communication between the MFMP eProcurement System and a supplier's Enterprise Resource Planning (ERP) system, which can reflect real-time Product inventory/availability information.

Through utilization of the punchout catalog model, a Florida buyer will “punch out” to a supplier’s website. Using the search tools on the supplier’s Florida punchout catalog site, the user selects the desired Products. When complete, the user exits the supplier’s punchout catalog site and the shopping cart (full of Products) is “brought back” to MFMP. No orders are sent to a supplier when the user exits the supplier’s punchout catalog site. Instead, the chosen Products are “brought back” to MFMP as line items in a purchase order. The user can then proceed through the normal workflow steps, which may include adding/editing the Products (i.e., line items) in the purchase order. An order is not submitted to a supplier until the user approves and submits the purchase order, at which point the supplier receives an email with the order details.

The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through MFMP. Electronic invoices may be submitted to the agency through one of the mechanisms as listed below:

- 1) EDI (Electronic Data Interchange)  
This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the Ariba Network (AN) for catalog and non-catalog goods and services.
- 2) PO Flip via AN  
This online process allows Contractors to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their inbox in their AN account by simply "flipping" the PO into an invoice. This option does not require any special software or technical capabilities.

The Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider of MFMP, a State contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within MFMP. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider the right and license to reproduce and display within MFMP the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

- F. Contract Reporting: The Contractor shall provide the Department the following accurate and complete reports associated with this Contract.

- 1) Contract Quarterly Sales Reports. The Contractor shall submit complete Quarterly Sales Reports to the Department’s Contract Manager within 30 calendar days after the close of each State fiscal quarter (the State’s fiscal quarters close on September 30, December 31, March 31, and June 30).

Reports must be submitted in MS Excel using the DMS Quarterly Sales Report Format, which can be accessed at [https://www.dms.myflorida.com/business\\_operations/purchasing/vendor\\_resources/quarterly\\_sales\\_report\\_format](https://www.dms.myflorida.com/business_operations/purchasing/vendor_resources/quarterly_sales_report_format). Initiation and submission of the most recent version of the Quarterly Sales Report posted on the DMS website is the responsibility of the Contractor without prompting or notification from the Department’s Contract

Manager. If no orders are received during the quarter, the Contractor must email the DMS Contract Manager confirming there was no activity.

- 2) Certified and Minority Business Enterprises Reports. Upon Customer request, the Contractor shall report to each Customer spend with certified and other minority business enterprises in the provision of commodities or services related to the Customer orders. These reports shall include the period covered; the name, minority code, and Federal Employer Identification Number of each minority business enterprise utilized during the period; commodities and services provided by the minority business enterprise; and the amount paid to each minority business enterprise on behalf of the Customer.
  - 3) Ad Hoc Sales Reports. The Department may require additional Contract sales information such as copies of purchase orders or ad hoc sales reports. The Contractor shall submit these documents and reports in the format acceptable to the Department and within the timeframe specified by the Department.
  - 4) MFMP Transaction Fee Reports. The Contractor shall submit complete monthly MFMP Transaction Fee Reports to the Department. Reports are due 15 calendar days after the end of each month. Information on how to submit MFMP Transaction Fee Reports online can be located at [https://www.dms.myflorida.com/business\\_operations/state\\_myfloridamarketplace/mfmp\\_vendors/transaction\\_fee\\_and\\_reporting](https://www.dms.myflorida.com/business_operations/state_myfloridamarketplace/mfmp_vendors/transaction_fee_and_reporting). Assistance with transaction fee reporting is also available by email at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com) or telephone at 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.
- G. Financial Consequences: The Department reserves the right to impose financial consequences when the Contractor fails to comply with the requirements of the Contract. The following financial consequences will apply for the Contractor's non-performance under the Contract. The Customer and the Contractor may agree to add additional Financial Consequences on an as-needed basis beyond those stated herein to apply to that Customer's resultant contract or purchase order. The State of Florida reserves the right to withhold payment or implement other appropriate remedies, such as Contract termination or nonrenewal, when the Contractor has failed to comply with the provisions of the Contract. The Contractor and the Department agree that financial consequences for non-performance are an estimate of damages which are difficult to ascertain and are not penalties.

The financial consequences below will be paid and received by the Department of Management Services within 30 calendar days from the due date specified by the Department. These financial consequences below are individually assessed for failures over each target period beginning with the first full month or quarter of the Contract performance and every month or quarter, respectively, thereafter.

### Financial Consequences Chart

<b>Deliverable</b>	<b>Performance Metric</b>	<b>Performance Due Date</b>	<b>Financial Consequence for Non-Performance /Not Received by the Contract Manager</b>
Contractor will timely submit complete Quarterly Sales Reports	All Quarterly Sales Reports will be submitted timely with the required information	Completed reports are due on or before the 30 <sup>th</sup> calendar day after the close of each State fiscal quarter	\$250 per day late
Contractor will timely submit complete MFMP Transaction Fee Reports	All MFMP Transaction Fee Reports will be submitted timely with the required information	Completed reports are due on or before the 15 <sup>th</sup> calendar day after the end of each month	\$100 per day late

**No favorable action will be considered when Contractor has outstanding Contract Quarterly Sales Reports, MFMP Transaction Fee Reports, or any other documentation owed to the Department or Customer, to include fees / monies, that is required under this Contract.**

- H. Business Review Meetings: Both the Department and Customer reserve the right to schedule business review meetings. The Department or Customer may specify the format or agenda for the meeting. At a minimum, the Business Review Meeting may include the following topics:
- a. Contract compliance
  - b. Contract savings (in dollar amount and cost avoidance)
  - c. Spend reports by Customer
  - d. Recommendations for improved compliance and performance
- I. Special Contract Conditions revisions: the corresponding subsections of the Special Contract Conditions referenced below are replaced in their entirety with the following:

## 2.2 Renewal.

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(14), F.S.

## 3.7 Transaction Fees.

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(24), F.S., all payments shall be assessed a Transaction Fee of one percent (1.0%), or as may otherwise be established by law, which the vendor shall pay to the State.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to subsection 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The vendor shall receive a credit for any Transaction Fee paid by the vendor for the purchase of any item(s) if such item(s) are returned to the vendor through no fault, act, or omission of the vendor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor's failure to perform or comply with specifications or requirements of the agreement.

Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or submission of required reporting of transactions shall constitute grounds for declaring the Vendor in default.

## 5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c) and (g), F.S., are hereby incorporated by reference.

Nothing contained within this Contract shall be construed to prohibit the Contractor from disclosing information relevant to performance of the Contract or purchase order to members or staff of the Florida Senate or Florida House of Representatives.

Pursuant to section 287.057(26), F.S., the Contractor shall answer all questions of, and ensure a representative will be available to, a continuing oversight team.

The Contractor will comply with all applicable disclosure requirements set forth in section 286.101, F.S. In the event the Department of Financial Services issues the Contractor a final order determining a third or subsequent violation pursuant to section 286.101(7)(c), F.S., the Contractor shall immediately notify the Department and applicable Customers and shall be disqualified from Contract eligibility.

#### 5.4 Convicted, Discriminatory, Antitrust Violator, and Suspended Vendor Lists.

In accordance with sections 287.133, 287.134, and 287.137, F.S., the Contractor is hereby informed of the provisions of sections 287.133(2)(a), 287.134(2)(a), and 287.137(2)(a), F.S. For purposes of this Contract, a person or affiliate who is on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List during the term of the Contract.

In accordance with section 287.1351, F.S., a vendor placed on the Suspended Vendor List may not enter into or renew a contract to provide any goods or services to an agency after its placement on the Suspended Vendor List.

A firm or individual placed on the Suspended Vendor List pursuant to section 287.1351, F.S., the Convicted Vendor List pursuant to section 287.133, F.S., the Antitrust Violator Vendor List pursuant to section 287.137, F.S., or the Discriminatory Vendor List pursuant to section 287.134, F.S., is immediately disqualified from Contract eligibility.

#### 5.6 Cooperation with Inspector General and Records Retention.

Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration or termination of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

#### 8.1.1 Termination of Contract.

The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F.S., made or received by the Contractor in conjunction with the Contract unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.071(1), F.S.

#### 8.1.2 Statutory Notice.

Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

**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 DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT [PUBLICRECORDS@DMS.FL.GOV](mailto:PUBLICRECORDS@DMS.FL.GOV), (850) 487-1082 OR 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency 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 Chapter 119, F.S., or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.

(d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, 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 Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

#### 12.1 Performance or Compliance Audits.

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in



accordance with section 5.6, the State of Florida's Chief Financial Officer, and the Office of the Auditor General shall also have authority to perform audits and inspections.

#### 13.2 E-Verify.

The Contractor and its subcontractors have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees in accordance with section 448.095, F.S. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees in accordance with section 448.095, F.S. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of section 448.095, F.S., and maintain a copy of such affidavit for the duration of the Contract. The Contractor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Department's Contract Manager within five days of Contract execution.

This section serves as notice to the Contractor regarding the requirements of section 448.095, F.S., specifically sub-paragraph (2)(c)1, and the Department's obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one year after the date of such termination. The Department will promptly notify the Contractor and order the immediate termination of the contract between the Contractor and a subcontractor performing work on its behalf for this Contract should the Department have a good faith belief that the subcontractor has knowingly violated section 448.09(1), F.S.

J. Special Contract Conditions additions: the following subsection is added to the Special Contract Conditions:

#### 12.3 Document Inspection.

In accordance with section 216.1366, F.S., the Department or a state agency is authorized to inspect the: (a) financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds; and (b) programmatic records, papers, and documents of the Contractor which the Department or state agency determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department or a state agency within 10 Business Days after the request is made.

**EXHIBIT B**  
**SPECIAL CONTRACT CONDITIONS**  
**JULY 1, 2019 VERSION**

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**In accordance with Rule 60A-1.002(7), F.A.C., Form PUR 1000 is included herein by reference but is superseded in its entirety by these Special Contract Conditions.**

## **SECTION 1. DEFINITION.**

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes (F.S.), and Rule Chapter 60A-1, Florida Administrative Code (F.A.C.):

### **1.1 Customer.**

The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

## **SECTION 2. CONTRACT TERM AND TERMINATION.**

### **2.1 Initial Term.**

The initial term will begin on the date set forth in the Contract documents or on the date the Contract is signed by all Parties, whichever is later.

### **2.2 Renewal.**

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(13), F.S.

### **2.3 Suspension of Work and Termination.**

#### **2.3.1 Suspension of Work.**

The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. The Customer may suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation. The Contractor will not resume performance of the Contract or purchase order until so authorized by the Department.

#### **2.3.2 Termination for Convenience.**

The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

#### **2.3.3 Termination for Cause.**

If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, the Department may:

- (a) immediately terminate the Contract;
- (b) notify the Contractor of the noncompliance or default, require correction, and specify the date by which the correction must be completed before the Contract is terminated; or
- (c) take other action deemed appropriate by the Department.

### **SECTION 3. PAYMENT AND FEES.**

#### **3.1 Pricing.**

The Contractor will not exceed the pricing set forth in the Contract documents.

#### **3.2 Price Decreases.**

The following price decrease terms will apply to the Contract:

**3.2.1 Quantity Discounts.** Contractor may offer additional discounts for one-time delivery of large single orders;

**3.2.2 Preferred Pricing.** The Contractor guarantees that the pricing indicated in this Contract is a maximum price. Additionally, Contractor's pricing will not exceed the pricing offered under comparable contracts. Comparable contracts are those that are similar in size, scope, and terms. In compliance with section 216.0113, F.S., Contractor must annually submit an affidavit from the Contractor's authorized representative attesting that the Contract complies with this clause.

**3.2.3 Sales Promotions.** In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed: (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

#### **3.3 Payment Invoicing.**

The Contractor will be paid upon submission of invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain sufficient detail for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

#### **3.4 Purchase Order.**

A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract and, if applicable, the Contractor must provide commodities or contractual services pursuant to purchase orders. Purchase orders issued pursuant to the Contract must be received by the Contractor no later than the close of business on the last day of the Contract's term. The Contractor is required to accept timely purchase orders specifying delivery schedules that extend beyond the Contract term even when such extended delivery will occur after expiration of the Contract. Purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the Contract shall survive the termination or expiration of the Contract and apply to the Contractor's performance. The duration of purchase orders for recurring deliverables shall not exceed the expiration of the Contract by more than twelve months. Any purchase order terms and conditions conflicting with these Special Contract Conditions shall not become a part of the Contract.

#### **3.5 Travel.**

Travel expenses are not reimbursable unless specifically authorized by the Customer in writing and may be reimbursed only in accordance with section 112.061, F.S.

### 3.6 Annual Appropriation.

Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

### 3.7 Transaction Fees.

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), F.S. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

### 3.8 Taxes.

Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against the Customer or Department unless authorized by Florida law.

### 3.9 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within forty (40) calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

## **SECTION 4. CONTRACT MANAGEMENT.**

### 4.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of all prior agreements between the Parties on this subject matter.

### 4.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager in a manner identified by the Department.

### 4.3 Department's Contract Manager.

The Department's Contract Manager, who is primarily responsible for the Department's oversight of the Contract, will be identified in a separate writing to the Contractor upon Contract signing in the following format:

Department's Contract Manager Name

Department's Name  
Department's Physical Address  
Department's Telephone #  
Department's Email Address

If the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

#### 4.4 Contractor's Contract Manager.

The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Contract performance, will be identified in a separate writing to the Department upon Contract signing in the following format:

Contractor's Contract Manager Name  
Contractor's Name  
Contractor's Physical Address  
Contractor's Telephone #  
Contractor's Email Address

If the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

#### 4.5 Diversity.

##### 4.5.1 Office of Supplier Diversity.

The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at [osdinfo@dms.myflorida.com](mailto:osdinfo@dms.myflorida.com).

##### 4.5.2 Diversity Reporting.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under the Contract.

#### 4.6 RESPECT.

Subject to the agency determination provided for in section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES;

AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INsofar AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at <https://www.respectofflorida.org>.

#### 4.7 PRIDE.

Subject to the agency determination provided for in sections 287.042(1) and 946.515, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INsofar AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at <https://www.pride-enterprises.org>.

### **SECTION 5. COMPLIANCE WITH LAWS.**

#### 5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference.

#### 5.2 Dispute Resolution, Governing Law, and Venue.

Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives all privileges and rights relating to venue it may have under Chapter 47, F.S., and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to, those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

#### 5.3 Department of State Registration.

Consistent with Title XXXVI, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide the Department with conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

#### 5.4 Suspended, Convicted, and Discriminatory Vendor Lists.

In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List during the term of the Contract.

#### 5.5 Scrutinized Companies - Termination by the Department.

The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

#### 5.6 Cooperation with Inspector General and Records Retention.

Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

### **SECTION 6. MISCELLANEOUS.**

#### 6.1 Subcontractors.

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. The Department supports diversity in its procurements and contracts, and requests that the Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The



Contractor may contact the OSD at [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com) for information on certified small business enterprises available for subcontracting opportunities.

#### 6.2 Assignment.

The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Department. However, the Contractor may waive its right to receive payment and assign same upon notice to the Department. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by the Department. The Department may assign the Contract with prior written notice to the Contractor.

#### 6.3 Independent Contractor.

The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the State of Florida and are not entitled to State of Florida benefits. The Department and Customer will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all its subcontracts under the Contract.

#### 6.4 Inspection and Acceptance of Commodities.

##### 6.4.1 Risk of Loss.

Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's bill of lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's bill of lading and damage inspection report.

##### 6.4.2 Rejected Commodities.

When a Customer rejects a commodity, Contractor will remove the commodity from the premises within ten (10) calendar days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within ten (10) calendar days will be deemed abandoned by the Contractor, and the Customer will have the right to dispose of such commodities. Contractor will reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

#### 6.5 Safety Standards.

Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

#### 6.6 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

#### 6.7 Time is of the Essence.

Time is of the essence regarding every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

#### 6.8 Waiver.

The delay or failure by the Department or the Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

#### 6.9 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

#### 6.10 Cooperative Purchasing.

Pursuant to their own governing laws, and subject to the agreement of the Contractor, governmental entities that are not Customers may make purchases under the terms and conditions contained herein, if agreed to by Contractor. Such purchases are independent of the Contract between the Department and the Contractor, and the Department is not a party to these transactions. Agencies seeking to make purchases under this Contract are required to follow the requirements of Rule 60A-1.045(5), F.A.C.

### **SECTION 7. LIABILITY AND INSURANCE.**

#### 7.1 Workers' Compensation Insurance.

The Contractor shall maintain workers' compensation insurance as required under the Florida Workers' Compensation Law or the workers' compensation law of another jurisdiction where applicable. The Contractor must require all subcontractors to similarly provide workers' compensation insurance for all of the latter's employees. In the event work is being performed by the Contractor under the Contract and any class of employees performing the work is not protected under Workers' Compensation statutes, the Contractor must provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of employees not otherwise protected.

#### 7.2 General Liability Insurance.

The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal and advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from performance of the Contract or completed operations, whether by the Contractor or anyone directly or indirectly employed by the Contractor. Such insurance must include the State of Florida as an additional insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting contract.

#### 7.3 Florida Authorized Insurers.

All insurance shall be with insurers authorized and eligible to transact the applicable line of insurance business in the State of Florida. The Contractor shall provide Certification(s) of Insurance evidencing that all appropriate coverage is in place and showing the Department to be an additional insured.

#### 7.4 Performance Bond.

Unless otherwise prohibited by law, the Department may require the Contractor to furnish, without additional cost to the Department, a performance bond or irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. The Department shall determine the type and amount of security.

#### 7.5 Indemnification.

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the Customer and the State of Florida, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Customer. The Contract does not constitute a waiver of sovereign immunity or consent by the Customer or the State of Florida or its subdivisions to suit by third parties. Without limiting this indemnification, the Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

#### 7.6 Limitation of Liability.

Unless otherwise specifically enumerated in the Contract or in the purchase order, neither the Department nor the Customer shall be liable for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract or purchase order requires the Contractor to back-up data or records), even if the Department or Customer has been advised that such damages are possible. Neither the Department nor the Customer shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Department or Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

### **SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.**

#### 8.1 Public Records.

##### 8.1.1 Termination of Contract.

The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F. S., made or received by the Contractor in conjunction with the Contract.

#### 8.1.2 Statutory Notice.

Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

**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 TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.**

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency 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 Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
- (d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, 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 Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

#### 8.2 Protection of Trade Secrets or Otherwise Confidential Information.

8.2.1 Contractor Designation of Trade Secrets or Otherwise Confidential Information. If the Contractor considers any portion of materials to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to the Department. The Contractor will be

responsible for responding to and resolving all claims for access to Contract-related materials it has designated trade secret or otherwise confidential.

#### 8.2.2 Public Records Requests.

If the Department receives a public records request for materials designated by the Contractor as trade secret or otherwise confidential under Florida or federal law, the Contractor will be responsible for taking the appropriate legal action in response to the request. If the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential, the Department will provide the materials to the requester.

#### 8.2.3 Indemnification Related to Confidentiality of Materials.

The Contractor will protect, defend, indemnify, and hold harmless the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of materials as trade secret or otherwise confidential.

#### 8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents that were made in relation to this Contract. The Contractor must retain all documents related to the Contract for five (5) years after expiration of the Contract or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

#### 8.4 Intellectual Property.

##### 8.4.1 Ownership.

Unless specifically addressed otherwise in the Contract, the State of Florida shall be the owner of all intellectual property rights to all property created or developed in connection with the Contract.

##### 8.4.2 Patentable Inventions or Discoveries.

Any inventions or discoveries developed in the course, or as a result, of services in connection with the Contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer of any inventions or discoveries developed or made through performance of the Contract, and such inventions or discoveries will be referred to the Florida Department of State for a determination on whether patent protection will be sought. The State of Florida will be the sole owner of all patents resulting from any invention or discovery made through performance of the Contract.

##### 8.4.3 Copyrightable Works.

Contractor must notify the Department or State of Florida of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed through performance of the Contract are owned solely by the State of Florida.

### **SECTION 9. DATA SECURITY.**

The Contractor will maintain the security of State of Florida data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. The Contractor and subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a security breach involving State of Florida data, the Contractor shall give notice to the Customer and the Department within one business day. "Security breach" for purposes of this section will refer to a confirmed event that compromises the confidentiality, integrity, or availability of data. Once a data breach has been contained, the Contractor must provide the Department with a post-incident report documenting all containment, eradication, and recovery measures taken. The Department reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

## **SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS.**

### **10.1 Gratuities.**

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer's or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

### **10.2 Lobbying.**

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not to be used for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to section 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract after the Contract is executed and during the Contract term.

### **10.3 Communications.**

#### **10.3.1 Contractor Communication or Disclosure.**

The Contractor shall not make any public statements, press releases, publicity releases, or other similar communications concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

#### **10.3.2 Use of Customer Statements.**

The Contractor shall not use any statement attributable to the Customer or its employees for the Contractor's promotions, press releases, publicity releases, marketing, corporate communications, or other similar communications, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

## **SECTION 11. CONTRACT MONITORING.**

### **11.1 Performance Standards.**

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

### **11.2 Performance Deficiencies and Financial Consequences of Non-Performance.**

#### **11.2.1 Proposal of Corrective Action Plan.**

In addition to the processes set forth in the Contract (e.g., service level agreements), if the Department or Customer determines that there is a performance deficiency that requires correction by the Contractor, then the Department or Customer will notify the Contractor. The correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department or Customer.

#### **11.2.2 Retainage for Unacceptable Corrective Action Plan or Plan Failure.**

If the corrective action plan is unacceptable to the Department or Customer, or implementation of the plan fails to remedy the performance deficiencies, the Department or Customer will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department or Customer for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate the Department or Customer for the performance deficiencies.

### **11.3 Performance Delay.**

#### **11.3.1 Notification.**

The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

#### **11.3.2 Liquidated Damages.**

The Contractor acknowledges that delayed performance will damage the Department/Customer, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

### **11.4 Force Majeure, Notice of Delay, and No Damages for Delay.**

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay, and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that created or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department 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. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers and the Department with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

## **SECTION 12. CONTRACT AUDITS.**

### **12.1 Performance or Compliance Audits.**

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 5.6, the State of Florida's Chief Financial Officer, the Office of the Auditor General also have authority to perform audits and inspections.



## 12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.3 of these Special Contract Conditions. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, the State of Florida's Chief Financial Officer, or the Office of the Auditor General.

## **SECTION 13. BACKGROUND SCREENING AND SECURITY.**

### 13.1 Background Check.

The Department or Customer may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of the Department or Customer, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.

### 13.2 E-Verify.

The Contractor must use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five (5) calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) calendar days of notice of Contract award and provide the Contract Manager a copy of its MOU within five (5) calendar days of Contract execution. The link to E-Verify is <https://www.uscis.gov/e-verify>. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

### 13.3 Disqualifying Offenses.

If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six (6) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida data or directly performing services under the Contract. The disqualifying offenses are as follows:

- (a) Computer related crimes;
- (b) Information technology crimes;

- (c) Fraudulent practices;
- (d) False pretenses;
- (e) Frauds;
- (f) Credit card crimes;
- (g) Forgery;
- (h) Counterfeiting;
- (i) Violations involving checks or drafts;
- (j) Misuse of medical or personnel records; and
- (k) Felony theft.

#### 13.4 Confidentiality.

The Contractor must maintain confidentiality of all confidential data, files, and records related to the commodities or contractual services provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

### **SECTION 14. WARRANTY OF CONTRACTOR'S ABILITY TO PERFORM.**

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the Suspended Vendor List, Convicted Vendor List, or the Discriminatory Vendor List, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of the Contract.



## Office of General Services Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | <https://ogs.ny.gov/procurement> | [customer.services@ogs.ny.gov](mailto:customer.services@ogs.ny.gov) | 518-474-6717

# Contract Award Notification

<b>Title</b>	:	<b>Group 20070 - Books, Serials, Databases, and Library Resource Management Products</b> <b>Classification Code(s): 55 &amp; 83</b>
<b>Award Number</b>	:	<b><u>23260</u> (Replaces Awards 22868 &amp; 23044)</b>
<b>Contract Period</b>	:	<b>March 22, 2023 to August 31, 2027</b>
<b>Bid Opening Date</b>	:	<b>May 31, 2022</b>
<b>Date of Issue</b>	:	<b>March 22, 2023 (Revised June 6, 2023)</b>
<b>Specification Reference</b>	:	<b>As Incorporated Herein</b>
<b>Contractor Information</b>	:	<b>Appears on Page 2 of this Award</b>

### Address Inquiries To:

<b>State Agencies &amp; Vendors</b>	<b>Political Subdivisions &amp; Others</b>
<b>Name</b> : Katie Jezik <b>Title</b> : Contract Management Specialist <b>Phone</b> : 518-473-1069 <b>E-mail</b> : <a href="mailto:Katherine.jezik@ogs.ny.gov">Katherine.jezik@ogs.ny.gov</a>	<b>Procurement Services</b> <b>Customer Services</b> <b>Phone</b> : 518-474-6717 <b>E-mail</b> : <a href="mailto:customer.services@ogs.ny.gov">customer.services@ogs.ny.gov</a>
<b>Procurement Services values your input.</b> <b>Complete and return "Contract Performance Report" at end of document.</b>	

### Description

NOTICE: THIS CONTRACT AWARD NOTIFICATION CONTAINS A SUBSET OF INFORMATION FROM THE SOLICITATION. CONTRACTS RESULTING FROM SOLICITATION 23260 HAVE BEEN EXECUTED BY CONTRACT AWARD LETTER. THE CONTRACT AWARD LETTER SETS FORTH THE ORDER OF PRECEDENCE FOR THE TERMS AND CONDITIONS OF THE EXECUTED CONTRACTS. COMPLETE CONTRACT DETAILS INCLUDING TERMS AND CONDITIONS CAN BE FOUND IN THE SOLICITATION DOCUMENT DATED REVISED MAY 13, 2022.

This contract provides Authorized Users with a means of acquiring Books, Serials, Databases, and Library Resource Management Products and Services.

**Lot 1 – Printed Publications and Non-Print Library Materials**, including books, non-serial publications, print periodicals, non-print library materials, and related optional Products and services.

**Lot 2 – Electronic Publications**, including electronic periodicals, eBooks, streaming audio and video content, datasets, and related optional Products and services.

**Lot 3 – Databases**, including databases, subscription online resources, and related optional Products and services.

**Lot 4 – Library Resource Management and Research Support Products**, including holdings management products, electronic resource management systems, resource sharing or document delivery request systems, products designed to support the research and data needs of libraries, and related optional Products and services.

This Award has 0% MBE, 0% WBE, and 0% SDVOB goal requirements.

PR #23260

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23260ra02

<b><u>CONTRACT #</u></b>	<b><u>CONTRACTOR</u></b>	<b><u>FED.IDENT.#</u></b>	<b><u>NYS VENDOR ID#</u></b>
PC69884	A to Z Books, LLC	81-5246779	1100217931
PC69885	ABDO Publishing	41-1699406	1000044840
PC69887	ALM Global, LLC	13-3273851	1000038916
PC69888	American Reading Company, Inc.	23-2965253	1000034881
PC69889	Baker & Taylor, LLC	87-3321348	1100286972
PC69890	Barnes & Noble Booksellers Inc.	13-4030389	1000046258
PC69891	Baum & Beaulieu Associates, Inc. dba BaumBooks	20-3856165	1000044342
PC69892	Bedford, Freeman & Worth Publishing Group, LLC	13-4047598	1100277980
PC69893	Bellwether Media Inc. dba Bellwether Media	54-2181319	1100272624
<b>PC70054</b>	<b>Benchmark Education Company LLC</b>	<b>13-3996703</b>	<b>1100025074</b>
PC69894	Bound to Stay Bound Books, Inc.	37-0439010	1000044797
PC69895	Brodart Co.	23-2248758	1000008909
PC69896	Cavendish Square Publishing LLC	46-1843778	1100095985
PC69897	CBM LLC dba Cherry Lake Publishing/dba Sleeping Bear Press	20-5654413	1100105824
PC69898	Cengage Learning, Inc.	59-2124491	1000009563
PC69899	Central Programs Inc dba Gumdrop Books	43-1057878	1000044854
PC69905	Children's Plus, Inc.	36-4078966	1100005432
PC69906	Complete Book and Media Supply, LLC	74-2852244	1100005453
PC69921	Coughlan Companies LLC dba Capstone	82-4045107	1100210642
PC69910	Cox Subscriptions, Inc. dba WT Cox Information Services	56-1352557	1000018262
PC69911	Delaney Educational Enterprises Inc.	82-1533684	1100193784
PC69912	EBSCO Information Services, LLC	63-6014186	1100277389
PC69960	Elsevier B.V.	98-0389477	1000056131
PC69913	Encyclopaedia Britannica, Inc.	36-2063569	1000040643
<b>PC70055</b>	<b>Enformion LLC</b>	<b>94-3359257</b>	<b>1100274400</b>
PC69914	Follett Content Solutions, LLC	87-1936353	1100285093
PC69915	Follett School Solutions, LLC	41-1426933	1100113853
PC69916	Gareth Stevens Publishing LLLP	27-0404519	1100104699
PC69918	Garrett Operating Company LLC dba Garrett Book Company	81-1079220	1100159732
PC69919	GL Group, Inc., dba Booksource	43-1018725	1100102035
PC69959	Greenwood Publishing Group LLC dba Heinemann	04-1456030	1100277979

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<b><u>CONTRACT #</u></b>	<b><u>CONTRACTOR</u></b>	<b><u>FED.IDENT.#</u></b>	<b><u>NYS VENDOR ID#</u></b>
PC69920	Grey House Publishing, Inc.	13-3044945	1000026400
PC69922	Hertzberg-New Method, Inc. dba Perma-bound Books	37-1001726	1000009226
PC69923	IB Source, Inc.	33-1043797	1100273337
PC69924	Infobase Holdings Inc dba Infobase, Facts-On-File, Firsthand	13-3720604	1000026795
<b>PC70056</b>	<b>InfoUSA Marketing, Inc. (A subsidiary of Data Axle, Inc.)</b>	<b>47-0794710</b>	<b>1000040828</b>
PC69925	Ingram Library Services LLC	62-0673043	1100277601
<b>PC69926</b>	<b>Insignia Software Corporation</b>	<b>98-0379116</b>	<b>1100275087</b>
PC69928	JJP Consulting LLC dba JJP Books	82-5291738	1100240164
PC69929	John Wiley & Sons, Inc.	13-5593032	1000013590
PC69930	Lakeshore Learning Materials, LLC	87-2802658	1100276096
PC69931	Lee & Low Books Inc. dba Bebop Books	13-3599568	1100126193
PC69932	Lerner Publishing Group	41-0833899	1000044837
PC69933	LexisNexis Risk Solutions FL Inc.	41-1815880	1100007031
PC69934	License Monitor II, LLC	87-1354771	1100265889
PC69935	Mackin Book Company dba Mackin Educational Resources	41-1658426	1000017902
PC69936	Main Street Book Shop Inc.	13-2531130	1000043508
PC69937	Midwest Library Service, Inc.	43-0834505	1000009339
PC69938	Midwest Tape, LLC	37-1499686	1000009233
PC69939	MT Library Services Inc. DBA Junior Library Guild	59-3263895	1000009577
PC69940	Otto Harrassowitz GmbH & Co. KG	98-0423753	1000009840
PC69941	Perfection Learning Corporation	42-0895541	1000009325
<b>PC69942</b>	<b>Prenax, Inc.</b>	<b>94-3342517</b>	<b>1100176364</b>
PC69943	ProQuest LLC	52-1261256	1100281416
PC69947	Rainbow Books, Inc.	61-1846102	1100189966
PC69945	RELX Inc., dba LexisNexis, a division of RELX Inc.	52-1471842	1000004904
PC69946	Sage Publications Inc. dba SAGE Publishing	95-2454902	1000018802
PC69948	Scholastic Inc.	13-1824190	1000006121
<b>PC69949</b>	<b>Superior Text LLC</b>	<b>84-1708761</b>	<b>1100170101</b>
PC69950	Sussman Education Company, Inc.	11-2270606	1000024088
PC69951	Tel/Logic Inc. dba Textbook Central	11-2907068	1000011968
PC69952	Textbook Warehouse, LLC	20-2080039	1100024287
PC69953	The Penworthy Company LLC	81-2043142	1100210559
PC69954	The Rosen Publishing Group Inc.	13-3129750	1100001011
PC69955	West Publishing Corporation, dba West, a Thomson Reuters business	41-1426973	1000004857
PC69956	Whole Phonics Inc.	85-1701635	1100273430
PC69957	William S. Hein & Co., Inc.	16-0878492	1000007570

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For complete Contractor contract information and Pricing information for this Award, please see the Contractor Information page located on the OGS Website at:  
<http://online.ogs.ny.gov/purchase/spg/awards/2007023260Can.htm>

Cash Discount, If Shown, Should be Given Special Attention.

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.  
(See "Contract Payments" and "Electronic Payments in this document.)**

AGENCIES SHOULD NOTIFY PROCUREMENT SERVICES PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO PROCUREMENT SERVICES.

**SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:**

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

**RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:**

Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS, RP, RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

**NOTE TO AUTHORIZED USERS:**

When placing purchase orders under the contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use which usually appear at the end of this document. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an Authorized User should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The Authorized User, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

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**ORDER OF PRECEDENCE:**

The list of documents below addresses clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the Contract award. The documents listed below were included in Solicitation 23260 or provided by the Contractor. Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:

1. Appendix A (October 2019), Standard Clauses for NYS Contracts (previously provided);
2. Contract Award Letter;
3. Clarifications to Bid documents dated May 13, 2022 (previously provided);
4. Solicitation #23260;
5. Appendix B (April 2016), General Specifications;
6. Attachment 1 – Pricing;
7. Attachment 4 – Insurance Requirements;
8. Appendix D – Federal Funding Agencies Mandatory Terms and Conditions;
9. Appendix C – Primary Security and Privacy Mandates;
10. Attachment 8 – Report of Contract Usage;
11. All other appendices and attachments to the Solicitation;
12. Contractor's Bid Prices for the Products and services awarded under the above-referenced contract number;
13. Contractor's Bid.

**OVERVIEW:**

This Contract is issued by the New York State ("NYS") Office of General Services ("OGS"), Procurement Services for Books, Serials, Databases, and Library Resource Management Products as specified herein for all Authorized Users eligible to purchase through this Contract. References to the State and its Agencies or Non-State Agencies as Authorized Users under this Contract encompass and include all such entities within the definition of "Authorized User" set forth in State Finance Law §163(1)(k). Products for purchase by all Authorized Users are described in the Section titled *Scope*. Procurement Instructions describing requirements for Authorized Users to purchase from the Centralized Contract are found in the Section titled, *Procurement Instructions to Authorized Users*.

**ESTIMATED QUANTITIES:**

All quantities or dollar values listed within this Contract are estimates. No specific quantities are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities actually ordered at or below the Contract prices. The anticipated dollar value of the award for this contract award, based on historical purchases under previous awards, is approximately \$130,000,000 annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the Products and pricing that best meet their needs in the most practical and economical manner. See Appendix B, *Estimated/Specific Quantity Contracts and Participation in Centralized Contracts*.

Numerous factors could cause the actual quantities of Products purchased under a Contract to vary substantially from the estimates. Such factors include, but are not limited to, the following:

- Such Contracts may be non-exclusive Contracts.
- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases.
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand and actual quantities ordered during the contract period.
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.
- Contract pricing that is lower than anticipated could result in a higher quantity of purchases by Authorized Users than anticipated.

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- Contract pricing that is higher than anticipated could result in a lower quantity of purchases by Authorized Users than anticipated.

In Procurement Service's experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual Contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the Contract could vary substantially from the estimates/historical values provided in this Contract.

**DEFINITIONS:**

Terms used in the Contract documents that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

Term	Definition
Aggregator	A bibliographic service that provides online access to the digital full-text of library materials, including Periodicals, monographs, and media, published by different Publishers. See also, Database Publisher.
Authorized User Agreement	Authorized User Agreement shall mean the Purchase Order and/or such other documents memorializing the Contractor's obligations with respect to a given transaction issued by an Authorized User.
Back File Access	The ability to access information within a resource before a subscription period begins.
Business Day	Monday through Friday from 8:00 AM – 5:00 PM ET, excluding New York State and federal holidays.
Concurrent Users	Specified number of simultaneous End Users accessing an Electronic Publication or Database.
Concurrent Use License	Where licensing of Electronic Publications is based upon Concurrent Users, the Contractor shall obtain from the Publisher the right of the Authorized User to obtain license rights to the specified number of Concurrent Users actually executing the licensed programs, without reference to location or named End Users.
Continuing Directory	A list of people, companies, institutions, organizations, etc., in alphabetical or classified order, providing contact information (names, addresses, phone/fax numbers, etc.) and other pertinent details (affiliations, conferences, Publications, membership, etc.) in brief format, often published serially (not complete as first issued and intended to be ongoing, though not necessarily indefinitely).
Customization	Changes to the function, layout and/or appearance of a Database that does not alter the Database content.
Database	A large, regularly updated file of digitized information (bibliographic records, abstracts, full-text documents, directory entries, images, statistics, etc.) related to a specific subject or field, consisting of records of uniform format organized for ease and speed of search and retrieval and managed with the aid of Database management system (DBMS) software. Content is created by the Database producer who leases the content to one or more Database vendors that provide electronic access to the data after it has been converted to machine-readable form, using proprietary search software.

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<b>Term</b>	<b>Definition</b>
Database Publisher	Company that uses specialized techniques to generate documents from source data and provide to End Users through a Database. See also, Aggregator.
Electronic Publication	A work in digital form capable of being read or otherwise perceived, distributed to the public electronically. Includes electronic Journals and e-prints, electronic Magazines and Newspapers, electronic books, and websites. Some Electronic Publications are online versions of print Publications; others are born digital. Synonymous with e-publication.
End User	Shall mean those persons who are permitted by the Authorized User to have access to an Electronic Publication or Database.
Fair Use	Shall mean acceptable use under the Copyright Revision Act 1976 as amended subsequently provided that such rights are exercised in accordance with Sections 107 and 108 of the Act.
Full Text Database	Contains the complete text of any documents (e.g., books, Journals, Newspapers, Magazines).
Full Time Equivalent (FTE)	For State Agencies and Authorized Users not otherwise identified, the number of full-time employees shall be the number of FTEs; for a higher educational institution, it shall refer to the student enrollment expressed as the number of full-time students; for K-12 educational institutions, each student shall be considered one (1) FTE; for public libraries, the census population served shall be deemed to be the number of FTEs.
International Standard Book Number (ISBN)	A unique ten or thirteen-digit numerical commercial book identifier assigned to identify each edition or manifestation of a work.
International Standard Serial Number (ISSN)	A unique eight-digit standard number assigned by the International Serials Data System (ISDS) to identify a specific Serial title. The ISSN is usually given in the masthead of each issue or on the copyright page of each volume or part of a series. When a continuing resource undergoes a title change, a new ISSN is assigned.
Journal	A Periodical devoted to disseminating original research and commentary on current developments in a specific discipline, sub-discipline, or field of study, usually published in quarterly, bimonthly, or monthly issues sold by subscription. Journal articles are usually written by the person (or persons) who conducted the research. Longer than most Magazine articles, they almost always include a bibliography or list of works cited at the end.
Licensing Agreement	An agreement between an Authorized User and a Contractor for the use of a product, usually for a fixed period of time, in exchange for payment.
List Price	The undiscounted price at which a new Publication is offered for sale to the public, established by the Publisher at the time the edition is issued. The List Price is quoted in the Publisher's catalog and printed on the front flap of the dust jacket in hardcover editions and usually on the back cover in softcover editions. Discounts offered to libraries, booksellers, and jobbers are computed as a percentage off List Price. Synonymous with published price, suggested retail price, and sticker price.

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Term	Definition
Magazine	A popular interest Periodical usually containing articles on a variety of topics, written by various authors in a nonscholarly style. Most Magazines are heavily illustrated, contain advertising, and are printed on glossy paper. Articles are usually short (less than five pages long), frequently unsigned, and do not include a bibliography or list of references for further reading. Most Magazines are issued monthly or weekly for sale at newsstands, in bookstores, and by subscription.
MWBE	A business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
N/A	A common abbreviation for <i>not applicable</i> or <i>not available</i> , used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
National Public Entities	Defined as State Governments, the Federal Government, Local Governments, cities, towns, school districts, libraries, police and fire departments, and other political subdivisions.
Net Price	List Price less all applicable discounts or inclusive of Service Charges; the price paid by Authorized Users of the resultant Contract.
Newspaper	A Serial Publication, issued daily, on certain days of the week, or weekly, containing news, editorial comment, regular columns, letters to the editor, cartoons, advertising, and other items of current and often local interest to a general readership.
NYS Holidays	Legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year's Day; Dr. Martin Luther King, Jr. Day; Washington's Birthday (observed); Memorial Day; Juneteenth; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; and Christmas Day.
NYS Vendor ID	Refers to the unique ten-character identifier issued by the NYS Office of the State Comptroller (OSC) when the vendor is registered on the Vendor File System.
Optional Products and Services	Refer to supplementary Products and services that enhance or support the provision of library materials identified to be within scope. This may include stamps; call numbers or routing labels; barcoding; security strips; processing of library materials or Journals, including affixing date and property; shipment consolidation, and MARC (Machine-Readable Cataloging) records and updates.

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<b>Term</b>	<b>Definition</b>
Periodical	A Serial Publication with its own distinctive title, containing a mix of articles, editorials, reviews, columns, short stories, poems, or other short works written by more than one contributor, issued in softcover more than once, generally at regular stated intervals of less than a year, without prior decision as to when the final issue will appear. Although each issue is complete in itself, its relationship to preceding issues is indicated by enumeration, usually issue number and volume number printed on the front cover. Content is controlled by an editor or editorial board. Includes Magazines sold on subscription and at newsstands; Journals, sold on subscription and/or distributed to members of scholarly societies and professional associations; and newsletters, but not proceedings or the other regular Publications of corporate bodies as they relate primarily to meetings.
Preferred Source Products	Those Products that have been approved in accordance with New York State Finance Law § 162.
Preferred Source Program	The special social and economic goals set by New York State in State Finance Law § 162 that require a governmental entity purchase select Products from designated organizations when the Products meet the "form, function and utility" requirements of the governmental entity. Under State Finance Law § 163, purchases of Products from Preferred Sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State Preferred Sources include: The Correctional Industries Program of the Department of Corrections and Community Supervision ("Corcraft"); New York State Preferred Source Program for People Who Are Blind ("NYSPSP"); and the New York State Industries for the Disabled ("NYSID"). These requirements apply to State Agencies, political subdivisions and public benefit corporations (including most public authorities).
Procurement Services	Business unit of OGS, formerly known as New York State Procurement ("NYSPPro") and Procurement Services Group ("PSG").
Publication	Refers to a work capable of being read or otherwise perceived (e.g., book, audio recording, video recording, etc.), issued by a Publisher for sale to the general public, usually in multiple copies and sometimes in multiple editions.
Publisher	A person or corporate entity that prepares and issues digital or print materials for public sale or distribution, normally on the basis of a legal contract in which the Publisher is granted certain exclusive rights in exchange for assuming the financial risk of publication and agreeing to compensate the author, usually with a share of the profits.
Request For Quotation (RFQ)	As defined in Section 2 of Appendix B.
Subject Specific Database	This includes information from academic or scholarly Journals and trade or professional Publications.
Serial	Publication in any medium issued under the same title in a succession of discrete parts, usually numbered (or dated) and appearing at regular or irregular intervals with no predetermined conclusion. Serials may be purchased individually, in combination with other titles, or as large collections of titles (particularly when purchased electronically).

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<b>Term</b>	<b>Definition</b>
Server	Shall mean the computer system(s) on which Electronic Publications or Databases reside and through which End Users gain access to the Electronic Publications or Databases.
Service Charge	A fee charged by a Subscription Agent for filling orders for Periodical subscriptions, usually 5 to 10 percent of the total annual amount paid by the library for subscriptions.
SDVOB	A NYS-certified Service-Disabled Veteran-Owned Business.
Subscription Agent	A company in the business of providing centralized Serial subscription or Database Access services to Authorized Users such as libraries to relieve them of the time-consuming task of dealing with Publishers individually.
Trade Book	An edition produced by a trade publisher in hardcover and/or paperback publisher's binding for sale to quality booksellers and libraries. Trade editions are published for the general reader, rather than a specific segment of the market.

In addition to the above definitions, the following terms are defined as follows regardless of whether they are or are not capitalized:

May	Denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also, see "Should".
Must	Denotes the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also, see "Shall."
Shall	Denotes the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also, see "Must."
Should	Denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also, see "May".

**SCOPE:**

These Contracts are to provide Authorized Users with a means of acquiring Books, Serials, Databases, and Library Resource Management Products.

This Solicitation contains a total of four (4) Lots:

Lot 1 – Printed Publications and Non-Print Library Materials

Lot 2 – Electronic Publications

Lot 3 – Databases

Lot 4 – Library Resource Management and Research Support Products

**Lot 1 - Printed Publications and Non-Print Library Materials**

1. Books and Non-Periodical Serial Publications, including, but not limited to: domestic and foreign Publications; textbooks; books in print; books out-of-print; pre-bound books; Braille books; Large print books; rare books; legal books and materials; business/economics/finance books; social science/humanities books; science/engineering books; medical books; academic books; encyclopedias; continuations; ephemeral Publications; pamphlets (bound and unbound); government documents; annuals (reports, yearbooks, etc.); Continuing Directories; proceedings and transactions; numbered and unnumbered monographic series and sets; musical scores; and sheet music. Print materials may be purchased via blanket order or standing order. Printed Publications may be bundled with Electronic Publications if the Contractor has been awarded both Lots 1 and 2.

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2. Print Periodicals, including, but not limited to: Newspapers, Magazines, and Journals. Print materials may be bundled with electronic materials if the Contractor has been awarded both Lots 1 and 2.
3. Non-Print Library Materials, including, but not limited to: abridged and unabridged audiobooks, CD/DVD and MP3/MP4 format; microforms; DVD and Blu-ray (i.e., motion pictures, videos); compact discs; CD-ROMs (no online services); microcomputer software (educational); maps/globes/atlas/charts; video games; and audio visual materials.
4. Related Optional Products and Services, including supplementary value-added services, such as: cataloging and processing (including shelf-ready items); stamps; call numbers; routing labels; spine labels; barcode labels; security strips; Machine-Readable Cataloging (MARC) records and updates; binding and rebinding; shipment consolidation; mylar covers; due date slip/circulation cards and pockets; and reading program labels.

**Lot 2 - Electronic Publications**

1. Electronic Periodicals, including, but not limited to: Newspapers; Magazines; Journals; and Journal packages. Electronic materials may be bundled with print materials if the Contractor has been awarded both Lots 1 and 2.
2. eBooks, including, but not limited to: subscription-based and perpetual access purchases. eBooks may be purchased via blanket order or standing order. Electronic Publications may be bundled with Printed Publications if the Contractor has been awarded both Lots 1 and 2.
3. Streaming Audio and Video Content, including, but not limited to: subscription-based, time-defined license, and perpetual access purchases.
4. Datasets.
5. Related Optional Products and Services, including supplementary value-added services, such as: cataloging and processing; Machine-Readable Cataloging (MARC) records and updates; and hosting fees.

**Lot 3 - Databases**

1. Databases and Subscription Online Resources, including, but not limited to: Full-Text Databases; abstracting & indexing Databases; numeric Databases; general interest Databases; Subject Specific Databases and online resources; Database files; eBook databases; streaming audio and video Databases; and subscription online resources offering library subscriptions.
2. Related Optional Products and Services, including supplementary value-added services, such as: hosting fees, Database Customization, or Machine-Readable Cataloging (MARC) records and updates.

**Lot 4 - Library Resource Management and Research Support Products**

1. Holdings Management Products, including, but not limited to: Integrated Library Systems; Library Services Platforms; Discovery tools; and cataloging subscriptions.
2. Electronic Resource Management Systems, including, but not limited to: authentication systems and link resolvers; Electronic Resource Management (ERM) tools; Serials and scholarly Publication ranking services and Publication management systems; systems to manage and feature Publications, including repositories, scholarly management solutions, and faculty Publication profile management solutions; usage and analysis tools; and A-Z lists.
3. Resource Sharing or Document Delivery Request Systems, Providers, and Networks.

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4. Products designed to facilitate efficient delivery of library services and to support the research and data needs of libraries.
5. Related Optional Products and Services, including supplementary value-added services, such as: enhanced support and hosting fees.

**PROCUREMENT INSTRUCTIONS TO AUTHORIZED USERS:**

The Contracts are centralized Contracts issued under a multiple-award structure. Products offered under the Contracts, pricing, and other Contract information are posted to the OGS website or the awarded Contractors' dedicated NYS websites. Authorized Users shall procure Products that best meet their form, function and utility requirements.

Pursuant to State Finance Law § 163(10)(c), at the time of purchase, Authorized Users must base their selection among multiple Contracts upon which is the most practical and economical alternative that is in the best interests of the State.

1. Before proceeding with a purchase, Authorized Users shall check the list of Preferred Source offerings. Authorized Users are reminded that they must comply with State Finance Law §162, which requires that agencies afford first priority to the commodities of Preferred Source suppliers such as Correctional Industries (Corcraft), NYS Preferred Source Program for People Who are Blind (NYSPSP), and NYS Industries for the Disabled (NYSID) when such commodities meet the form, function and utility of the Authorized User.
2. Where products are not available from Preferred Source suppliers in the form, function and utility required by the Authorized User, Authorized Users shall purchase from the centralized Contracts awarded under this Solicitation. The basis for selection among multiple contracts at the time of purchase shall be the most practical and economic alternative and shall be in the best interests of the State. Therefore, Authorized Users should obtain quotes from at least three (3) Contractors prior to issuing a Purchase Order for contract purchases to ensure that the Authorized User is receiving the best possible pricing. When soliciting RFQs from Contractors or submitting Purchase Orders, Authorized User should specify any federal and state laws, rules and regulations, policies, standards, and guidelines that the Contractor is required to comply with under a resultant purchase pursuant to Appendix C, Primary Security and Privacy Mandates.
3. When placing orders under the Contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS Contracts, should hold the Contractor accountable for Contract compliance and meeting the Contract terms, conditions, specifications, and other requirements. Any federal and state laws, rules and regulations, policies, standards, and guidelines that the Contractor is required to comply with pursuant to Appendix C, Primary Security and Privacy Mandates, should be specified in the Authorized User Agreement. Additionally, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible.

Authorized Users have the responsibility to document purchases which should include:

- Statement of need and associated requirements;
- Obtaining all necessary prior approvals;
- A summary of the Contract alternatives considered for the purchase; and
- The reason(s) supporting the resulting purchase (e.g., show that basis for the selection among multiple Contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

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4. Authorized Users will issue Purchase Orders directly to the Contractor, specifying any shipping/delivery requirements and/or Statements of Work (if applicable).
5. Upon Authorized User acceptance of Products itemized on the Purchase Order, Contractor will invoice Authorized User for any portion of Products accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products.
6. *Pursuant to Product Performance Requirements, Contractor is required to disclose any forms, "click-through", "shrink wrap" or other pass-through or licensing/subscription terms and conditions or other order information that Contractor will attach to orders or require to be completed with Authorized User purchases. Authorized User should review such information during the RFQ process or prior to ordering Products and services. Documents that contain additional terms or conditions, such as library maintenance agreements or Licensing Agreements, must be disclosed to the Authorized User during the RFQ process or at the time of order submission and receive pre-approval by the Authorized User prior to ordering Products and services. Any additional licensing terms agreed to by the Authorized User shall not conflict with Appendix A, this Solicitation, any resultant Contract, or Appendix B. Any such conflicting terms shall be void and unenforceable.*

**PRICE:**

Price shall include all customs duties and charges and shall be net, F.O.B. destination to any point in New York State as designated by the Authorized User and shall include all transportation charges and inside delivery for printed Publications. Upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause.

The Contractor's price should include all costs associated with selling the product. No shipping charges are allowed EXCEPT on printed foreign Publications shipped directly to the Authorized User from an address outside the 48 contiguous US states including the District of Columbia. Foreign shipping costs shall be prepaid by the Contractor and added to the invoice and all such orders shall be shipped on F.O.B. destination by the most economical method. Contractor shall be required to quote shipping costs for foreign Publications upon request by the Authorized User prior to order placement. There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel or other surcharges, FPT (Freight Pass Through), etc. during the term of the Contract.

Authorized Users may be charged additional fees, which include licensing fees, platform fees, etc. in excess of the base subscription fee for Electronic Publications. However, any additional fees shall only be those charges passed on by the Publishers and shall not include any additional fees charged by the Contractors for such services. The Authorized User must be notified of all such fees at the time of purchase. Fees that are not told to the Authorized User at the time of purchase shall be paid by the Contractor.

Contractor's pricing information is included in the posted Pricelist linked from the Contractor Information page.

**VOLUME DISCOUNTS:**

Contractor may offer volume discounts using the thresholds listed on each Contractor's Information Page.

**PREPAYMENT PLAN DISCOUNTS:**

Contractor may offer Prepayment Plan Discounts using the thresholds listed on each Contractor's Information Page.

**PROMPT PAYMENT DISCOUNTS:**

Contractor may offer prompt payment discounts at the transaction level. Please refer to the Contractor's Information Page.

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**MINIMUM ORDER:**

The minimum order for Lot 1 items on this Contract shall be \$100.00. Contractor may elect to honor orders for less than the minimum order; however, no additional charges shall be allowed. There is no minimum order requirement for Lots 2, 3, or 4.

**PURCHASING CARD:**

If the Contractor accepts orders using the State's Purchasing Card (see Appendix B, Purchasing Card), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges or other fees.

**ORDERS:**

Purchase Orders shall be made in accordance with the terms set forth in Appendix B, *Purchase Orders*. Authorized Users may submit orders over the phone, and, if available, may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted shall be deemed received by Contractor on the date submitted.

All orders shall reference Contract number, requisition, and/or Purchase Order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

**WEB-BASED ORDERS:**

The State encourages the Contractor to establish and maintain a dedicated NYS website specifically for the resulting Contract that has a web-based ordering system with the capability of receiving electronic orders from over 5,000 Authorized Users via the internet. The web-based ordering system shall have full order inquiry capabilities and shall acknowledge receipt of an Authorized User's order. Contractor shall be required to post a copy of Contract Pricing, in both Excel and PDF formats on the website. The website link(s) will be listed under the Contractor information on the OGS website. The Contractor's website will be the responsibility of the Contractor to maintain and keep updated. The State reserves the right to request demonstrations of the Contractor's website.

The web-based ordering system should be capable of controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Contract Number
- Ordering Agency/Facility/Political Subdivision, etc. and Address
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Delivery Location
- Delivery Instructions
- Stock Number
- Manufacturer
- Description
- Unit of Measure
- List Price (unit)
- Net Price (unit)

**PRODUCT DELIVERY:**

Delivery of all Contract Products shall be made in accordance with Appendix B, *Product Delivery and Shipping/Receipt of Product*.

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**BACKORDERING:**

Backordering shall be permissible only when authorized by the ordering Authorized User. Contractor shall make commercially reasonable efforts to complete orders within the guaranteed delivery period offered.

**PACKING SLIPS:**

A legible packing slip and/or Purchase Order copy must accompany each shipment of printed Books and Non-Print library materials. The carton containing packing slip must be so marked.

**LABELING**

Number of packages in a single shipment of printed Books and Non-Print library materials must be marked on outside of each carton. Purchase Order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

**RETURNS AND EXCHANGES:**

In addition to the provisions of Appendix B, *Title and Risk of Loss*, *Product Substitution*, and *Rejected Product*, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, Contractor errors otherwise not specified, or Products returned or exchanged due to Authorized User errors, shall be replaced with specified Products or the Authorized User shall be credited or refunded for the full purchase price.

Contractor shall make commercially reasonable efforts to replace Products within 10 Business Days of written notification to the Contractor of the Authorized User's intent to return or exchange the Product. Contractor can charge only a restocking fee for Product returned or exchanged due to Authorized User error that is determined not to be suitable for resale; the restocking fee cannot exceed the Net Price of the returned or exchanged Product.

Any credit or refund shall be applied against the next bill/invoice submitted by the Contractor to the Authorized User. If no credit or refund, or only a partial credit or refund, is made in such fashion, the Contractor shall pay to the Authorized User the amount of such credit or refund or portion thereof still outstanding, within 30 calendar days of demand.

**INVOICING AND PAYMENT:**

Invoicing and payment shall be made in accordance with the terms set forth in Appendix B, *Contract Invoicing*.

The invoice must include detailed line-item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- Contractor Name
- NYS Vendor ID
- NYS Contract Number
- Authorized User name
- Authorized User's Purchase Order Number (if applicable)
- Description of Products and Services
- Invoice Date
- Invoice Number
- Unit Price(s)
- Invoice Amount
- Payment terms being offered, if other than Net 30
- Any other information or substantiating documentation the Authorized User may reasonably require.

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of

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varying ordering systems in use by different Authorized Users. Visit the following link for further guidance for vendors on invoicing: <https://bsc.ogs.ny.gov/nys-vendors>.

### **Printed and Electronic Serials Invoicing and Payments**

The following terms and conditions apply to Printed and Electronic Serials Products:

1. The Contractor may offer an early prepayment discount. Annually, the Contractor shall specify the percentages of discount offered and the deadlines for early payment. Subscriptions may be prepaid for up to three years for Authorized Users legally empowered to make advance payments.
2. The Contractor shall provide annual renewal invoice(s) and indicate if such invoices are available electronically.
3. The Contractor shall provide supplemental invoices for "bill as" published titles, for "bill later" titles, for new orders, etc., based on agreement with Authorized User.
4. The Contractor shall provide up to three copies of all invoices if requested by an Authorized User.
5. Increases in subscription price shall be allowed if correction in cost is required due to Publisher's change in price.
6. Decreases in subscription price shall be refunded or credited, as specified, to the Authorized User promptly.
7. The Contractor shall, upon request from the Authorized User, provide proof of Publisher List Prices and increases or decreases in Publisher List Prices for specific titles.
8. Additional fees which are passed on by the Publishers, e.g., licensing fees, shall be listed separately on invoices.

#### **Optional**

If available and/or possible, Contractor to advise Authorized Users if the following may be provided:

1. Authorized User fund code.
2. Information indicating if charge is for a renewal or new order.
3. Information identifying "bill later" or "bill as" published titles.
4. On supplemental invoices, the original invoice number.
5. Availability of title in electronic format.
6. Customized Invoicing.

#### **Claims**

1. The Contractor shall be responsible for claiming all issues reported as not received or received damaged or defective by the Authorized User.
2. The Contractor shall promptly process claim notices in a timely manner not to exceed the claim period permitted by the Publisher.
3. The Contractor shall provide claim reports no less frequently than bimonthly.
4. Claim reports shall provide the following information:
  - a. Date of claim report.
  - b. Title(s) being claimed.
  - c. Issue(s) being claimed.
  - d. Date(s) of prior claim(s).
  - e. Publisher's response, if any.
5. The Contractor may accept and respond to claims by U.S. mail, facsimile, electronic mail, courier service, or online.

#### **Conversion to New Contractor by Authorized Users**

1. Renewal orders requested by Authorized Users shall be placed at least two months before expiration of current subscriptions.
2. If an interruption in service results from a change in a Contractor, any issues not received shall be obtained by the Contractor who received payment for that period at no additional

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cost to the Authorized User. Delivery to the Authorized User shall be made by the original Contract delivery and at no extra cost to the Authorized User.

3. If duplicate issues are received because of a change in Contractors and the Publisher required their return, the Contractor shall be responsible for resolving the problem and shall absorb any associated costs.

#### Reports

1. The Contractor may send the Authorized User a monthly statement showing the date and amount of each outstanding invoice and credit memorandum.
2. The Contractor shall notify the Authorized User of title changes and discontinued titles and provide information on titles that are slow, delayed, or irregular, either as they occur or on a monthly basis.
3. At the Authorized User's request, the Contractor shall provide a printed customized list of titles arranged alphabetically or according to specifications defined by the Authorized User.
4. Upon request, the Contractor may be required to provide the Authorized User with a price analysis report showing a 1–3-year Publisher List Price comparison of titles ordered. This report can be arranged by title, country of publication, or by codes defined by the Authorized User.
5. If available, Contractor may provide an industry-wide summary of statistical data and analyses.
6. Upon request, the Contractor shall provide a report showing changes in Publisher subscription periods, quantities ordered, and Publishers' new requirements.

All reports between the Contractor and the Authorized User shall be in writing and may be electronically transmitted.

#### **CANCELLATION OF PURCHASE ORDERS FOR PRINTED PUBLICATIONS:**

Cancellation of orders in part or whole for unavailable materials or for “out of stock,” “out of print,” and “not yet published” Publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

#### **CONTRACT PRICELIST UPDATE PROCEDURES:**

Contractor may update their pricelist as follows:

Commencing with the first-anniversary date of the Bid opening, and annually thereafter, the Contractor may update the pricelist to reflect Contractor price changes and the addition/deletion of Products and services.

The Contractor shall provide OGS with one electronic copy of the updated pricing. No Price Updates will be granted to any Contractor who has outstanding Sales Reports, Proof of Insurance or any other documentation that is required under the Contract.

Contractors shall be permitted to reduce their pricing at any time during the contract term.

Any new Products and services added to pricelists shall have a discount structure consistent with existing Products and services on the Contractor's pricelist that are comparable in scope. Contractors shall submit their updated pricelist to the OGS Procurement Services contract administrator pursuant to the requirements of this section for review and written approval prior to issuing to Authorized Users or posting to the Contractor's dedicated New York State website. The State reserves the right to request copies of existing contracts or pricelists to ensure that the prices offered to the State are reasonable and commensurate with similar purchasers.

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All approved pricelist updates shall apply prospectively upon approval by OGS. Total price increases for pricelist updates in a single year of the Contract shall not exceed the escalation cap as set forth in the *Maximum Price Increase/Escalation Cap* subdivision, below. All percentage discounts shall either remain firm (unchanged) or they may increase for the duration of the Contract.

If new Products and services are to be added, the Contractor must demonstrate that the Products and services meet the scope as defined in the Scope and that Products and services will be delivered at a reasonable price as determined by OGS Procurement Services. "Reasonable prices" may be determined by reviewing percentage discounts and Net Prices offered to GSA, NASPO, prices on any previously awarded NYS Contract, pricing offered by other Contractors, contracts with other state or government entities, etc. Discount(s) on the Products and services must be equal to or better than those currently offered on Products and services similar in scope.

#### Pricelist Format

Contractor is required to submit Contract pricelist updates electronically in an unprotected Microsoft Excel (2016 or lower version) spreadsheet on USB flash drive or via e-mail to the OGS Procurement Services contract administrator. The pricelist must be dated, and the format shall be consistent with the format of the Contractor's approved Contract pricelist. The pricelist shall separately include and identify (e.g., by use of separate worksheets or by using highlighting, italics, bold and/or color fonts):

- Price increases;
- Price decreases;
- Products being added; and
- Products being deleted.

#### Contractor's Submission of Contract Updates

In connection with any Contract pricelist update, OGS reserves the right to:

- Request additional information;
- Reject Contract updates;
- Remove Products from Contracts;
- Remove Products from Contract updates; and
- Request additional discounts for new or existing Products.

#### Maximum Price Increase/Escalation Cap

In a single year of the Contract, the maximum price increase for each individual item on contract shall not exceed the percent increase in the latest available National Consumer Price Index - All Urban Consumers (CPI-U), Not Seasonally Adjusted, U.S. City Average, All Items Less Food and Shelter (Series Id: CUUR0000SA0L12); as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. CPI data may be obtained at [www.bls.gov](http://www.bls.gov).

The following example illustrates the computation of percent change:

CPI for current period	235.000
Less CPI for previous period	225.000
Equals index point change	10.000
Divided by previous period CPI	225.000
Equals	0.044
Result multiplied by 100	<u>0.044 x 100</u>
Equals percent change	4.4

The "CPI for current period" shall be the index in effect at the time the Contract pricelist update request is received; "CPI for previous period" shall be the index in effect when the Contract pricelist was last updated. Increases are not cumulative. Price increases are limited to the prior year prices only.

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Cover Letters

All Contract pricelist updates shall be accompanied by a cover letter describing the nature and purpose of the update (e.g., update requested to reflect a recently approved GSA Schedule or WSCA Contract pricing update, to add/delete Products, etc., subject to any applicable caps).

**PRICE STRUCTURE:**

If, during the Contract Term, the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on the price structure of the Contract, it shall immediately notify the Office of General Services, Procurement Services in writing. Such notification shall not relieve the Contractor of its responsibilities under the Contract. The State may, but is not required to, consider an equitable adjustment in the Contract terms and/or pricing in the circumstances outlined in Appendix B, Savings/Force Majeure.

Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the Contract terms and/or pricing is mutually agreeable, the State may terminate the Contract upon 10 Business Days written notice mailed to the Contractor.

**BEST PRICING OFFER:**

During the Contract term, if the Commissioner becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Product outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, after consultation with the Contractor, may be reduced to a lower price on a prospective basis at the discretion of the Commissioner. The Commissioner reserves the right to request information to verify pricing for the purposes of this clause

**PRODUCT PERFORMANCE REQUIREMENTS:**

**A. Lot 1 – Printed Publications and Non-Print Library Materials**

1. Print Books and Non-Print Library Materials Product/Performance Requirements

a. General:

Contractors offer various types of books, Non-Print library materials, and related services as set forth in *Scope*. Bindings are to meet or exceed requirements established by the National Information Standards Organization (NISO) and the Library Binding Committee (LBC) of the Book Manufacturers' Institute (LBC). The latest library standard issued by NISO and LBC is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000 (R2018), unless otherwise amended. This standard is available at <http://www.niso.org/publications/z3978-2000-r2018>. Cloth bindings for hardcover Publications shall be the Publisher's standard binding. Library bindings for hardcover Publications shall be reinforced and include reinforced juvenile Publications.

Contractor must identify services and costs, which must be expressed in specific monetary amounts. Contractors must include any additional service pricing that may apply.

b. Substitutions:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense. Contractor is expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment to the extent possible; however, it is permissible to ship large-volume orders from publishers in batches as they are received from the publisher.

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- c. Cancellation of Purchase Orders:  
Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" Publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.
  - d. Status Report:  
A statement for each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons. Statements may be provided in either hardcopy or digital form via email.
2. Print Periodicals Performance Requirements
- a. Orders, Renewals, and Cancellations:
    - i. Subscriptions shall begin on the date specified in Contractor's order forms, based on date of submission by Authorized User and Contractor's processing date.
    - ii. The Contractor shall notify the Authorized User as soon as possible but no later than thirty (30) calendar days if unable to supply a new order. Contractor shall also provide a reasonable explanation in writing for non-fulfillment.
    - iii. The Contractor shall provide address, Publication, merger, and title change services, etc.
    - iv. The Contractor shall make arrangements with Publishers for all regularly purchased subscription orders and renewals within sufficient time to avoid any interruption in receipt of issues.
    - v. The Contractor shall cancel subscriptions as requested by the Authorized User and shall issue a credit if allowed by the Publisher.
    - vi. The Contractor shall provide pro-rated refunds or substituted titles for titles that cease publication prior to expiration if provided by the Publisher. OGS reserves the right to resolve any issues that may arise between an Authorized User and the Contractor with regards to refunds or substituted titles.
    - vii. The Contractor shall provide a common expiration date for subscriptions (if requested by the Authorized User) unless prohibited by the Publisher.
    - viii. At the Authorized User's request, the Contractor shall renew subscriptions automatically on a date selected by the Authorized User; or at the option of the Authorized User, shall provide a list of titles to be renewed by the Contractor for the Authorized User's approval prior to the issuance of the annual renewal invoice. Authorized Users may change automatic renewal status at any time and for no additional charge.
    - ix. The Contractor may provide two or three-year renewal periods but must at a minimum offer a one-year renewal period. Renewal periods may survive the expiration of this Contract, with the terms and conditions of this Contract applying to the renewal periods.
    - x. The Contractor may enter orders for back files, special issues, supplements, extra volumes, and cumulative indexes, if requested to do so by the Authorized User.
    - xi. All orders, renewals, and cancellations between the Contractor and the Authorized User shall be in writing or shall be electronically transmitted.
    - xii. In lieu of individual order forms, Contractor shall be able to accept a purchase or letter order to which is appended a list of titles.
    - xiii. Multi-Year Licenses: Contractor may offer multi-year licenses.

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**b. Contractor Licensing Terms and Conditions:**

If Licensing Agreement, shrink-wrap or click-wrap agreements are associated with Printed Publications and Non-Print Library Materials, it is the responsibility of the Contractor to offer only those Printed Publications and Non-Print Library Materials that satisfy the license terms and conditions of the Solicitation. License terms that conflict with the terms of Appendix A, Appendix B, this Solicitation, or any resultant Contract shall not be enforceable.

Contractor must disclose any forms, "click-through", "shrink wrap" or other pass-through or licensing/subscription terms and conditions or other order information that Contractor will attach to orders or require to be completed with Authorized User purchases, during the RFQ process or prior to ordering. Documents that contain additional terms or conditions, such as library maintenance agreements or Licensing Agreements, must be disclosed to the Authorized User during the RFQ process or at the time of order submission and receive pre-approval by the Authorized User prior to ordering Products and services.

**B. Lot 2 - Electronic Publication Performance Requirements**

**1. Authorized User Access to Electronic Publications:**

- a. Access: Access to the Electronic Publications by Authorized Users shall be either via electronic media or the Internet. If access is provided via the Internet, the Contractor shall ensure that the Electronic Publications are highly stable and usable (including average response time of less than 5 seconds, and uptime, except for scheduled maintenance, of 99%), and shall ensure that the Web Server(s) is (are) fully capable of serving Authorized Users. Access shall be controlled by Internet Protocol (IP) addresses, passwords, or other appropriate authentication technology. Contractor must notify Authorized Users at least 48 hours prior to scheduled maintenance that interrupts End User access.
- b. If the license rights are based on a named user model, an Authorized User will prepare and submit to the Contractor a list of End Users that shall include name, address, and contact information.
- c. License Scope: The Contractor and the State agree that the license for the Electronic Publications shall be governed as set forth below:
  - i. Authorized User is granted a non-exclusive, transferable, term license to access and use the Electronic Publications in accordance with this Contract. The license term for the Electronic Publications license shall commence upon the License Effective Date and may survive the expiration of this Contract, with the terms and conditions of this Contract applying throughout the license term.
  - ii. It shall be the obligation of the Authorized User to review and comply with the terms and conditions of the Licensing Agreement if one is required by the Publisher to use the Electronic Publication or electronic content to the extent that they do not conflict with the terms of Appendix A, Appendix B, this Solicitation, or any resultant Contract.
  - iii. Permitted License Transfers: As Authorized User's business operations may be altered, expanded or diminished, Electronic Publication licenses may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Authorized Users and/or their End Users ("permitted license transfers"). Contractor shall have the discretion to issue new login credentials when a license transfer takes place.
  - iv. Concurrent Use License: Where licensing of Electronic Publications is based upon "Concurrent Users," Contractor hereby grants license rights to the specified number of Concurrent Users actually executing the licensed programs, without reference to location or named End Users (hereinafter "Concurrent Users").
  - v. Multi-Year Licenses: Contractor may offer multi-year licenses.

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**2. Contractor's Performance Obligations:**

- a. The Contractor will provide and maintain help files and other appropriate user documentation for the Electronic Publications to be accessible to all Authorized Users free of charge.
- b. The Contractor will offer reasonable levels of continuing support to assist Authorized Users and their End Users in their use of the Products. Contractor will make its personnel available by email, phone or fax during regular Business Days.

**3. Authorized User Performance Obligations:**

Authorized Users acknowledge that the copyright and title to the information content and organization of the Electronic Publications are and remain with the Publisher. Authorized User shall use reasonable efforts to inform its End Users and walk-in patrons of any restrictions on the use of the Electronic Publications. Authorized User shall use reasonable efforts to protect the Electronic Publications from any use that is not permitted under this agreement. Authorized Users and/or End Users may make all use of the Electronic Publications as is consistent with the Fair Use Provisions of United States and international copyright laws and the Bidder's/Contractor's terms and conditions for use of its online services, provided they do not conflict with the terms of Appendix A, the Solicitation or any resultant Contract, or Appendix B. Additionally, the Electronic Publications may be used as follows:

- a. Authorized Users and End Users may display, download, copy and/or print portions of the Electronic Publications for use in research, education, or other non-commercial purposes.
- b. Authorized Users and End Users may use a reasonable portion of the Electronic Publications in the preparation of educational materials.
- c. Authorized Users may fulfill occasional requests from other institutions, a practice commonly called Interlibrary Loan. Authorized Users agree to maintain records respecting End User's use of materials in such Interlibrary Loan and to provide such records to the Contractor upon request.

**4. Electronic Periodicals Performance Requirements**

- a. Orders, Renewals, and Cancellations:
  - i. Subscriptions shall begin on the date specified in Contractor's order forms, based on date of submission by Authorized User and Contractor's processing date.
  - ii. The Contractor shall notify the Authorized User as soon as possible but no later than thirty (30) calendar days if unable to supply a new order. Contractor shall also provide a reasonable explanation in writing for non-fulfillment.
  - iii. The Contractor shall provide address, Publication, merger, and title change services, etc.
  - iv. The Contractor shall make arrangements with Publishers for all regularly purchased subscription orders and renewals within sufficient time to avoid any interruption in receipt of issues.
  - v. The Contractor shall cancel subscriptions as requested by the Authorized User and shall issue a credit if allowed by the Publisher.
  - vi. The Contractor shall provide pro-rated refunds or substituted titles for titles that cease publication prior to expiration if provided by the Publisher. OGS reserves the right to resolve any issues that may arise between an Authorized User and the Contractor with regard to refunds or substituted titles.
  - vii. The Contractor shall provide a common expiration date for subscriptions (if requested by the Authorized User) unless prohibited by the Publisher.
  - viii. At the Authorized User's request, the Contractor shall renew subscriptions automatically on a date selected by the Authorized User; or at the option of the Authorized User, shall provide a list of titles to be renewed by the Contractor for the Authorized User's approval prior to the issuance of the annual renewal invoice. Authorized Users may change automatic renewal status at any time and for no additional charge.

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- ix. The Contractor may provide two or three-year renewal periods but must at a minimum offer a one-year renewal period. Renewal periods may survive the expiration of this Contract, with the terms and conditions of this Contract applying to the renewal periods.
- x. The Contractor may enter orders for back files, special issues, supplements, extra volumes, and cumulative indexes, if requested to do so by the Authorized User.
- xi. All orders, renewals, and cancellations between the Contractor and the Authorized User shall be in writing or shall be electronically transmitted.
- xii. In lieu of individual order forms, Contractor shall be able to accept a purchase or letter order to which is appended a list of titles.
- xiii. Multi-Year Licenses: Contractor may offer multi-year licenses.

**b. Specific Restrictions on Use of Electronic Publications:**

Authorized User may not utilize the Electronic Publications for commercial purposes, including but not limited to the sale of the Electronic Publications, fee-for-service use of the Electronic Publications, or bulk reproduction or distribution of the Electronic Publications in any form; nor may Authorized User impose special charges for use of the Electronic Publications beyond reasonable printing or administrative costs.

**c. Contractor Licensing Terms and Conditions:**

If Licensing Agreement, shrink-wrap or click-wrap agreements are associated with Electronic Publications, it is the responsibility of the Contractor to offer only those Electronic Publications in electronic format that satisfy the license terms and conditions of this Award. License terms that conflict with the terms of Appendix A, Appendix B, the Solicitation, or any resultant Contract shall not be enforceable.

Contractor must disclose any forms, "click-through", "shrink wrap" or other pass-through or licensing/subscription terms and conditions or other order information that Contractor will attach to orders or require to be completed with Authorized User purchases, during the RFQ process or prior to order. Documents that contain additional terms or conditions, such as library maintenance agreements or Licensing Agreements, must be disclosed to the Authorized User during the RFQ process or at the time of order submission and receive pre-approval by the Authorized User prior to ordering Products and services.

**C. Lot 3 - Database Performance Requirements**

**1. System Availability:**

Databases shall be functional at least 99% of the time

**2. Scheduled Maintenance:**

Contractor must notify Authorized Users at least 48 hours prior to scheduled maintenance that interrupts End User access to Databases. OGS requests that scheduled maintenance NOT be performed during normal Business Days.

**3. Contractor's Performance Obligations:**

a. The Contractor will provide and maintain help files and other appropriate user documentation for the Databases to be accessible to all Authorized Users free of charge.

b. The Contractor will offer reasonable levels of continuing support to assist Authorized Users and their End Users in their use of the Products. Contractor will make its personnel available by email, phone, or fax during regular Business Days.

c. Multi-Year Licenses: Contractor may offer multi-year licenses.

d. Contractor Licensing Terms and Conditions:

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If Licensing Agreements, shrink-wrap or click-wrap agreements are associated with Database purchases, it is the responsibility of the Contractor to offer only those Databases that are within the scope of this Award and that satisfy the terms and conditions of the Award.

Contractor must disclose any forms, "click-through", "shrink wrap" or other pass-through or licensing/subscription terms and conditions or other order information that Contractor will attach to orders or require to be completed with Authorized User purchases, during the RFQ process or prior to order. Documents that contain additional terms or conditions, such as library maintenance agreements or Licensing Agreements, must be disclosed to the Authorized User during the RFQ process or at the time of order submission and receive pre-approval by the Authorized User prior to ordering Products and services.

If Contractors have terms or fees associated with Databases, including, but not limited to, Back File Access or Database Customizations (changes to the function, layout, and/or appearance of a Database which does not alter the Database content), Contractor shall include the pricing methodology and Net Price on their price list. Any such fees shall be listed separately on invoices.

Upon termination of the Contract, all terms and conditions shall survive in accordance with their terms as to procurements made or individual licenses granted to Authorized Users prior to such termination.

Terms that conflict with the terms of Appendix A, the Solicitation, Appendix B, or any resultant Contract shall not be enforceable.

**D. Lot 4 - Library Resource Management and Research Support Products Performance Requirements**

1. General Performance:  
Contractor shall furnish Products as specified and in accordance with Authorized User performance requirements. Multi-Year Licenses: Contractor may offer multi-year licenses.
2. System Availability  
Library Resource Management and Research Support Products shall be functional at least 99% of the time.
3. Scheduled Maintenance  
Contractor must notify Authorized Users at least 48 hours prior to scheduled maintenance that interrupts End User access to Library Resource Management and Research Support Products. OGS requests that scheduled maintenance NOT be performed during normal Business Days.
4. Contractor Licensing Terms and Conditions:  
If Licensing Agreements, shrink-wrap or click-wrap agreements are associated with Library Resource Management and Research Support Products, it is the responsibility of the Contractor to offer only those Library Resource Management and Research Support Products that satisfy the license terms and conditions of the Award. License terms that conflict with the terms of Appendix A, Appendix B, the Solicitation, or any resultant Contract shall not be enforceable.

Contractor must disclose any forms, "click-through", "shrink wrap" or other pass-through or licensing/subscription terms and conditions or other order information that Contractor will attach to orders or require to be completed with Authorized User purchases, during the RFQ process or prior to order. Documents that contain additional terms or conditions, such as library maintenance agreements or Licensing Agreements, must be disclosed to the Authorized User during the RFQ process or at the time of order submission and receive pre-approval by the Authorized User prior to ordering Products and services.

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**CONTRACT TERM AND EXTENSIONS:**

- A. Base Term: The base Contract term shall begin on the later of The later of (i) September 1, 2022, or (ii) the date of OSC approval of the final, executed contract documents and consistent with the MOU, and shall continue through and including August 31, 2027. All OGS Centralized Contracts shall have a co-terminus end date, including those Contracts awarded during any subsequent periodic recruitment.
- B. Extensions: At the State's option, and subject to the approval of OSC and consistent with the MOU, the Contract may be extended for five (5) years, in increments as deemed to be in the best interest of the State. Whether the optional extensions are exercised is at the sole discretion of the State. A Contractor shall retain the right to decline a Contract extension offered under this section. Any Contract extension will be under the same terms and conditions, subject to any additional applicable statutory and policy requirements. Any extensions provided under this section shall apply in addition to any rights set forth in Appendix B, Section 23, *Contract Term – Extension*.
- C. The Contract term provided for in this section shall extend six months beyond its termination date only for Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. During the six-month period, the definition of Authorized User shall be deemed to refer only to Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. This extension is in addition to any other extensions available under the Contract. The extension provided for in this paragraph shall be upon the then-existing terms and conditions; provided, however, during such extension an Authorized User, as defined in this paragraph, may agree to amend such terms and conditions solely to comply with changes in statutory requirements (e.g., changes in minimum, prevailing or living wages, or regulated services).

**SHORT-TERM EXTENSION:**

This section shall apply in addition to any rights set forth in Appendix B, Section 23, *Contract Term – Extension*. In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to 30 calendar days upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications. With the concurrence of the Contractor, the extension may be for a period of up to 90 calendar days in lieu of 30 calendar days. However, this extension automatically terminates should a replacement Contract be issued in the interim.

**PERIODIC RECRUITMENT:**

This Contract allows for periodic recruitment of additional Contractors during the term of the Contract. Recruitment periods are optional at the discretion of the State. Additional recruitment periods will be advertised in the NYS Contract Reporter. Bidder must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications regarding any periodic recruitments under this Award. Bids shall be evaluated under substantially the same terms and conditions as the original Bids. Bidders shall also be required to submit necessary documentation for any additional applicable statutory requirements in effect at the time of the new Solicitation.

Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration for Lots covered by the scope of the awarded Contract. In addition, if a Bid is deemed non-responsive during the initial Solicitation or any recruitment period, a Bidder cannot reapply for a future Contract until the next recruitment period.

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**REQUEST TO ADD A LOT TO AN EXISTING CONTRACT:**

Contractors may request to add a Lot to their existing Contract by submitting a written request to OGS on company letterhead. A request to add a Lot(s) must be accompanied by all information required in this Solicitation or most recent Periodic Solicitation, specifically the Bidder Qualifications and Method of Award sections for the respective Lot(s) the Contractor would like to add. Contractor shall not quote or offer Products or services that are the subject of a request to add a Lot until receipt of approval from OGS. Please note: The timeframe for proof of verifiable sales shall be shifted accordingly. Contractors must demonstrate the minimum verifiable sales during the 36-month period preceding the date the add request was submitted.

**ACCESSIBILITY OF WEB-BASED INFORMATION AND APPLICATIONS POLICY:**

Contractor is solely responsible for administration, content, intellectual property rights and all materials on Contractor's website. Contractor is solely responsible for its actions and those of its agents, employees, Subcontractors or assigns, and agrees that neither Contractor nor any of the foregoing has any authority to act or speak on behalf of the State. As applicable, Contractor agrees to comply with the Office of Information Technology Services policy NYS-P08-005 Accessibility of Web-Based Information and Applications, as may be amended, the stated purpose of which is to make State Agency Web-based intranet and internet information accessible for persons with disabilities. The following language is incorporated into any Contract resulting from this Solicitation:

Any web-based information and applications development, or programming delivered pursuant to the Contract or procurement, will comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Web-Based Information and Applications as such policy may be amended, modified or superseded, which requires that State Agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications must conform to New York State Enterprise IT Policy NYS-P08-005. Quality assurance testing may be conducted by the State and the results of such testing, if performed, must be satisfactory to the State before web-based information and applications will be considered a qualified deliverable under the Contract or procurement.

**CONTRACT ADMINISTRATION:**

The Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to Authorized User needs and who can effectively service the Contract. Contractor shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekends/holidays.

Contractor shall provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Contractor must notify OGS within five Business Days if its Contract Administrator, Emergency Contact, or Customer Service employees change, and provide an interim contact person until the position is filled. Changes shall be submitted electronically via e-mail to the OGS Contract Management Specialist.

**INSURANCE REQUIREMENTS:**

The Contractor shall maintain in force at all times during the terms of the Contract, policies of insurance pursuant to the requirements outlined in Attachment 4 – *Insurance Requirements*.

**REPORT OF CONTRACT USAGE:**

Contractor shall submit Attachment 8 – *Report of Contract Usage*, including total sales to Authorized Users of this Contract *no later than 15 days after the close of each six-month period*. If the Contract period begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the biannual report.

The report is to be submitted electronically via e-mail in Microsoft Excel to OGS Procurement Services, to the attention of the individual listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name. If bundled Products are sold, the report shall include the individual breakdown of Products that make up the bundle, including the Net Pricing for the Products.

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The report in Attachment 8 – *Report of Contract Usage* contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract suspension and/or cancellation and designation of Contractor as non-responsible.

**AUTHORIZED USER SALES REPORTS:**

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, monthly, a report listing the following: name of Products purchased, quantity purchased, unit price and total dollar volume of purchases.

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE  
CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL  
OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN:**

**New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR"), the New York State Office of General Services ("OGS") is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts.

**General Provisions**

OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for MWBEs. Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, State, or local laws.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

**Equal Employment Opportunity (EEO)**

The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the "Work") except where the Work is for the beneficial use of the Contractor.

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1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.
2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor's equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

**Form EEO 100 – Staffing Plan**

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

**Form EEO - 101 - Workforce Utilization Reporting Form (Commodities and Services)  
("Form EEO-101-Commodities and Services")**

1. The Contractor shall submit, and shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services must be submitted electronically to OGS at [EEO\\_CentCon@ogs.ny.gov](mailto:EEO_CentCon@ogs.ny.gov) on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.
2. Separate forms shall be completed by Contractor and all subcontractors.
3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal and conviction and prior arrest.

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**Contract Goals**

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good-faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>.

Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

**Good Faith Efforts**

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the Empire State Development ("ESD") MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

**Fraud**

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/MWBE>

**PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED  
VETERAN-OWNED BUSINESSES:**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract.

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Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>

Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or [VeteranDevelopment@ogs.ny.gov](mailto:VeteranDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

**NEW YORK STATE FINANCIAL SYSTEM (SFS):**

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products in SFS. This application provides catalog capabilities. Contractors with Centralized Contracts have the ability to provide a "hosted" or "punch-out" catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. Additional information may be found at: <https://ogs.ny.gov/procurement/emarketplace>

There are no fees required for a Contractor's participation in the catalog site development or management. Upon completion and activation of an online catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State may be implementing additional PeopleSoft modules in the near future. Further information regarding business processes, interfaces, and file layouts currently in place may be found at: <http://www.sfs.ny.gov> and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

**USE OF RECYCLED OR REMANUFACTURED MATERIALS:**

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Solicitation. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, *Remanufactured, Recycled, Recyclable or Recovered Materials*.

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**BULK DELIVERY AND ALTERNATE PACKAGING:**

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A Contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available.

Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

**SURPLUS/TAKE-BACK/RECYCLING:**

1. A State Agency is reminded of its obligation to comply with the NY State Finance Law § 167, Transfer and Disposal of Personal Property, and § 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
2. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
3. The NYS Department of Environmental Conservation ("DEC") Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling of, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>
4. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology ("NIST") Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

**ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:**

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <https://ogs.ny.gov/greenyny/>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order and to incorporate them, as applicable, when making purchases under this Contract.

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**CONSUMER PRODUCTS CONTAINING MERCURY:**

Contractor shall comply with the requirements of Title 21 of Article 27 of the NYS Environmental Conservation Law regarding restrictions on the sale, purchasing, labeling and management of any products containing elemental mercury under this Contract.

**OVERLAPPING CONTRACT PRODUCTS:**

Products available under the resulting Contract may also be available from other New York State Contracts. Authorized Users will be advised to select the most cost-effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

**PREFERRED SOURCE PRODUCTS:**

Section 162 of the State Finance Law requires that Authorized Users afford first priority to the Products of Preferred Source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law when such Products meet the form, function and utility of the Authorized User. Some Products in the resultant Contract may be available from one or more Preferred Sources. An Authorized User must determine if a particular Product is approved for a Preferred Source and follow the requirements of State Finance Law § 162(3) or (4)(b), respectively, before engaging the Contractor.

**NEW YORK STATE VENDOR RESPONSIBILITY:**

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS at the Contractor's expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

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**NEW YORK STATE TAX LAW SECTION 5-A:**

Tax Law § 5-a requires certain Contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with the Bid to OGS certifying that the Contractor filed the ST-220-TD with DTF. Only Form ST-220-CA is required to be filed with OGS. The ST-220-CA can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The ST-220-TD can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Contractor should complete and return the certification forms within five (5) Business Days of request (if the forms are not completed and returned with Bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law. The ST-220-TD only needs to be filed once with DTF, unless the information changes for the Contractor, its affiliates, or its Subcontractors.

Vendors may call DTF at 518-485-2889 with questions or visit the DTF website at <https://www.tax.ny.gov/> for additional information.

**“OGS OR LESS” GUIDELINES**

Purchases of the Products included in the Contract are subject to the “OGS or Less” provisions of State Finance Law § 163(3)(a)(v). This means that State Agencies can purchase Products from sources other than the Contractor provided that such Products are substantially similar in form, function or utility to the Products herein and are (1) lower in price and/or (2) available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-Contract savings at least two Business Days prior to purchase. In addition, purchases made under “OGS or Less” flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

**NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:**

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B, *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the *Price* clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS website (<https://online.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

(continued)

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**EXTENSION OF USE:**

The Contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State and the Contractor. Political subdivisions and other authorized entities within each participating state or governmental jurisdiction may also participate in any resultant Contract if such state normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

**NEW ACCOUNTS:**

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

**CENTRALIZED CONTRACT MODIFICATIONS:**

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new Products or services at the same or better price level is an example of an update. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new Products and services, make price level revisions, delete Products, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications that are not specifically covered by the terms of the Centralized Contract but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, *Modification of Contract Terms*.

**SOFTWARE/FIRMWARE UPDATES:**

Contractor shall provide at no charge all updates to any embedded software or firmware in the Product offered to customers generally.

**COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS:**

If required within the Authorized User Agreement, Contractor will provide verification of compliance with specific Federal, State and local regulations, laws and IT standards that the Authorized User is required to comply with. See Appendix C – Primary Security and Privacy Mandates.

**SEVERABILITY**

If any one or more of the provisions of this Contract shall for any reason be declared unenforceable under the laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Contract, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Contract.

**UNANTICIPATED EXCESSIVE PURCHASE:**

The State reserves the right to negotiate lower pricing or to advertise for Bids, for any unanticipated excessive purchase.

(continued)

**AMERICANS WITH DISABILITIES ACT (ADA):**

The federal ADA bars employment discrimination and requires all levels of government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractor is required to identify and offer any Products it manufactures or adapts that may be used or adapted for use by persons with visual, hearing, or any other physical disabilities. Although it is not mandatory for Bidder to have these Products in order to receive an award, it is necessary to identify any such Products offered that fall into the above category.

**NOTICE: THIS CONTRACT AWARD NOTIFICATION CONTAINS A SUBSET OF INFORMATION FROM THE SOLICITATION. CONTRACTS RESULTING FROM SOLICITATION 23260 HAVE BEEN EXECUTED BY CONTRACT AWARD LETTER. THE CONTRACT AWARD LETTER SETS FORTH THE ORDER OF PRECEDENCE FOR THE TERMS AND CONDITIONS OF THE EXECUTED CONTRACTS. COMPLETE CONTRACT DETAILS INCLUDING TERMS AND CONDITIONS CAN BE FOUND IN THE SOLICITATION DOCUMENT DATED REVISED MAY 13, 2022.**

(continued)

State of New York  
Office of General Services  
PROCUREMENT SERVICES  
Contract Performance Report

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: \_\_\_\_\_ Contractor: \_\_\_\_\_

Describe Product\* Provided (Include Item No., if available): \_\_\_\_\_

\*Note: "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

**CONTRACTOR**

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_(over)

Agency: \_\_\_\_\_ Prepared by: \_\_\_\_\_

Address: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ E-mail: \_\_\_\_\_

**Please detach or photocopy this form & return via e-mail to [katherine.jezik@ogs.ny.gov](mailto:katherine.jezik@ogs.ny.gov) or mail to:**

NYS Office of General Services  
Procurement Services  
Katie Jezik, 38th Floor  
Corning Tower - Empire State Plaza  
Albany, New York 12242  
\* \* \* \* \*

(continued)

## Baker & Taylor Announces Terms and Discounts for the Florida State Contract 55000000-23-NY-ACS

### Books/Spoken Word Audio – Firm Order:

<b>I.</b>	<b>Adult Hardcover Trade Editions</b>	<b>43.0%</b>
	<i>(Popular Fiction/Non-fiction, may include some spoken word audio)</i>	
<b>II.</b>	<b>Juvenile Hardcover Trade Editions</b>	<b>43.0%</b>
	<i>(Popular Fiction/Non-fiction)</i>	
<b>III.</b>	<b>Adult Quality Paperback Editions</b>	<b>35.0%</b>
<b>IV.</b>	<b>Juvenile Quality Paperback Editions</b>	<b>35.0%</b>
<b>V.</b>	<b>Mass Market Paperback Editions</b>	<b>35.0%</b>
<b>VI.</b>	<b>Single Edition Reinforced</b>	<b>20.0%</b>
	<i>(Reinforced Trade)</i>	
<b>VII.</b>	<b>Publisher's Library Editions</b>	<b>20.0%</b>
<b>VIII.</b>	<b>University Press Trade Editions</b>	<b>15.0%</b>
<b>IX.</b>	<b>Text, Technical, Reference, Professional Medical, Small Press, some University Press titles and Titles of Limited Demand</b>	<b>7.5% or 20.0%</b>
	<i>(Excludes University Press Trade Editions; may be of any binding and includes non-trade University Press titles and some spoken word audio)</i>	
<b>X.</b>	<b>Imported English/Non-English Language Editions</b>	<b>0.0%</b>
<b>XI.</b>	<b>Enhanced Services Program*</b>	<b>0.0%</b>
	<i>Titles where Baker &amp; Taylor receives no discount from the publisher or prepayment is required by the publisher or books of small, limited in demand and/or non-commercial publishers will be invoiced at list price.</i>	
<b>XII.</b>	<b>Spoken Word Audio</b>	<b>45.0%</b>
<b>XIII.</b>	<b>Board Books</b>	<b>20.0%</b>
<b>XIV.</b>	<b>Novelty Items/Activity Books</b>	<b>20.0%</b>
<b>XV.</b>	<b>Special Programs such as:</b>	
	<b>Paw Prints Editions</b>	<b>10.0%</b>
	<b>Turtleback Editions</b>	<b>0.0%</b>

### Cataloging and Processing:

(Firm Order Books/Spoken Word Audio)

<b>Mylar Jackets:</b>	
Taped	<b>\$.99/unit</b>
Glued	<b>\$.79/unit</b>
Unattached	<b>\$.74/unit</b>
<b>Spine Label</b>	<b>\$.27/unit</b>
<b>Ownership Label</b>	<b>\$.27/unit</b>
<b>MARC Record</b>	<b>\$.35/unit</b>
<b>Barcode</b>	<b>\$.27/unit</b>
<b>Laminate Coverings for Paperbacks:</b>	
10 mil Laminate Covering	<b>\$2.09/unit</b>
7 mil Laminate Covering	<b>\$1.59/unit</b>
<b>Theft Detection (3M or Checkpoint)</b>	<b>\$.69/unit</b>
<b>RFID Tag (B&amp;T-supplied, application only)</b>	<b>\$.44/unit</b>
<b>RFID Tag (B&amp;T-supplied, applied &amp; linked)</b>	<b>\$.89/unit</b>

### Digital Media Processing

**Spoken Word Audio DMP** **\$5.79/unit**  
Standard DMP case with scanned manufacturer artwork with two embedded labels (fixed data labels). Due to supplier restriction, scanned artwork is not available for Blackstone Audio editions.

### Music CD/DVD

<b>Music Compact Disc</b>	<b>20.0%</b>
<b>DVDs</b>	<b>27.5%</b>
<b>DVD or Music CD (DMP)</b>	<b>\$2.50/unit</b>
<i>Standard case with scanned manufacturer artwork with two embedded labels. Note: Cataloging/processing services are not available for product issued by Buena Vista Home Entertainment, aka, Walt Disney Studios Home Entertainment.</i>	

#### **Customer Service:**

[customer.service@baker-taylor.com](mailto:customer.service@baker-taylor.com)

**Payment Terms: Net 30 Days from Date of Invoice**

#### **FREE SHIPPING**

**Materials covered by this contract are shipped free of charge from B&T's designated primary service center (Exception: Staff Accounts)**

Processing Fees refer to standard techXpress services.  
Additional processing services and pricing are available upon request.  
Please contact your Sales Representative for additional information.

#### **Inside Sales Representative**

**Christal Damron**

Email – [christal.damron@baker-taylor.com](mailto:christal.damron@baker-taylor.com)

Phone: 706-423-2339

**Enterprise Sales Manager**

**Scott Coning**

Email: [scott.coning@baker-taylor.com](mailto:scott.coning@baker-taylor.com)

Phone: 678-215-7509

**VILLAGE OF NORTH PALM BEACH**  
**Public Library**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Zakariya M. Sherman, Director of Leisure Services

DATE: September 28, 2023

SUBJECT: **RESOLUTION** - Approval of FY 2024 Blanket Purchase Order for Bibliotheca, LLC

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In accordance with the Village's purchasing policy, Council approval is required for a blanket purchase order when the aggregate fiscal year spending for a vendor is anticipated to exceed \$25,000. Administration is requesting the approval of one blanket purchase order be issued to the following vendor: Bibliotheca, LLC (cloudLibrary) (\$27,000).

Bibliotheca, LLC provides certain products that are unique to the library market and, as such, can only be acquired through Bibliotheca; namely the cloudLibrary digital content platform for accessing eBooks and eAudiobooks (see sole source letter).

The North Palm Beach Library purchases eBooks and eAudiobooks from Bibliotheca, LLC for the cloudLibrary digital content platform, and is expected to expend \$27,000 for FY 2024:

**Account Information:**

Fund	Department	Account Number	Account Description	Amount
General Fund	Library	A7927-35445	Electronic Resources	\$ 27,000

**This Blanket Purchase Order will be effective October 1, 2023.**

**Recommendation:**

Village Administration requests Council consideration and approval of the attached resolution approving the required blanket purchase order with Bibliotheca, LLC at a total cost of \$27,000 with funds expended as follows: \$27,000 from Account No. A7927-35445 (Electronic Resources); in accordance with Village policies and procedures.



## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA APPROVING A BLANKET PURCHASE ORDER WITH BIBLIOTHECA, LLC IN AN AMOUNT NOT TO EXCEED \$27,000 FOR VILLAGE LIBRARY ACCESS TO ELECTRONIC BOOKS AND AUDIOBOOKS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village's Purchasing Policies and Procedures authorize the use of blanket purchase orders for materials purchased over a certain period of time not to exceed a single fiscal year, and blanket purchase orders of \$25,000 or more require approval by the Village Council; and

WHEREAS, Village Staff requested approval of a blanket purchase order in the amount of \$27,000 to Bibliotheca, LLC for sole source access to the cloudLibrary digital content platform for accessing eBooks and eAudiobooks; and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby approves the issuance of a blanket purchase order in the amount of \$27,000 with Bibliotheca, LLC for sole source access to the cloudLibrary digital content platform for accessing eBooks and eAudiobooks, with funds expended from Account No. A7927-35445 (Library – Electronic Resources).

Section 3. This Resolution shall take effect October 1, 2023.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

November 26, 2019

Zakariya Sherman, Director  
North Palm Beach Public Library  
303 Anchorage Drive  
North Palm Beach, FL 33408

**RE: cloudLibrary™ Sole Source**

Dear Mr. Sherman,

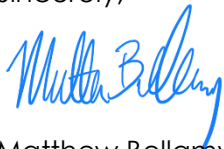
This sole source letter is to confirm that bibliotheca provides certain products that are unique to the library market, and as such, can only be acquired through bibliotheca; namely the cloudLibrary™ digital content platform for accessing eBooks and eAudiobooks. cloudLibrary™ has many features that make it unique:

- | cloudLink allows library systems or consortia to build and manage multiple private eBook and eAudiobook collections with ease and flexibility. Libraries can join or create a consortium by individually purchasing their own cloudLibrary™ platform and connecting them with cloudLink.
- | North Palm Beach Public Library can join the Florida cloudLink group, which currently comprises 18 libraries and 107,000 digital copies valued at more than \$4,000,000.
- | bibliotheca is the only digital content provider to offer an ownership content and pay-per-use model in the same lending platform. This model provides patrons the extended eBook and eAudiobook content they desire.
- | bibliotheca partners with NovelList for in-app recommendations to drive circulation and increase patron awareness of your digital collection.
- | Your library can display an events calendar within the cloudLibrary™ mobile application, increasing awareness of library programs and events.

In addition, bibliotheca is the developer and sole provider of the cloudLibrary™ checkout module. cloudLibrary™ checkout is a simple mobile in-app checkout experience for digital and physical items.

We look forward to continuing to support the North Palm Beach Public Library for all its current and future digital content goals.

Sincerely,



Matthew Bellamy, President Americas  
Bibliotheca, LLC  
[m.bellamy@bibliotheca.com](mailto:m.bellamy@bibliotheca.com) | 877-207-3127, x119  
3169 Holcomb Bridge Road, Suite 200  
Norcross, GA 30071

**VILLAGE OF NORTH PALM BEACH**  
**Leisure Services**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Zakariya M. Sherman, Director of Leisure Services

DATE: September 28, 2023

SUBJECT: **RESOLUTION** - Approval of FY 2024 Blanket Purchase Order for Plumbing Services

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Village Staff is requesting that a blanket purchase order be issued to Ani Con Plumbing Services, LLC in an amount not to exceed \$30,000.00 for plumbing services for Leisure Services facilities and grounds. In accordance with the Village's purchasing policies and procedures, blanket purchase orders over \$25,000.00 require Village Council approval.

**Background**

In FY 2023, Leisure Services encountered various plumbing issues in both the main buildings and the outdoor restrooms, spending approximately \$25,000 on plumbing services. Each year, Staff must replace parts/materials, repair leaks, and tackle problems like clogged drains and malfunctioning valves to guarantee uninterrupted enjoyment of our facilities for residents. Our facilities are frequently used and demand consistent and vigilant maintenance.

**Pricing:**

Several companies have been awarded contracts for plumbing services with the Palm Beach County School District, including Ani Con Plumbing Services, LLC, Florida Palm Construction dba Glades Plumbing, General Plumbing & Air Conditioning, Inc., Green Team Plumbing, LLC dba Green Team Service Corp., Speedy Rooter, Inc., and Wind River Environmental LLC dba Cooke's Plumbing & Septic.

We've chosen to partner with Ani Con Plumbing Services, LLC for the past couple years to handle a substantial portion of our plumbing needs due to their exceptional responsiveness and cost-effective hourly rates. In fact, out of all the companies with school district contracts for plumbing services, Ani Con Plumbing Services, LLC provided the lowest hourly rates for both regular and alternative hours.

We are requesting a blanket purchase order for Ani Con Plumbing Services, LLC in the amount of \$30,000, pursuant to pricing established in a School District of Palm Beach County contract for Plumbing Contractor Services, Bid #21C-26T, expiring April 22, 2024.

**Account Information:**

Fund	Department	Account Number	Account Description	Amount
General Fund	Leisure Services	A8028-34620	R&M Bldg & Grounds	\$ 30,000

**This Blanket Purchase Order will be effective October 1, 2023.**

**Recommendation:**

**Village Administration requests Council consideration and approval of the attached resolution approving the required blanket purchase order with Ani Con Plumbing Services, LLC in an amount not to exceed \$30,000 with funds expended from Account No. A8028-34620 (R&M Building & Grounds) in accordance with Village policies and procedures.**

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA APPROVING A BLANKET PURCHASE ORDER IN THE AMOUNT OF \$30,000 FOR THE LEISURE SERVICES DEPARTMENT WITH ANI CON SERVICES, LLC FOR PLUMBING SERVICES PURSUANT TO PRICING ESTABLISHED IN AN EXISTING PALM BEACH COUNTY SCHOOL DISTRICT CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village's Purchasing Policies and Procedures authorize the use of blanket purchase orders for materials and services not to exceed a single fiscal year, and blanket purchase orders in excess of \$25,000 require approval by the Village Council; and

WHEREAS, Village Staff requested approval of a blanket purchase order in the amount of \$30,000 with Ani Con Services, LLC for plumbing services needed by the Leisure Services Department pursuant to pricing established in an existing Palm Beach County School District Contract for Plumbing Contractor Services (Bid No. 21C-26T); and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby approves the issuance of a blanket purchase order in the amount of \$30,000 with Ani Con Services, LLC for plumbing services for the Leisure Services Department pursuant to pricing established in an existing Palm Beach County School District Contract for Plumbing Contractor Services (Bid No. 21C-26T), with funds expended from Account No. A8028-34620 (Leisure Services – R & M Buildings and Grounds).

Section 3. This Resolution shall take effect October 1, 2023.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK



Date: Apr 14, 2021

Michael J. Burke, Chief Financial Officer

Award per School Board Policy 6.14



Date: 4.15.21

Donald E. Fennoy II, Ed.D., Superintendent

Award per School Board Policy 6.14

**INVITATION TO BID NO.: 21C-26T – TERM CONTRACT FOR PLUMBING CONTRACTOR SERVICES**

DATE: April 2, 2021

DATE SOLICITED: March 4, 2021

DATE OPENED: March 24, 2021

DATE POSTED: April 2, 2021

CONTRACT PERIOD: April 23, 2021 through April 22, 2024

DEPARTMENT: 9450 FUND: 1051 FUNCTION: 8102 ACCOUNT: Various

FUNDING SOURCE: Capital Maintenance Transfer

REQUESTING DEPARTMENT: Maintenance and Plant Operations

**FINANCIAL IMPACT**

The annual financial impact to the District budget is not to exceed \$250,000. The source of funds is the Capital Maintenance Transfer budget.

Services to be purchased include plumbing contractor services.

**AWARD RECOMMENDATION / TABULATION**

(see attached summary of awards)

**Vendor****SBE Certified**Ani Con Services, LLC \*

1

Florida Palm Construction dba Glades Plumbing \*

1

General Plumbing & Air Conditioning, Inc.

2

Green Team Plumbing, LLC dba Green Team Service Corp.

2

Speedy Rooter, Inc.

2

Wind River Environmental LLC dba Cooke's Plumbing & Septic

2

**LEGEND:**

\_\_\_\_\_ = Award

SBE CERTIFIED - (1-Vendor SBE Certified, 2-Vendor Not SBE Certified,  
3-Awarded Vendor Using SBE Subcontractor)

\*5% SBE preference for vendor will be applied to all quotes

**RECOMMENDATION:** It is recommended that the award be made to all responsive and responsible bidders in order to meet the needs of the School District.

Note: Original RFP / Bid document is available upon request.

#### BID PROTEST

Failure to file a protest within the time prescribed in §120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes and applicable Board rules, regulations and policies. Offers from the vendors listed herein are the only offers received timely as of the above opening date and time. All other offers submitted in response to this solicitation, if any, are hereby rejected as late.

If a bidder wishes to protest a bid, they must do so in strict accordance with the procedures outlined in FS 120.57(3). Any person who files an action protesting a decision or intended decision pertaining to this bid pursuant to FS 120.57(3)(b), shall post with the Purchasing Department, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida payable to the School District of Palm Beach County in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000. Bond shall be conditioned upon the payment of all costs that may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check or money order will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the District prevails, it shall recover all costs and charges included in the final order of judgment, including charges by the Division of Administrative Hearings. Upon payment of such costs and charges by the protester, the protest security shall be returned. If the protest prevails, he or she shall recover from the District all costs and charges, which shall be included in the final order of judgment.

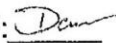
#### DISQUALIFYING CRIMES

The bidder certifies by submission of this bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by the State of Florida or Federal Government. Further, bidder certifies that it has divulged, in its bid response, information regarding any of these actions or proposed actions with other governmental agencies.

#### Tab Approval

DG: 

GM: 

DM: 



## 21C-26T Summary of Award

Item Description	UOM	Ani Con Services, LLC	Florida Palm Construction dba Glades Plumbing	General Plumbing & Air Conditi	Green Team Plumbing, LLC dba Green Team Service Corp.	Speedy Rooter, Inc.	Wind River Environmental LLC dba Cooke's Plumbing & Septic
Plumber: Regular Hours (Mon-Fri, 7am to 5pm)	hr	\$48.50	\$100.00	\$125.00	\$92.00	\$84.99	\$89.99
Plumber: Alternative Hours (5:01pm through 6:59am, Mon-Fri; all hours Sat & Sun)	hr	\$72.75	\$150.00	\$210.00	\$140.00	\$99.99	\$119.00
Apprentice/Helper: Regular Hours (Mon-Fri, 7am to 5pm)	hr	\$38.50	\$72.00	\$95.00	\$68.00	\$74.99	\$59.99
Apprentice/Helper: Alternative Hours (5:01pm through 6:59am, Mon-Fri; all hours Sat & Sun)	hr	\$57.75	\$108.00	\$175.00	\$102.00	\$89.99	\$89.99
Materials/Equipment or Subcontracted Services - CP% (may not exceed 20%)		10%	20%	20%	18%	20%	15%
Backhoe (operator included)	hr	\$150.00	\$200.00	n/a	\$98.00	\$149.99	\$200.00
	dy	\$475.00	\$1,000.00	n/a	\$782.00	\$1,500.00	\$1,600.00
	wk	\$2,375.00	\$4,500.00	n/a	\$3,910.00	\$5,000.00	\$7,200.00
	mo	\$5,000.00	\$16,000.00	n/a	\$15,640.00	\$7,500.00	\$28,058.00
Vacuun Truck (operator included)	hr	\$72.50	n/a	n/a	\$375.00	\$299.00	\$225.00
	dy	\$545.00	n/a	n/a	\$3,000.00	\$1,500.00	\$1,800.00
	wk	\$2,715.00	n/a	n/a	\$12,500.00	\$5,000.00	\$8,100.00
	mo	\$8,895.00	n/a	n/a	\$40,000.00	\$7,500.00	\$31,566.00
Jetter Machine (operator included)	hr	\$175.00	\$150.00	\$250.00	\$250.00	\$225.00	\$200.00
	dy	\$850.00	\$1,000.00	n/a	\$2,000.00	\$1,750.00	\$1,600.00
	wk	\$4,250.00	\$4,000.00	n/a	\$8,500.00	\$5,000.00	\$7,200.00
	mo	\$12,000.00	\$15,000.00	n/a	\$31,800.00	\$7,500.00	\$28,058.00
Bobcat (operator included)	hr	\$150.00	\$200.00	n/a	\$98.00	\$149.99	\$200.00
	dy	\$475.00	\$1,000.00	n/a	\$782.00	\$1,500.00	\$1,600.00
	wk	\$2,375.00	\$4,500.00	n/a	\$3,910.00	\$5,000.00	\$7,200.00
	mo	\$5,000.00	\$16,000.00	n/a	\$15,640.00	\$7,500.00	\$28,058.00
Dump Truck (operator included)	hr	\$200.00	n/a	n/a	\$86.00	\$225.00	n/a
	dy	\$1,000.00	n/a	n/a	\$690.00	\$1,500.00	n/a
	wk	\$5,000.00	n/a	n/a	\$3,450.00	\$5,000.00	n/a
	mo	\$20,000.00	n/a	n/a	\$13,800.00	\$7,500.00	n/a
Sewer Camera, operator, recording given to customer via email	hr	\$250.00	\$250.00	\$175.00	\$167.00	\$350.00	\$200.00
	dy	\$1,875.00	\$1,600.00	n/a	\$1,300.00	\$1,750.00	\$1,600.00
	wk	\$9,580.00	\$9,500.00	n/a	\$6,250.00	\$5,000.00	\$7,200.00
	mo	\$30,660.00	\$16,000.00	n/a	\$24,000.00	\$7,500.00	\$28,058.00
Smoke Testing	hr	\$350.00	\$150.00	\$150.00	\$234.00	\$350.00	n/a
	dy	\$2,750.00	\$1,000.00	n/a	\$1,800.00	\$1,750.00	n/a
	wk	\$13,500.00	\$4,000.00	n/a	\$8,500.00	\$5,000.00	n/a
	mo	\$54,000.00	\$15,000.00	n/a	\$34,500.00	\$7,500.00	n/a

Signature: Genell Mcmann  
Genell Mcmann (Apr 7, 2021 11:15 EDT)

Email: genell.mcmann@palmbeachschools.org

Signature: Darci Garbacz  
Darci Garbacz (Apr 7, 2021 11:44 EDT)

Email: darci.garbacz@palmbeachschools.org



## **Solicitation 21C-26T**

### **Plumbing Contractor Services**

### **Bid Designation: Public**



**The School District of Palm Beach County**

## Bid 21C-26T

### Plumbing Contractor Services

Bid Number **21C-26T**  
Bid Title **Plumbing Contractor Services**

Bid Start Date **Mar 4, 2021 2:14:54 PM EST**  
Bid End Date **Mar 24, 2021 2:00:00 PM EDT**  
Question &  
Answer End Date **Mar 17, 2021 1:00:00 PM EDT**

Bid Contact **DENNIS MESSERLI**  
**561-434-8507**  
**Dennis.Messerli@palmbeachschools.org**

Contract Duration **3 years**

Contract Renewal **Not Applicable**

Prices Good for **Not Applicable**

Bid Comments **The purpose and intent of this Invitation to Bid is to establish labor rates and pricing, cost plus percentage rates for equipment/parts, and establish a pool of qualified vendors (hereafter referred to as contractors) for Plumbing Contractor Services, as specified herein**

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#### Addendum # 1

New Documents **21C-26T Addendum 1.pdf**

#### Item Response Form

Item **21C-26T--01-01 - 21C-26T Plumbing Contractor Services - Bid Summary**

Quantity **1 each**

Prices are not requested for this item.

Delivery Location **The School District of Palm Beach County**  
No Location Specified

**Qty 1**

#### Description

Bidders shall complete the 21C-Bid Summary Document, save file, and upload with bid response.

## School District of Palm Beach County FL



### Solicitation No.

**21C-26T  
PLUMBING CONTRACTOR SERVICES**

.....

**RESPONSES ARE DUE PRIOR TO:**

**March 24, 2021**

.....

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

[www.BidSync.com](http://www.BidSync.com)

.....

The School District of Palm Beach County is an  
Equal Education Opportunity Provider and Employer.

<https://www.palmbeachschools.org/cms/one.aspx?pageId=6165437>

### **21C-26T - SPECIAL CONDITIONS**

(Upon receipt, all submittals become Public Records and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. See paragraph 54 in General Conditions for details.)

#### **A. SCOPE:**

The purpose and intent of this Invitation to Bid is to establish a pool of qualified vendors and create a Term Contract for Plumbing Contractor Services, as specified herein.

#### **B. DELIVERY:**

Items in the Invitation to Bid are for **various schools and departments** located throughout Palm Beach County and are not for delivery to any central location. Deliveries are to be FOB destination as per purchase order. All deliveries made to schools and departments shall require inside delivery unless otherwise specified.

#### **C. PERISCOPE S2G:**

1. All offers must be submitted electronically to PeriscopeS2G at BidSync.com. Including all required documents listed in the solicitation. No other responses will be accepted, including hard copy or emailed responses.
2. PeriscopeS2G supports online document tracking and completion. All documents must be viewed/accepted before the bid packet can be viewed and an offer can be placed.
3. The District will only consider offers that have been uploaded and submitted through PeriscopeS2G PRIOR to the bid closing date and time. As with any document upload, larger documents and/or heavy user activity may result in longer upload times. **Please allow sufficient time to complete your offer.**
4. **IMPORTANT INFORMATION:** For help filling out your offer, please visit:

<https://support.bidsync.com/hc/en-us/articles/222437508-How-do-I-respond-to-a-bid->

All responses entered into PeriscopeS2G must be typed in. DO NOT cut and paste from any other program. Doing so may corrupt or invalidate your response and not allow you to respond.

In order to complete this response process, you must first select "Review response," verify the information is correct then enter your password and select "Confirm & submit response."

After clicking "Confirm & submit response," a confirmation page loads with "Offer Received" at the top of the page. If you do not see this confirmation, your offer was not submitted successfully.

If you select to receive a confirmation e-mail indicating a successful response you will receive a confirming email within five minutes.

**If you do not receive confirmation that your offer has been received, please call Periscope S2G at 800-990-9339 Option 1 (Customer Care) and then Option 1 (Vendor Assistance).**

In the event an addendum(s) to a solicitation is created, the addendum(s) will be distributed by PeriscopeS2G to all who are known by the Purchasing Department to have received a complete set of proposal documents.

**Be advised that registering with PeriscopeS2G is a FREE service.**

#### **D. BENEFICIAL INTEREST AND DISCLOSURE OF OWNERSHIP AFFIDAVIT:**

The School District is requesting this affidavit to include a list of every "person" (as defined in Section 1.01 (3), Florida Statutes to include individuals, children, firms, associates, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and combinations) holding 5% or more of the beneficial interest in the disclosing entity. **The Beneficial Interest and Disclosure of Ownership Affidavit (PBSD Form 1997) must be downloaded, signed, notarized and uploaded with your bid response. The Proposer must submit all supporting documentation in the name of the Proposer's entity only. Parent and/or subsidiary entities will not be acceptable.**

**E. SBE PREFERENCE:**

Award recommendations shall make appropriate adjustments to pricing when considering solicitations from a District certified Small Business Enterprise (SBE) if the bid price does not exceed the lowest bidder's price by an amount greater than \$50,000 or 5%, whichever is less. In instances where the certified SBE's price difference is greater than \$50,000 or 5%, the lowest responsive, responsible bidder will be awarded the contract and the goals shall be deemed waived. The requirements to qualify for the SBE are to be certified by the School District of Palm Beach County, **subject to the criteria indicated in paragraph O.** The District does not recognize any other certifications. Graduation from the District SBE Certification Program shall void certification if a vendor has exceeded the revenue/sales size standards for their industry specific classification for the previous three year period. **See Paragraph M, SBE GOAL, and Paragraph O, SMALL BUSINESS ENTERPRISE PARTICIPATION, for complete detail.** For District certification go to <https://www.palmbeachschools.org/diversityinbusiness> website and complete the SBE certification application.

**F. AWARD:**

Contract will be awarded to ALL responsive, responsible bidders meeting the specifications, terms and conditions of this bid. The District shall request services from the pool of awarded vendors on as needed basis, as outlined in Special Condition DD. All project pricing shall be submitted on the 21C-26T Quote Sheet and shall be in accordance with the pricing submitted on the Bid Summary Document.

Quotes received for each requested service shall be awarded to the lowest bid from those awarded vendor who respond to the quote(s).

Lowest quote is defined as the calculation of the lowest total cost taking into consideration any additional discounts, allowable credits and/or any other relevant factors, and after all applicable preferences have been applied.

The Board reserves the right to undertake inquiries into proposer's financial and/or litigation history, and by submitting a proposal, the proposer expressly consents to these inquiries.

The Board, through its designee(s), reserves the right to further negotiate any proposal, including price and warranty, with all responsible and responsive bidders to meet the needs of the District. If a mutually beneficial agreement with the bidder offering the lowest cost and who is deemed responsible and responsive cannot be resolved, The Board, through its designee(s), reserves the right to enter into negotiations with the next bidder offering the lowest cost and who is deemed responsible and responsive until an agreement is reached to meet the needs of the District. Upon award of a particular item to the successful bidder, the vendor cannot substitute an item without prior approval by the Purchasing Department. Vendor must supply the item that was specified according to their bid response unless instructed otherwise by the Purchasing Department.

The Purchasing Department or their designee reserves the right to use the next bidder offering the lowest cost and who is deemed responsible and responsive in the event the original

awardee of the bid cannot fulfill their contract, subject to the terms and conditions of Preference awards as provided herein. The next bidder offering the lowest cost and who is deemed responsible and responsive prices must remain the same as originally bid and must remain firm for the duration of the contract.

Emergency repairs: Emergency repairs following natural disasters (hurricane, floods, tornado, etc.) or as are defined as situations where immediate repairs are required to prevent the loss of service to alleviate the possibility of a situation which would adversely and unduly affect the safety, health or comfort of building, occupants, or otherwise cause loss to the School District. In the event of an emergency, the District may waive the quoting process and select at their discretion, a vendor from the pool of awarded vendors to provide emergency repair services. Selected vendor shall respond to the emergency within four (4) hours. Repairs shall be made on initial response to site or as soon as possible thereafter. Should there be a noticeable delay due to lead time of materials needed to complete the repair, vendor shall notify the Facilities Manager and provide timeline for completion. A detailed quote sheet shall be submitted to the Project Manager/District Staff in charge, following the pricing structure submitted with this bid.

**G. TERM OF CONTRACT:**

The term of this contract shall be for three (3) years from the date of award and may, by mutual agreement between the School District and the awardee(s), be renewable for one (1) additional two-year period. If considering renewing the Contract, the Board, through the Purchasing Department, will provide a letter of intent to renew the Contract to the awardee(s) prior to the end of the initial term of the Contract period or any subsequent renewal term. If needed, the Contract may be extended 120 days beyond the Contract expiration date or any subsequent renewal periods. The awardee(s) will be notified when the Board has acted upon the recommendation. All prices shall be firm for the entire length of the Contract and all subsequent renewal periods however, nothing prohibits the District from accepting lower pricing during the term of this contract.

**H. REFERENCES:**

**Electronically Complete the Reference Document and include at least five (5) references from customers that you have contracted with to provide plumbing contractor services. This should include at least one reference from a customer who has been with you for a year or less, three references from veteran customers with long term or repeat contracts and at least one reference from a past customer who is currently not under contract with you. Please do not include the School District of Palm Beach County as a reference.**

**NOTE: The information requested must include a current contact name, phone number and email address for each reference.**

**I. QUALIFICATIONS:**

Provide photocopies of the following (**valid and current**) licenses and/or certificates: **Failure to provide this documentation may result in rejection of bid.**

If you are a business located within Palm Beach County please provide:

1. Palm Beach County Local Business Tax Receipt, formerly Occupational License.

**AND**

2. Proof of an active Certificate of Authority issued by the Florida Department of State which authorizes the Bidder to transact business in the State of Florida. This proof may be provided by either submitting a copy of the Letter of Authority issued by the Office of the Secretary of State or by submitting a copy of the Certificate of Status Verification which may be obtained via [Sunbiz.org](http://Sunbiz.org)-Department of State.

**AND (if applicable)**

3. Copy of industry/skills certifications and /or licenses required for the performance of plumbing contractor.

Per Florida Statutes 607.1501, A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Department of State. For information on how to register to do business in the State of Florida go to: <https://dos.myflorida.com/sunbiz/forms/>

If you are an out of the county business please provide:

1. a current Business Tax Receipt within that county you are registered  
**AND**
2. Proof of an active Certificate of Authority issued by the Florida Department of State which authorizes the Bidder to transact business in the State of Florida. This proof may be provided by either submitting a copy of the Letter of Authority issued by the Office of the Secretary of State or by submitting a copy of the Certificate of Status Verification which may be obtained via Sunbiz.org-Department of State.

**AND (if applicable)**

3. Copy of industry/skills certifications and /or licenses required for the performance of plumbing contractor.

The bidder(s) must have an adequate organization, facilities, equipment, and personnel to insure prompt and efficient service. Bidders shall complete the 21C-26T Attachment Form and submit with response. The District reserves the right, before recommending any award, to inspect the facilities to determine ability to perform. The District reserves the right to reject bids where evidence submitted, investigation and/or evaluation, is determined to indicate inability of the bidder to perform.

**J. PLACING AN OFFER:**

The Board objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

All offers must be submitted electronically to PerscopeS2G at BidSync.com. No offer will be considered if submitted after the closing date and time. Hard copy bids will not be accepted. Allow sufficient time to complete your offer, **and follow all steps outlined in Paragraph C.** If necessary, an addendum will be distributed by PeriscopeS2G to all who are known by the Purchasing Department to have received a complete set of proposal documents.

**K. BID QUESTIONS:**

From the time this solicitation is posted until the time a Decision or Intended Decision is posted, potential Proposers and employees, representatives, partners, director, officers, or other individuals acting on behalf of the Proposer, shall be prohibited from lobbying any School District employee, Member of the School Board, Member of a School District Advisory Committee that may evaluate the awarded contract, or person selected to evaluate or recommend selection of the awarded Proposer. Violation of the Cone of Silence shall result in rejection/disqualification of the Proposer from award of a contract arising out of this solicitation. Further, in order to protect the integrity of the award process, all questions regarding this solicitation must be submitted via PeriscopeS2G no later than 1:00 p.m. ET, on March 17, 2021. Questions received via PeriscopeS2G by the time and date specified

will be answered in writing and posted on PeriscopeS2G. Dennis Messerli is authorized only to direct the attention of prospective proposers to various portions of the Bid so that they may read and interpret such for themselves. Neither Dennis Messerli nor any employee of the District is authorized to interpret any portion of this Bid or give information as to the requirements of the Bid in addition to that contained in the written documents.

All questions submitted (along with their source) are subject to Public Records Laws and as such will be available for inspection upon receipt of a Public Records Request.

**L. POSTING OF BID RECOMMENDATION / TABULATIONS:**

Bid recommendations and tabulations will be posted electronically with PeriscopeS2G for review by interested parties, on April 2, 2021, at 3:00 p.m., ET, and will remain posted for a period of 72 hours. If the bid tabulation with recommended awards is not posted by said date and time, A "Notice of Delay of Posting" will be posted to inform all bidders of the new posting date and time.

Any person adversely affected by the decision or intended decision, as defined in School Board Policy 6.14 (4) (a), must file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. Saturdays, Sundays and State Holidays shall be excluded in the computation of the 72-hour time period. The formal written protest must be filed within 10 days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or to file a formal written protest within the time prescribed in section 120.57 (3), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

**M. SBE GOAL:**

The Board strongly encourages the use of Small Business Enterprises for participation as partners: joint venture partners, subcontractors, sub-consultants and prime contractors, in the District's contracting opportunities. A listings of Certified Small Business Enterprises can be found on the District's Office of Diversity in Business Practices web site at <http://www.palmbeachschools.org/diversityinbusiness>.

**N. SUB-CONTRACTING:**

If a vendor intends to sub-contract any portion of this bid for any reason, the name and address of the subcontracting firm must be submitted with the quote prior to use for approval by the District. **No sub-contracting will take place prior to bid-awarded vendor furnishing this information and receiving written approval from the District. Subcontractors will be required to conform to the Jessica Lunsford Act as noted in the General Conditions document of this bid.**

The Purchasing Department reserves the right to reject a subcontractor who previously failed in the proper performance of an award or failed to deliver on-time contracts of a similar nature, or who is not in the position to perform this award. The School District Representative reserves the right to inspect all facilities of any subcontractor in order to make determination as to the foregoing. The subcontractor will be equally responsible for meeting all requirements specified in this Invitation to Bid. Vendors are encouraged to seek SBE business enterprises for participation in sub-contracting opportunities. The sub-contractor shall be equally responsible for meeting all requirements specified in this Invitation to Bid.

**O. SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION:**

An SBE business must meet The School District of Palm Beach County's (SDPBC) eligibility standards incorporated in the definition of Small Business Enterprise (SBE) as outlined in School Board Policy 6.143, Diversity and Equitable Utilization in Business, which requires that the business be certified by SDPBC.



SDPBC defines a Small Business Enterprise (SBE) as having average annual gross sales that are less than fifty (50%) of the small business size standard as defined by the U.S. Small Business Administration (SBA) for a firm's relevant industry. The average number of full-time employees over the last three years that is less than fifty percent (50%) of small business size standard as defined by SBA for the business firm's relevant industry. See SBE guidelines at: [www.sba.gov/federal-contracting/contracting-guide/size-standards](http://www.sba.gov/federal-contracting/contracting-guide/size-standards).

The principal place of business of the SBE must be in Palm Beach County, Broward County, and /or Miami Dade County. The firm's headquarters must be located in Palm Beach County, Broward County, and/or Miami Dade County with either, a majority of the firm's gross revenues or sales derived there, or a majority of firm's employees domiciled in one of these counties.

An SBE business must have received less than fifteen million dollars (\$15 million) in contract payments from the School District of Palm Beach County projects or contracts in the fiscal year preceding the bid.

An SBE business shall be independent (a free-standing business) and recognized as a separate entity for tax purposes. Businesses that share common ownership, space, employees, or other facilities, may be considered as a single business for this program without reference to tax status.

The business must have been established and operational for a period of at least one (1) full year prior to the certification application. The business's address must include street number, name of the street, suite number, if any, and correct zip code. A post office box is unacceptable without the physical street address.

#### **Revenues or Sales Size Standards:**

Procurement Program – Any firm that has had an average cumulative gross sales or revenues of greater than seven million dollars (\$7 million) over the last three (3) years shall not be considered eligible to participate in the School District's SBE program for procurement.

SDPBC will accept SBE certification on a school district solicitation if the bidder can demonstrate that they meet the guidelines as outlined in the School District's Small Business Enterprise Program eligibility guidelines. Industry specific classification and income thresholds are consistent with and meets the standards contained in School Board Policy 6.143 and the Office of Diversity in Business Practices Procedures Manual as depicted in the chart below.

INDUSTRY	INCOME THRESHOLD
Construction	Not to exceed \$13,000,000.
Professional Services	Not to exceed \$6,000,000.
General Procurement	Not to exceed \$7,000,000.

#### **SBE Vendor Directory:**

The Vendor Directory represents SBE vendors certified only by the School District of Palm Beach County. Vendors certified as an SBE with any entity or agency other than the School District of Palm Beach County will not be accepted. The District does not have **reciprocity** with any other certifying Agency/Entity. The District has an Inter-local Agreement (IA) with The City of West Palm Beach, Palm Beach County and Miami-Dade County Public Schools; however, SBE bidders must have met the certification eligibility criteria of the District's certification program at the time of documentation submittal in order to be deemed a District Certified SBE.

**Goal: The Goal established for this industry classification is an SBE Bid Preference of 5% for the participation of Small Business Enterprises.**

### **SBE Bid Preference:**

Pursuant to Board Policy 6.143, award recommendations shall make appropriate adjustments to pricing when considering solicitations from School District of Palm Beach County (SDPBC) certified Small Business Enterprises (SBE) if the bid price does not exceed the lowest bidder's price by an amount greater than \$50,000 or 5%, whichever is less. In instances where the certified SBEs price difference is greater than \$50,000 or 5%, the lowest responsive, responsible bidder will be awarded the contract and the goals shall be deemed waived.

Qualification requirements for SBE Bid Preference are, the bidder must be certified by the School District of Palm Beach County, at the time the bid is submitted. The District does not recognize any other certifications. **Bidders must submit their School District Certification Certificate with the bid.** For District certification go to <http://www.palmbeachschools.org/diversityinbusiness> website and complete the SBE certification application. The Office of Diversity in Business Practices will review the certification database to ensure that all SBE's are certified at the time the bid is submitted.

### **Small Business Enterprise Participation:**

Bidders who list SBE subcontractors as participants in their bids must complete and submit the Subcontractor Participation Letter of Intent, Form 1525 and Subcontractor Participation Summary, Form 1526. Form 1526 will be submitted with all requests for payment, and will be submitted as part of the response to the solicitation.

### **SBE Bid Preference is not the same as Small Business Enterprise Participation.**

If SBE Bid Preference is indicated, then the Bid does not have an SBE Participation Goal and Forms 1525 and 1526 are not required.

The industry specific classification for this solicitation is: General Procurement

### **B2GNow Compliance Reporting System**

The SCHOOL BOARD maintains an electronic Contract Compliance System known as the B2GNow Compliance Reporting System. This Contract is subject to Compliance Tracking and Contractor shall use the B2GNow secure web-based system to submit Project Specific information including, but not limited to, monthly payments and progress reports on all Subconsultants and Subcontractors.

Contractor understands that all Subconsultants and/or Subcontractors are also required to utilize the B2GNow Reporting System to manage their contact information and Project Specific records, respond to any noted instructions and/or information requests. Contractor agrees to advise all of its Subconsultants and/or Subcontractors in writing of the requirement to submit all Contract Compliance related data electronically to the B2GNow Reporting System. Contractor further agrees and understands it is responsible for ensuring all Subconsultants and/or Subcontractors have uploaded all requested items via the B2GNow Reporting System.

Contractor understands its contact information and that of its Subconsultants and/or Subcontractor must remain accurate and up-to-date in the B2GNow Reporting System and agrees to timely notify SCHOOL BOARD of any changes to its contact information or that of a Subconsultant and/or Subcontractor. From time to time, the SCHOOL BOARD may require additional information from the Contractor and/or its Subconsultants/Subcontractors and Contractor agrees that it will provide such information, within five (5) business days via the

B2GNow Reporting System. Contractor understands its obligations hereunder are continuing and shall survive the expiration or termination of the Contract.

Information concerning access of the B2GNow Reporting System will be provided to Contractor by the Office of Diversity in Business Practices. The B2GNow Reporting System is web-based and can be accessed at the following Internet address: <https://palmbeachschools.diversitycompliance.com/>. The Contractor shall contact the Office of Diversity in Business Practices to register for training and support for the B2GNow Reporting System. Contractor agrees to advise all of its Subconsultants and/or Subcontractors in writing of their obligation to contact the Office of Diversity in Business Practices to register for training and support for the B2GNow Reporting System. For information request and questions, contact the Office of Diversity in Business Practices (561-681-2403).

See paragraph O for additional details regarding subcontractors.

**P. ACCESSIBILITY TO AND COOPERATION WITH INSPECTOR GENERAL AND STAFF:**

The Awarded Vendor agrees and understands that the School District's Office of Inspector General shall have immediate, complete, and unrestricted access to all financial and performance-related records, papers, books, documents, information, writings, drawings, graphs, photographs, processes, data or data compilations, computer hard drives, emails, instant messages, services, and property or equipment purchased in whole or in part with School Board funds ("Information and Records"). The Awarded Vendor shall furnish the Inspector General with all Information and Records requested for the purpose of conducting an investigation or audit, as well as provide the Inspector General with reasonable assistance in locating assets and obtaining information and records that are in the possession, custody, or control of the Awarded Vendor or its subcontractor. The Awarded Vendor understands, acknowledges, and agrees to abide by applicable portions of School Board Policy 1.092. Such policy is located at: <https://go.boarddocs.com/fl/palmbeach/Board.nsf/Public#>.

**Q. PUBLIC RECORDS LAW:**

**The Responder shall:**

- a. Keep and maintain public records that ordinarily and necessarily would be required by the School Board of Palm Beach County in order to perform the service to the Board under this agreement.
- b. Upon request from the Board's custodian of public records, provide the Board 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 Chapter 119, Florida Statutes 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 Responder does not transfer the records to the Board.
- d. Upon completion of the Agreement, transfer, at no cost, to the Board all public records in possession of the Responder or keep and maintain public records required by the Board to perform the service. If the Responder transfers all public records to the Board upon completion of the Agreement, the Responder shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Responder keeps and maintains public records upon completion of the Agreement, the Responder shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Board, upon request from the Board's custodian of public records, in a format that is compatible with the information technology systems of the Board.

Failure of Responder to abide by the terms of this provision shall be deemed a material breach of this Agreement. This provision shall survive any termination or expiration of this Agreement. In the event of a dispute regarding the enforcement of this provision where the Responder has unlawfully refused to comply with the public records request within a reasonable time, the School Board shall be entitled to recover its reasonable costs of enforcement, including reasonable attorney's fees from the vendor as authorized by 119.0701, Fla. Stat.

**IF THE RESPONDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, HE OR SHE MUST CONTACT THE PUBLIC RECORDS MANAGEMENT COORDINATOR FOR THE SCHOOL DISTRICT OF PALM BEACH COUNTY AT 561-629-8585, PUBLICRECORDS@PALMBEACHSCHOOLS.ORG, OR 3300 FOREST HILL BLVD., SUITE C-110, WEST PALM BEACH, FL, 33406.**

Public Records Exemption:

- 1) For purposes of this paragraph, "competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.
- 2) Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.
- 3) If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

**R. INSURANCE REQUIREMENTS:**

In the event of loss, damage or injury to the awarded bidder(s) and/or the awarded bidder's property, the awarded bidder(s) shall look solely to any insurance in its favor without making any claim against the School Board of Palm Beach County. The bidder's insurance coverage shall be primary and noncontributory. Proof of the following insurance will be furnished by the awarded vendor(s) to the School Board of Palm Beach County by Certificate of Insurance. The School Board shall be named as an additional insured.

Original copies of Certificates of Insurance meeting the specific required provision specified within this contract/agreement shall be forwarded to the School District of Palm Beach County, Purchasing Department by email ([insurancecertificate@palmbeachschools.org](mailto:insurancecertificate@palmbeachschools.org)), or fax (561-963-3823), and approved prior to the start of any work or the possession of any school property. Renewal certificates must be forwarded to the same department prior to the policy renewal date.

Thirty days written notice must be provided to the School District of Palm Beach County via certified mail in the event of cancellation. The notice must be sent to the Purchasing Department.

**1. WORKERS' COMPENSATION: WORKERS' COMPENSATION:**

Bidder must comply with Section 440, Florida Statutes, Workers' Compensation and Employees' Liability Insurance with minimum statutory limits or elective exemptions as defined in Florida Statute 440 will be considered on a case by case basis.

Required Endorsements:

- Waiver of Subrogation – WC 0003 13 or its equivalent

**2. COMMERCIAL GENERAL LIABILITY:**

Bidder shall procure and maintain for the life of the contract, Commercial General Liability Insurance. This policy shall provide coverage for death, bodily injury, personal injury, products and completed operations liability and property damage that could arise directly or indirectly from the performance of the contract. It must be an occurrence form policy. **THE SCHOOL BOARD OF PALM BEACH COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR COMMERCIAL GENERAL LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$1,000,000 per occurrence, Combined, Single Limit for Bodily Injury Liability and Property Damage Liability.

Required Endorsements:

- Additional Insured – CG 20 26 or CG 20 10 and CG 20 37 or their equivalents.

Note: CG 20 10 or CG 2026 must be accompanied by CG 20 37 to include products/completed operations.

- Waiver of Transfer Rights of Recovery – CG 24 04 or its equivalent.
- Primary and noncontributory – CG 2001 or its equivalent.

Note: If blanket endorsements are being submitted, please include the entire endorsement and applicable policy number.

**3. BUSINESS AUTOMOBILE LIABILITY:**

Awarded vendors shall procure and maintain, for the life of the contract/agreement, Business Automobile Liability Insurance. **THE SCHOOL BOARD OF PALM BEACH COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR BUSINESS AUTOMOBILE LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$500,000 per occurrence. This coverage shall be an "Any Auto" form policy or a form policy that includes "Scheduled Autos, Hired Autos, and Non-Owned Autos" coverage. The insurance must be an occurrence form policy.

In the event the contractor does not own any vehicles, we require an affidavit signed by the contractor indicating the following:

\_\_\_\_\_ (Company Name) does not own any vehicles. In the event we acquire any vehicles throughout the term of this contract/agreement, \_\_\_\_\_ (Company Name) agrees to purchase Business Automobile Liability coverage as indicated above on the date of acquisition.

**4. WAIVER OF SUBROGATION:**

The awarded bidder(s) hereby waives any right of subrogation against the School Board of Palm Beach County, for loss, damage or injury within the scope of the Bidder's insurance, and on behalf of itself and its insurer, waives all such claims against the School Board of Palm Beach County.

NOTE: The terms and conditions of this agreement shall apply with respect to awarded bidder's operations for any school or ancillary owned by the School Board of Palm Beach County.

**S. E-VERIFY**

- A. Pursuant to Fla. Stat. §448.095, Contractor agrees that it shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all newly hired employees during the term of this contract or solicitation.
- B. Pursuant to Fla. Stat. §448.095, if Contractor enters into a contract with a subcontractor(s) for the labor, supplies or services provided under this contract or solicitation, Contractor must require that the subcontractor(s) provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor understands that Contractor must maintain a copy of such affidavit for the duration of the contract or solicitation.
- C. If School Board has a good faith belief that the Contractor has knowingly violated Fla. Stat. §448.09, School Board shall terminate the contract with the Contractor. The Contractor is liable for any additional costs incurred by the School Board as a result of a termination of this contract or solicitation pursuant to §448.095(2)(f).
- D. If School Board has a good faith belief that a subcontractor(s) has knowingly violated §448.095, but Contractor has otherwise complied with this subsection, School Board shall promptly notify Contractor and order Contractor to immediately terminate the contract with the subcontractor(s).

**T. PAYMENT / PAYMENT TERMS:**

Payment will be made after the goods/services from the awarded vendor have been received/completed; inspected and found to comply with award specifications, free of damage or defect; and a properly billed invoice is received and processed in the Accounting Services Department.

The District's payment terms are net 30 days; however, the District will accept terms for early payment. See **Early Payment Terms Document**.

**Payment will not be processed until the following occurs:**

- 1. The complete and satisfactory receipt of all items ordered. All pricing in accordance with the bid.
- 2. The receipt of a properly billed invoice in the Accounting Services Department.

**Invoices to the School Board MUST include the following to permit verification of prices and expedite payment to vendors:**

- 1. Name and Address of Vendor
- 2. A Unique Invoice Number
- 3. Date purchase order or service request was received
- 4. Date of service(s)

5. Itemized pricing
6. Purchase Order Number
7. A copy of the first invoice for this contract shall be sent to the Purchasing Agent for review at [dennis.messerli@palmbeachschools.org](mailto:dennis.messerli@palmbeachschools.org).

**Invoice copy and/or packing slip must be presented at time of delivery. Original Invoice must be sent to Accounting Services, 3300 Forest Hill Blvd., Suite A-323, West Palm Beach, FL 33406, or submitted electronically.**

To submit an invoice as an email attachment, ensure that the electronic document meets the guidelines below and email the invoice to [apinvoice@palmbeachschools.org](mailto:apinvoice@palmbeachschools.org).

**Electronic Invoice Submission Guidelines:**

**a. Submit industry standard PDF's, created at a 300-dpi bi-tonal equivalent (either image or text only content) or bi-tonal or grey scale TIF's.**

**b. Each invoice must be its own file attachment. Multiple invoices in a single email is supported, but each invoice must be a separate file attachment**

**If you are interested in learning more about submitting invoices via email, please contact Bob Rucinski at [bob.rucinski@palmbeachschools.org](mailto:bob.rucinski@palmbeachschools.org), or call him at (561) 434-8701.**

Failure to timely submit invoice(s) to Accounting Services as set forth above may significantly delay processing and payment of the invoice.

The School Board may not process invoices submitted more than 120 Days after the date the goods or services were delivered without prior approval from the Accounting Services Department.

Vendor waives claims for payment of goods and/or services on invoice(s) not received by the Accounting Services Department within 120 Days of the delivery. Prior approval by Accounting Services is required if invoicing will extend past 120 days.

The above terms and conditions are agreed to by submitting an offer on this bid.

**U. INCORRECT PRICING/INVOICES:**

Any pricing on invoices that is incorrect or freight charges that were not included on the original Purchase Order, must be brought to the attention of the Purchasing Agent and corrected prior to the shipment(s) of goods or initiation of services. Additional costs that were not brought to the District's attention and did not receive written approval via a Change Order issued by the Purchasing Agent may not be honored.

**V. CHANGE ORDERS:**

Any addition(s) to the Scope of Work or to a Purchase Order as a result of the bid award that adds additional costs must be brought to the School Districts attention and approved by the Purchasing Department prior to commencement of additional work, shipment of goods or the addition of unauthorized freight charges. Once approved, a Change Order will be issued to include the additional costs and work may commence and/or shipment of goods can begin. Additional costs that were not brought to the district's attention and did not result in a Change Order approved by the Purchasing Agent may not be honored.

**W. DISTRICT PURCHASING CARD:**



The School District has authorized the use of a Purchasing Card with Visa through the Bank of America to expedite small dollar purchases for materials, supplies, and other items needed for daily operations. Vendors may be presented these credit cards by authorized School District personnel for the above mentioned purchases. Each cardholder's authorization limit may not exceed \$1,000 daily per vendor effective July 1, 2006 (with the exception of travel). Purchase orders are strongly discouraged for purchasing materials, and supplies under \$1,000.

**X. CONFLICT OF INTEREST:**

On vendors own business letterhead, all vendors must disclose the name of any officer, director, or agent who is also an employee of the District. All vendors must disclose the name of any District employee who owns, directly or indirectly, any interest in the responder's business or any related entity. By submitting this documentation to the District, the vendor represents and warrants that District employee does not have a prohibited conflict of interest as provided in Chapter 112, Florida Statutes and School Board Policy 3.02 Code of Ethics.

**Y. CODE OF ETHICS:**

Per District Policy 3.02, District Employees shall not accept gifts or gratuities in violation of the State Code of Ethics or which give the appearance that the gift improperly influenced a decision.

**Z. ORGANIZATION PROFILE:**

Provide the Corporate Name and Parent Company (if applicable) and address of corporate headquarters. Provide the names, titles, addresses, email, and telephone numbers of the persons authorized to answer any questions related to Company's proposal. The Organization Profile should also include information such as number of years in the business, number of locations, location of facilities, company vision statement, and a succinct history of the company. In addition, the Beneficial Interest and Disclosure of Ownership Affidavit (PBSD Form 1997) must be completed, signed, notarized and returned with your bid.

**AA. WARRANTY:** Contractors shall guarantee workmanship and/or materials to be free of defects under normal use and service for a period of one year from date of acceptance by the School District. Contractor shall bear the full obligation and cost of materials and labor for repair and/or replacement during the warranty period.

**BB. PERMITS AND CODE INSPECTIONS:**

Vendor shall secure all necessary building permits (when applicable) from the Permitting Authority (The School District of Palm Beach County Building Code Services (BCS) Department). Related instructions are located on the BCS Home Page: <http://www.palmbeachschools.org/buildingdepartment/>. See the information on the BCS Hometab.

Construction will be inspected for code compliance, compliance with drawings and specifications, and quality by inspectors working for the Permitting Authority.

The Vendor shall provide the following information to the Permitting Authority and obtain approval from the Permitting Authority prior to beginning construction:

- a) Documents as required by the Permitting Authority
- b) Vendor should assume a 30 day turnaround time from the time of submission of required documents for obtaining a building permit.

Code Inspections: All projects require detailed code compliance inspections during construction in disciplines determined by the Permitting Authority. These disciplines normally include, but are not necessarily limited to, structural, mechanical, electrical,



plumbing and general building safety. Inspection personnel will be provided by the Permitting Authority.

The Vendor shall request the appropriate inspector(s), no less than 48 hours in advance, which the work is ready for inspection and before the work is covered up. Work not inspected and approved prior to cover-up shall be uncovered for inspection when directed by the Permitting Authority. All costs for uncovering and reconstruction shall be borne by the Vendor.

All inspections shall be made for conformance with the applicable building codes, compliance with drawings and specifications, and quality.

Cost for all re-inspections of Work found defective and subsequently repaired shall be borne by the Vendor.

Completion of contract shall be defined as final inspection and subsequent sign-off by inspector/project manager, on all work as satisfactory and acceptable to the District.

**CC. DEFINITIONS:**

Parts – functioning components of a unit or primary material required for repairs (i.e. pump, valve, pipe, pvc, tee, wire, etc.)

Miscellaneous Consumables – sundry supplies used to complete jobs (tape, wire ties, nuts, bolts, rags, lubricants, etc.)

All parts and consumable supplies to be utilized shall conform to standards of the trade, manufacturer recommendations and be acceptable to the School District of Palm Beach County.

Cost of parts and material shall be based on Contractor's wholesale price from the supply house plus percentage (may not exceed 20%). Markup of sales tax will not be allowed. A copy of the supply house invoice for parts purchased for a specific job will be submitted with the contractor's invoice. (example: pvc pipe 10', cost is \$100, with cost plus 10% markup equals \$110)

Awarded vendor may mark up subcontracted work to cover the cost of managing these services. Percentage markup may not exceed 20%, and is based on their quoted price.

Work Day:

Regular Time: Monday through Friday, 7am to 5pm

Alternative Time: Monday through Friday, before 7am or after 5pm; Saturdays and Sundays

Labor – the hourly labor rates quoted shall include full compensation for labor, travel, fuel, operating cost, etc. Travel charges will not be reimbursed.

**DD. SITE INSPECTION(s):** When a potential project or work is defined, a quote request will be requested following the procedures listed below.

Projects/work with estimated cost:

- \$5,000 or less: Facilities Management Coordinator will send notice to a contractor from the awarded pool of vendors whose cost and schedule best meets

the needs of the District. Contractor shall contact the Facilities Management Coordinator within one working day to confirm their ability to quote the job and within three working days of request contractor shall provide the requester with an itemized quote for the repairs based on scope of work provided to the contractor or based on contractors visit to the site.

- \$5,000 to \$10,000: Facilities Management Coordinator will send notice to the pool of awarded vendors. Included in notice shall be:
  - Site Location, address, and contact person
  - Scope of work
  - Plan drawings (if applicable)
  - Site inspection (if applicable)
    - If required, include date, time, mandatory or non-mandatory, meeting location
  - Question deadline
  - Quote due date
  - Attach 21C-26T Quote Sheet
  - Copy Purchasing Agent
- \$10,000 and up: Purchasing will post a Request For Quote (RFQ) on Periscope S2G and include scope of work and any associated plans or prints. The RFQ will be open to only those vendors awarded on this contract.

Following the site inspection, quotations shall be submitted as directed and by the deadline specified. This quotation shall be based on the individual scope of work, bid special conditions, bid specifications and all applicable regulations and codes, and submitted on the Quote Sheet. Quotes over the \$5,000 threshold will be awarded to the contractor with the lowest price for that project/work outlined after adjustments and applicable preferences have been applied.

**EE. BALANCE OF LINE:**

The “balance of line” shall include products and services that are not requested in this Invitation to Bid, but are within the scope of products and services available from the awardee(s). The School District reserves the right to add these products and services to the awarded items. Additions shall be submitted as they occur. Deletions and discontinued items shall be reported by bid awarded vendor as they occur. Refer to Additional Information Document.

**BID PREPARATION CHECKLIST:**

The Bid Preparation Checklist is a guide to assist the Bidder in verifying the completeness of their Bid. The Bid Preparation Checklist does not relieve the Bidder of the responsibility of ensuring that all requirements of this solicitation are included with submittal of their response. Items checked “required” must be submitted with your bid response or your bid may be declared non responsive.

Verified by Vendor	Required	Document	See Special Condition
	Yes	Bidder Acknowledgement	N/A
	Yes	Area Representative	N/A
	Yes	Required Response Form	N/A
	Yes	Bid Summary Document	F
	Yes	Certificates/License	I
	Yes	Beneficial Interest and Disclosure of Ownership Affidavit	D
	Yes	Debarment Certification	N/A
	Yes	Reference Document	H
	Yes	Early Payment Terms	T
	Yes	SBE Certification	E
	Yes (if applicable)	Form 1525, Letter of Intent – SBE Subcontractor Participation	O
	Yes (if applicable)	Form 1526, SBE Subcontractor Participation Summary	O
	Yes	Form 0580, Drug-Free Workplace Certification	N/A
	Yes	Organizational Profile	Z
	Yes	Conflict of Interest/Non Conflict of Interest Statement <b>**NOT A FORM** It is a statement on company letterhead</b>	X
	Yes	E-Verify Form	S
	Yes	Complaint Notification/Bid General Conditions <b>**NOT A FORM** It is a statement on company letterhead</b>	See General Conditions Paragraph 26

## **GENERAL CONDITIONS FOR BIDS**

The General Conditions for Bids, Special Conditions, Specifications, Addenda, and/or any other pertinent documents form a part of the Invitation to Bid, and by reference are made a part thereof.

1. **PURPOSE:** It is the purpose and intent of this invitation to secure bids for item(s) and/or services as listed herein for The School Board of Palm Beach County, Florida (hereinafter referred to as the "Board"), the corporate body politic that governs, operates, controls, and supervises the School District of Palm Beach County, Florida (hereinafter referred to as "District").
2. **ANTI-COLLUSION:** By electronically submitting a bid, the bidder certifies that it has not divulged, discussed or compared its bid with other bidders and has not colluded with any other bidder or parties to a bid whatsoever. No premiums, rebates or gratuities are permitted either with, prior to, or after any delivery of materials. Any such violation will result in the cancellation and/or return of materials (as applicable) and the removal of the bidder from all bid lists for the School Board of Palm Beach County, Florida.
3. **BIDS:** Bids will be received electronically through a secure site at BidSync.com until the date and time as indicated in this bid document. Bids will be opened publicly at the School District of Palm Beach County, Purchasing Department, 3300 Forest Hill Boulevard, Suite A-323, West Palm Beach, FL 33406-5813, and all bidders and general public are invited to attend. It is the sole responsibility of the bidder to ensure its bid reaches PeriscopeS2G on or before the closing date and hour as indicated in this bid document.
4. **CONTRACT:** The submission of your bid constitutes a firm offer by the bidder. Upon acceptance by the Board, the Purchasing Department will issue a notice of award and purchase order(s) for any supplies, equipment and/or services as a result of this bid. The Invitation to Bid and the corresponding purchase order(s) will constitute the complete agreement between the successful bidder and the Board. Unless otherwise stipulated in the bid documents or agreed to in writing by both parties, no other contract documents shall be issued or accepted.
5. **WITHDRAWAL:** When a bidder wishes to withdraw a bid, a written request shall be submitted to the Director of Purchasing and the request will be reviewed for consideration. In no case shall a bidder be granted a release from a bid more than one time in a two-year period. A bidder may not withdraw a bid after the final call for bids at a designated time of opening.
6. **DEFAULT:** In case of default by the bidder, the Board may procure the articles or services from other sources and hold the bidder responsible for any excess costs incurred thereby.
7. **FUNDING OUT/ CANCELLATION OR TERMINATION WITH OR WITHOUT CAUSE:**
  - A. The School Board reserves the right to terminate this Contract for convenience, at any time and for no reason, upon giving thirty (30) days prior written notice to Bidder. If the Contract is terminated for convenience as provided herein, the School Board shall be relieved of all obligations under the Contract. The School Board will only be required to pay to the Bidder that amount of the Contract actually satisfactorily performed to the date of termination. The Bidder shall not be entitled under any theory to payment for work not actually performed or lost profits.

- B. If the Bidder materially breaches its obligations under this Contract, the Superintendent will provide written notice of the deficiency by forwarding a notice citing the specific nature of the material breach. The Bidder shall have thirty (30) days to cure the breach. If the Bidder fails to cure the breach within the thirty (30) day period, the Superintendent shall issue a Notice of Termination for Default. Once the Superintendent has notified the Bidder that it has materially breached its Contract with the School Board, the Superintendent shall recommend to the School Board that it terminates the Contract for Cause. Notwithstanding the foregoing, the School Board reserves the right to terminate this Contract immediately with cause if necessary to protect the health, safety, and/or welfare of the School District's students or employees. The School Board shall review and consider the Superintendent's recommendation and determine whether the Bidder should be suspended from doing future work with the School Board, and if so, for what period of time. The School Board will consider the seriousness of the breach in making a determination as to whether a Bidder should be debarred, and if so, for what period of time. The School Board will consider the seriousness of the breach in making a determination as to whether a Bidder should be debarred, and if so, for what period of time. Should the School Board terminate for default in accordance with this provision, the School Board shall be entitled to recover procurement costs in addition to all other remedies under law and/or equity. For purposes of this Section, a "material breach" shall be defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the Contract.

The Bidder shall have the option to terminate the Contract upon written notice to the Director of Purchasing. Such notice must be received at least sixty (60) days prior to the effective date of termination. Early termination of the Contract by the Bidder may result in removal from bidders/responder list and may result in Bidder being debarred. The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

- C. Funding Out: Florida School Laws prohibit the Board or its designee from creating obligations on anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the contracts.

It is necessary that fiscal funding out provisions be included in all bids in which the terms are for periods of longer than one year.

Therefore, the following funding out provisions are an integral part of this Invitation to Bid and must be agreed to by all bidders:

The Board or its designee may, during the contract period, terminate or discontinue the items covered in this bid for lack of appropriated funds upon the same terms and conditions.

Such prior written notice will state:

1. That the lack of appropriated funds is the reason for termination, and
2. Board agrees not to replace the equipment or services being terminated with equipment and services with functions similar to those performed by the equipment covered in this bid from another vendor in the succeeding funding period.

**“This written notification will thereafter release the School Board of Palm Beach County, Florida of all further obligations in any way related to such equipment covered herein”.**

When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail/Federal Express/United Parcel Service or other traceable method, postage prepaid, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To School Board: Director of Purchasing Department  
The School District of Palm Beach County  
3300 Forest Hill Blvd., Suite A323  
West Palm Beach, FL 33406

With a copy to: Inspector General  
The School District of Palm Beach County  
3300 Forest Hill Blvd., Suite C306  
West Palm Beach, FL 33406

To Contractor:

8. **BIDDERS' RESPONSIBILITY:** Before submitting its bid, each bidder is required to carefully examine the Invitation to Bid delivery schedule, bid prices and extensions, insurance requirements, licensing requirements, bid closing date and time and to completely familiarize itself with all of the terms and conditions that are contained within the Invitation to Bid. Failure to do so on the part of the bidder will in no way relieve it of any of the obligations and responsibilities which are a part of the Invitation to Bid.

**The Board objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.**

Bidder warrants by virtue of bidding that prices shall remain firm for a period of ninety (90) days from the date of award by the Board or time stated in special conditions.

9. **AWARDS:** In the best interest of the District, the Purchasing Department reserves the right to reject any and all bids and to waive any minor irregularity in bids received; to accept any item or group of items unless qualified by bidder; to acquire additional quantities at prices quoted on the Invitation to Bid unless additional quantities are not acceptable, in which case the bid sheets must be noted "BID IS FOR SPECIFIED QUANTITY ONLY". All awards made as a result of this bid shall conform to applicable Florida Statutes.

10. **THE JESSICA LUNSFORD ACT:** All awarded bidders who are permitted access on school grounds when students are present, who may have direct contact with any student of the District, or who may have access to or control of school funds must be fingerprinted and background checked. Awarded bidder agrees to undergo a background check and fingerprinting if he/she is an individual who meets any of the above conditions and to require that all individuals in the organization who meet any of the conditions to submit to a Level 2 FDLE background check and FBI screening, including fingerprinting by the School District's Police Department, at the sole cost of Awarded bidder. The report of the results will be immediately transmitted to the School District's Police Department, which shall be the sole determiner of clearance. Awarded bidder shall not begin providing services contemplated by the Invitation to Bid until Awarded bidder receives notice of clearance by the School District and is issued School District badges. Compliance requiring all awarded bidders to register as a visitor before entering school property and proper display of School District badges will be strictly enforced. Neither the Board, nor its members, officers, employees, or agents, shall be liable under any legal theory for any kind of claim whatsoever for the rejection of Awarded bidder (or discontinuation of Awarded bidder's services) on the basis of these compliance obligations. Awarded bidder agrees that neither the Awarded bidder, nor any employee, agent or representative of the Awarded bidder who has been convicted or who is currently under investigation for a crime delineated in section 435.04, Florida Statutes, will be employed in the performance of the contract.
11. **DISQUALIFYING CRIMES:** The bidder certifies by submission of this bid that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by the State of Florida or Federal Government. Further, the bidder certifies that it will divulge information regarding any of these actions or proposed actions with other governmental agencies. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not provide any goods or services or transact business with The School District of Palm Beach County, Florida for a period of 36 months from the date of being placed on the convicted vendor list.
12. **ADVERTISING:** In submitting a bid, bidder agrees not to use the results therefrom as a part of any commercial advertising without prior approval of the District.
13. **LOBBYING:** Bidders are hereby advised that they are not to lobby with any district personnel or board members related to or involved with this bid until the administration's recommendation for award has been posted at BidSync.com, and at the Fulton Holland Educational Services Center, Purchasing Department area. All oral or written inquiries must be directed through the Purchasing Department.

Lobbying is defined as any action taken by an individual, firm, association, joint venture, partnership, syndicate, corporation, and all other groups who seek to influence the governmental decision of a board member or district personnel after advertisement and prior to the posted recommendation on the award of the Contract.

Any bidder or any individuals that lobby on behalf of bidder during the time specified will result in rejection / disqualification of said bid.

14. **GOVERNING LAW AND VENUE:** The Contract Documents shall be construed in accordance with the laws of the State of Florida, without regard to conflict of laws provisions. If any litigation shall result from the Contract Documents, the parties shall submit to the jurisdiction of the State Courts of the 15th Judicial Court and exclusive venue shall lie in Palm Beach County, Florida. BY ENTERING INTO THIS AGREEMENT, VENDOR AND SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.
15. **TAXES:** The School District of Palm Beach County, is exempt from any taxes imposed by the State and/or Federal Government. State Sales Tax Exemption Certificate No. 85-8013897253C-1 and Federal Excise Tax No. 59-600783 appears on each purchase order. This exemption does not apply to purchase of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvements of School District-owned real property as defined in Chapter 192, Florida Statutes.
16. **ASSIGNMENT:** The successful bidder shall not sub-contract, assign, transfer, convey, sublet, or otherwise dispose of the contract, or of any or all of its rights, title, or interest therein, or its power to execute such contract to any person, firm, or corporation without prior written consent of the Board.
17. **TERMINATION:** This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may be terminated for cause for reasons including, but not limited to, Vendor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if the Vendor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created to Section 215.473, Florida Statutes, or if the Vendor provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

This Agreement may also be terminated for convenience by the School District of Palm Beach County, Florida

In the event this Agreement is terminated for convenience, Vendor shall be paid for any goods or services properly performed under the Agreement through the termination date specified in the written notice of termination. Vendor acknowledges and agrees that it has received good, valuable and sufficient consideration from The School Board of Palm Beach County, Florida, the receipt and adequacy of which are, hereby acknowledged by Vendor, for The School Board of Palm Beach County, Florida's right to terminate this agreement for convenience.



18. **SUBCONTRACTING:** If an awarded bidder intends to subcontract any portion of the Contract for any reason, the name and address of the subcontracting firm must be submitted along with the bidder's bid or prior to use for approval. No subcontracting will take place prior to bid-awarded bidder furnishing this information and receiving written approval from the District.

The Purchasing Department reserves the right to reject a subcontractor who previously failed in the proper performance of a contract or failed to deliver on-time contracts of a similar nature, or who, the District has determined in its sole discretion, is not in the position to perform the contract due to the subcontractor's size, experience, or resources. The District reserves the right to inspect all facilities of any subcontractor in order to make determination as to the foregoing. The subcontractor will be equally responsible for meeting all requirements specified in the Invitation to Bid.

19. **DEBARMENT:** The Board shall have the authority to debar a person / corporation for cause for consideration or award of future contracts. The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

20. **REQUIREMENTS FOR PERSONNEL ENTERING DISTRICT PROPERTY:** Possession of firearms will not be tolerated in or near school buildings; nor will violations of Federal and State laws and any applicable Board policy regarding Drug Free Workplace be tolerated. Violations will be subject to the immediate termination provision heretofore stated in Paragraph 16, Legal Requirements.

"Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.

No person who has a firearm in their vehicle may park their vehicle on District property. Furthermore, no person may possess or bring a firearm on District property.

If any employee of an independent contractor or sub-contractor is found to have brought a firearm on District property, said employee must be terminated from the Board project by the independent contractor or sub-contractor. If the sub-contractor fails to terminate said employee, the sub-contractor's agreement with the independent contractor for the Board project shall be terminated. If the independent contractor fails to terminate said employee, the independent contractor's agreement with the Board shall be terminated.

Bidders are advised that they are responsible to ensure that no employee, agent or representative of their company who has been convicted or who is currently under investigation for a crime against children in accordance with section 435.04, Florida Statutes, will enter onto any school site.

21. **PRODUCT RECALL:** In the event the awarded bidder receives notice that a product delivered by the awarded bidder to the District has been recalled, seized or embargoed, and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption by a packer, processor, subcontractor, retailer, manufacturer, or by any State or Federal regulatory agency, the awarded bidder shall notify the District's Bid Purchasing Agent within two business days of receiving such notice. The District's acceptance or failure to reject the affected product as non-conforming shall not in any way impact, negate, or diminish the awarded bidder's duty to notify the District's Purchasing Agent that the affected product has been recalled, seized or embargoed, and/or has been determined to be misbranded, adulterated, or found to be unfit for human consumption. The form and content of such notice to the District shall include the name and description of the affected product; the approximate date the affected product was delivered to the District; the bid number; and relevant information relating to the proper handling of the affected product and/or proper disposition of the affected product by the District, if necessary to protect the health, welfare, and safety of District students or employees; and any health hazards known to the awarded bidder which may be caused or created by the affected product. The awarded bidder shall, at the option of the Purchasing Department and/or Purchasing Agent, either reimburse the purchase price or provide an equivalent replacement product at no additional cost to the District. Unless it was absolutely necessary for the District to dispose of the affected product, the awarded bidder shall be responsible for removal and/or replacement of the affected product within a reasonable time, as determined by the District, without causing significant inconvenience to the District.

**At the option of the District, the awarded vendor may be required to reimburse storage and/or handling fees to be calculated from time of delivery and acceptance to actual removal or disposal. The awarded vendor will bear all costs associated with the removal and proper disposal of the affected product. The failure to reimburse the purchase price and storage and/or handling fees or to remove and/or replace the affected product with an equivalent replacement within a reasonable time without significant inconvenience to the District will be considered a default.**

22. **USE OF OTHER CONTRACTS:** The District reserves the right to utilize any other District contract, any State of Florida Contract, any contract awarded by any other city or county governmental agencies, any other school board, any other community college/state university system cooperative bid agreement, or to directly negotiate/purchase per School Board policy and/or State Board Rule 6A-1.012(6) in lieu of any offer received or award made as a result of this bid, if it is in the best interest to do so. The District also reserves the right to separately bid any single order or to purchase any item on this bid if it is in its best interest to do so.

23. **JOINT-BIDDING, COOPERATIVE PURCHASING AGREEMENT:** All bidders submitting a response to this Invitation to Bid agree that such response also constitutes a bid to all State Agencies and Political Subdivisions of the State of Florida under the same conditions, for the same prices and for the same effective period as this bid, should the bidder(s) deem it in the best interest of their business to do so.

This agreement in no way restricts or interferes with any state agency or political subdivision of the State of Florida to rebid any or all items.

24. **FAILURE TO DELIVER:** Failure to deliver as specified and at bid price will authorize the Board to purchase these items or services from other sources and hold the bidder responsible for any excess costs incurred thereby. Further, the Purchasing Department may recommend to the School Board that the vendor failing to deliver as specified be removed as a future bidder on all bids for a period of up to three years.

25. **ANTI-DISCRIMINATION:** The Bidder certifies that they are in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375 relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. The provisions of the ADA Act of 1990 pertaining to employment shall also be applicable.

The Bidder shall not discriminate on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring, or treatment of sub-contractors, vendors, suppliers, or commercial customers. The Bidder shall provide equal opportunity for sub-contractors to participate in all of its public sector and private sector sub-contracting opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace, such as those specified in the Palm Beach County School Board Policy 6.143. The Bidder understands and agrees that violation of this clause is a material breach of the contract and may result in contract determination, debarment, or other sanctions.

26. **COMPLAINT NOTIFICATIONS:** As part of its bid, Bidder shall provide to the District a list of all instances within the past ten (10) years where a complaint was filed against Bidder in a legal or administrative proceeding, regardless of whether the complaint has been resolved or is currently pending, alleging that Bidder discriminated against an employee, independent contractor, subcontractor, vendor, supplier, or commercial customer on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability, in violation of applicable Federal and/or Florida law.

The Bidder must provide a description of each of the complaint(s) and: (i) the terms of resolution of all adjudicated/settled complaints, including any remedial action taken by Bidder; and (ii) the status of, and Bidder's response to, all pending complaints.

**The School District will consider a Bidder's complaint history information in its review and determination of responsibility. The failure of a Bidder to comply with the requirements in this Section will result in Bidder being deemed non-responsive by the Director of Purchasing. If no complaints have been filed within 10 years, please so state on Company Letterhead and upload with your response as proof.**

27. **CONTRACT DISCLOSURE:** Upon the District's request, and upon the filing of a complaint against awarded bidder pursuant to Palm Beach County School Board Policy 6.144, awarded bidder agrees to provide the District, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that bidder has used in the past five years on any of its contracts that were undertaken within the District relevant geographic market as defined in Palm Beach County School Board Policy 6.143, including the total dollar amount paid by bidder for each subcontract or supply contract. Awarded bidder agrees to fully cooperate in any investigation conducted by the District pursuant to this Policy. Bidder understands and agrees that violation of this clause is a material breach of the Contract and may result in contract termination, debarment, and other sanctions.

28. **INDEMNIFICATION AND HOLD HARMLESS:** Bidder shall, in addition to any other obligation to indemnify The School Board of Palm Beach County, Florida and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School Board, its agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;

- A. bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or

alleged negligent act or omission of the vendor, Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or

- B. violation of law, statute, ordinance, governmental administration order, rule or regulation by Contractor in the performance of the work; or
- C. liens, claims or actions made by the vendor or any subcontractor or other party performing the work; or
- D. claims by third parties (including, but not limited to, Contractor's employees or subcontractors) based upon an alleged breach by Contractor of any agreement with such third party (e.g., an employment agreement or licensing agreement), or allegation that Contractor's provision of services to the School Board pursuant to the Contract infringes upon or misappropriates a patent, copyright, trademark, trade secret, or other proprietary right of the third party.

The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the vendor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

Bidder recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Contract.

29. **BRAND NAMES:** Use of a brand name, trade name, make, model, manufacturer, or vendor catalog number in specifications is for the purpose of establishing a grade or quality of material only. It is not the District's intent to rule out other competition, therefore, the phrase OR ACCEPTABLE EQUAL is added. However, if a product other than that specified is bid, it is the vendor's responsibility to submit with the bid brochures, samples and/or detailed specifications on items bid. The District shall be the sole judge concerning the merits of bid submitted.

Bidder shall indicate on the bid form the manufacturer's name and number if bidding other than the specified brands, and shall indicate ANY deviation from the specifications as listed. Other than specified items offered requires complete descriptive technical literature marked to indicate detail(s) conformance with specific COPYRIGHTS OR PATENT RIGHTS: Bidder warrants that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of this bid. Seller agrees to hold the purchaser harmless from any and all liability, loss or expense occasioned by any such violation.

30. **MANUFACTURER'S CERTIFICATION:** The District reserves the right to request from bidders separate manufacturer certification of all statements made in the response to Invitation to Bid.
31. **OCCUPATIONAL HEALTH AND SAFETY:** Bidder, as a result of award of the bid, delivering any toxic substances item as defined in Code of Federal Regulation Chapter 29, shall furnish to the Purchasing Department, a Material Safety Data Sheet (MSDS). The material safety data sheet shall be provided with initial shipment and shall be revised on a timely basis as appropriate.

The MSDS must include the following information:

- A. The chemical name and the common name of the toxic substance.
- B. The hazards or other risks in the use of the toxic substance, including:
  - (1) The potential for fire, explosion, corrosively and reactivity;
  - (2) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
  - (3) The primary routes of entry and symptoms of overexposure.
- C. The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances including appropriate emergency treatment in case of overexposure.
- D. The emergency procedure for spills, fire, disposal and first aid.
- E. A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.
- F. The year and month, if available, that the information was compiled and the name, address and emergency telephone number of the manufacturer responsible for preparing the information.

Any questions regarding this requirement should be directed to: Department of Labor and Employment Security, Bureau of Industrial Safety and Health, Toxic Waste Information Center, 2551 Executive Center Circle West, Tallahassee, FL 32301-5014, Telephone 1-800-367-4378.

- 32. **OSHA:** The bidder warrants that the product/services supplied to the School District of Palm Beach County shall conform in all respects to the standards set forth in the Occupational Safety and Health Act 1970, as amended, and the failure to comply with this condition will be considered as a breach of contract.
- 33. **LEGAL REQUIREMENTS:** Federal, State, County and local laws, ordinances, rules and regulations as well as School Board policies that in any manner affect the items covered by this Purchase Order herein apply and must be adhered to by the vendor. Specifically, bidder(s) is to adhere to School Board Policies 3.12 and 3.13, pursuant to the following, with respect to any criminal arrests and convictions, and is on notice thereto that any employees involved in any Chapter [435](#), Florida Statutes offenses are precluded from continuing to work on the project and must be replaced. Failure to comply may result in the immediate termination of the awarded bidder's contract at the sole discretion of the District. Lack of knowledge by the bidder will in no way be a cause for relief from responsibility.

In addition, if applicable, vendor compliance is required for the following: Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, as amended.

- 34. **GOVERNMENT FUNDING:** Funding for this Agreement and the individual POs may be provided in whole or in part by one or more U.S. Government funding agencies. As a result, Vendor shall comply with the applicable laws and regulations listed below, the entire terms and conditions of which are fully incorporated herein:

Rights to Inventions Made Under a Contract or Agreement  
Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)  
Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)  
Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)  
Byrd Anti-Lobbying Amendments (31 U.S.C. 1352)  
Energy Policy and Conservation Act (42 U.S.C. 6201)  
Recovered Materials - Must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and Environmental Protection Agency (EPA) at 40 CFR part 247.

35. **PRICES QUOTED:** Deduct trade discounts and quote firm net prices. Give both unit price and extend total. Prices must be stated in units of quantity specified in bid specifications. In case of discrepancy in computing the amount of the bid, the UNIT PRICE quoted will govern. All prices FOB destination, freight prepaid (unless otherwise stated in special conditions). Discounts for prompt payment: Award, if made, will be in accordance with terms and conditions stated herein. Each item must be bid separately and no attempt is to be made to tie any item or items in with any other item or items. Cash or quantity discounts offered will not be a consideration in determination of award of bid(s). If a bidder offers a discount, it is understood that a minimum of 30 days will be required for payment, and the discount time will be computed from the date of satisfactory delivery at place of acceptance and receipt of correct invoice at the office specified.
36. **CONDITIONS AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this bid shall be new (current production model at the time of the bid). All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
37. **UNDERWRITERS' LABORATORIES:** Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall be UL listed or re-examination testing where such has been established by UL for the items offered and furnished.
38. **DELIVERY:** Unless actual date of delivery is specified, show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award (See Special Conditions). Delivery shall be within the normal working hours of the user, Monday through Friday, excluding holidays unless otherwise specified on the purchase order.
39. **QUALITY:** The items bid must be new and equal to or exceed specifications. The manufacturer's standard guarantee shall apply. During the guarantee period the successful bidder must repair and/or replace the unit without cost to the District with the understanding that all replacements shall carry the same guarantee as the original equipment. The successful bidder shall make any such repairs and/or replacements immediately upon receiving notice from the District.
40. **SAMPLES, DEMONSTRATIONS AND TESTING:**
  - A. Samples of items, when required, must be furnished free of expense and if not destroyed, will upon request, be returned at the bidder's expense. Request for the return of the samples must be indicated on his or her bid. Each individual sample must be labeled with bidder's name, bid number and item number. Failure of bidder to either deliver required samples or to clearly identify samples as indicated may be reason for rejection of the bid. Unless otherwise indicated, samples should be delivered to the Purchasing Department, School District of Palm Beach County.

- B. When required, the District may request full demonstrations of any units bid prior to the award of any contract.
- C. Items may be tested for compliance with specifications under the direction of the Florida Department of Agriculture and Consumer Services, or an independent testing laboratory. Bidders shall assume full responsibility for payment for any and all charges for testing and analysis of any materials offered or delivered that do not conform to the minimum required specifications. Bidder's disposition of all items delivered in this category must be at no expense to the District.
41. **INSPECTION AND ACCEPTANCE OF GOODS:** The awarded bidder shall be responsible for delivery of items in good condition at point destination. Bidder shall file with the carrier all claims for breakage, imperfections, and other losses, which will be deducted from invoices. The District will note, for the benefit of successful bidder, when packages are not received in good condition. In the event the material and/or services supplied to the District is found to be defective or does not conform to specifications, the District reserves the right to cancel the order upon written notice to the seller and return the product **to seller at the seller's expense.**
42. **LIABILITY, INSURANCE, LICENSES, AND PERMITS:** Where bidders are required to enter or go onto District property to deliver materials or perform work or services as a result of bid award, the bidder will assume the full duty obligation and expense of obtaining all necessary licenses, permits and insurance. Bidder shall be liable for any damage or loss to the District incurred by bidder, bidder's employees, licensees of the bidder or agent or any person the bidder has designated in completion of his or her contract as a result of the bid; further bidder shall be liable for all activities of bidder occasioned by performance of the Contract. Notwithstanding the foregoing, the liability herein shall be limited to ten million dollars (\$10,000,000) and the bidder recognizes that and covenants that it has received consideration for indemnification provided herein.
43. **SPECIFICATIONS:** Any omissions of detail specifications stated herein that would render the materials/service from use as specified will not relieve the bidder from responsibility.
44. **BID BONDS AND PERFORMANCE BONDS:** Bid bonds, when required, shall be submitted with the bid in the amount specified in Special Conditions. Bid bonds will be returned to unsuccessful bidders. After award of contract, the District will notify the successful bidder to submit a performance bond in the amount specified in Special Conditions. Upon receipt of the performance bond, the bid bond will be returned to the successful bidder.
45. **QUANTITIES:** The quantities shown are estimates of the quantity of items expected to be purchased during the term of award. Actual quantities purchased may often exceed or be less than quantities shown. Orders will be placed as needed by individual locations during the contract period. The bidder agrees that the price(s) offered shall be maintained irrespective of the quantity actually purchased.
46. **ORDERING PROCEDURE:** Specific Items: After approval of Contract award by the Board, a letter of contract acceptance will be issued to each successful bidder acknowledging which goods or services have been awarded. Separate purchase orders will be issued based on specific items at firm, fixed prices listed in the bid.

Percent Discount Catalog Bids: Separate purchase orders will be issued with pricing based on catalog and/or price lists.

**No item may be shipped or service performed that is not listed on the purchase order.**

47. **POSTING OF BID AND SPECIFICATIONS:** Invitation to Bid with specifications will be posted for review by interested parties at BidSync.com on the date of bid electronic mailing and will remain posted for a period of 72 hours. Failure to file a specification protest within the time prescribed in section 120.57(3), Florida Statutes, will constitute a waiver of proceedings under Chapter 120, Florida Statutes, and applicable Board rules, regulations and policies.
48. **BID PROTEST:** If a bidder wishes to protest a bid, they must do so in strict accordance with the procedures outlined in section 120.57(3), Florida Statutes, the Invitation to Bid, and School Board Policy 6.14.

Any person who files an action protesting bid specifications, a decision or intended decision pertaining to this bid pursuant to section 120.57(3)(b), Florida Statutes shall post with the Purchasing Department, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida payable to The School Board of Palm Beach County, Florida in an amount equal to one percent (1%) of the total estimated contract value, but not less than \$500.00 nor more than \$5,000.00. Bond shall be conditioned upon the payment of all costs that may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check or money order will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the District prevails, it shall recover all costs and charges included in the final order of judgment, including charges by the Division of Administrative Hearings. Upon payment of such costs and charges by the protester, the protest security shall be returned.

49. **TIE BID:** According to FS 287.087, in the event of a tie, preference shall be awarded to vendors with Drug Free Work Place programs. Whenever two or more responses are equal with regard to price, quality, and service, a bid received from a business that certifies that it has implemented a Drug Free Work Place program shall be given preference in the award process. In the event both vendors have a Drug Free Work Place program, preference shall be awarded to the vendor who is certified as an SBE certified vendor with the School District. If both vendors meet all three requirements, according to standard purchasing practice, the tie will be resolved by a coin toss. The vendor whose company's name comes first in the alphabet will be assigned "heads" and the second vendor will be assigned "tails". The coin will be tossed a minimum of three times. The vendor whose side of the coin selected wins two out of three times will be the named as the first ranked proposer and recommended for award. In the event of a 3-way (or more) tie, the vendor's company name will be chosen in a drawing.
50. **INTERPRETATIONS:** Neither PeriscopeS2G nor any employee of the District is authorized to interpret any portion of the Invitation to Bid or give information as to the requirements of the bid in addition to that contained in the written bid document. Interpretations of the bid or additional information as to its requirements, where necessary, shall be communicated to bidders by written addendum.
51. **SPECIAL CONDITIONS:** To the extent that any conflict exists between the provisions of the General Conditions, the Special Conditions, and bidder's proposal, the order of precedence to resolve a conflict shall apply: 1) the Special Conditions, 2) the General Conditions, and all exhibits thereto, including any addenda, 3) Contractor's response to the ITB, including any appendix and exhibits.
52. **DISPUTE RESOLUTION:** As a condition precedent to a party bringing any suit for breach of contract related to this bid, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through



negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The existence of a dispute shall not excuse the parties from performance pursuant to this bid. This remedy is supplemental to any other remedies available at law.

53. **WAIVER PROVISION:** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this bid and, therefore, is a material term hereof. Any party's failure to enforce any provision of this bid shall not be deemed a waiver of such provision or modification of this bid. A waiver of any breach of a provision of this bid shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this bid.
54. **Trade Secrets: Upon receipt, all submittals become Public Records and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes.**

By submitting its bid, Bidder understands and waives any claim of confidentiality, including trade secrets, to its pricing and/or cost of service related submittals.

Any Bidder that intends to assert that certain materials are exempt from public disclosure under Chapter 119, Florida Statutes must submit the documents in a separate bound document or file labeled "Name of Firm, Attachment to Proposal Package. Bid# - Confidential Matter." In addition, the firm must identify the specific statute that authorizes the exemption from Chapter 119, Florida Statutes. CD or DVDs included in a submittal must also comply with this requirement and the firm must separate any CD or DVDs claimed to be confidential.

**Any claim of confidentiality on materials that the Proposer asserts to be exempt and placed elsewhere in the submittal will be considered waived by the Proposer upon submission, upon opening.**

The School District will provide Proposer with prompt notice by phone and/or email of any request for public records in which that Proposer has claimed an exemption information being a Trade Secret so that the Proposer may see, at its sole expense, an appropriate protective order from a court of competent jurisdiction. In the event the Proposer elects not to seek an appropriate protective order or is unable to obtain such an order within no later than ten (10) business days following receipt of notice, the Proposer agrees and consents that the School District shall be permitted to respond to the public records request with the response not being deemed a breach by the School Board of its obligations under the Agreement or the Florida Statutes governing Trade Secret exemptions. The Proposer would then be waiving any rights relating to Trade Secrets under Florida Law. Proposer agrees to defend, indemnify, and hold harmless the School District and School Board and the School District's officers, employees, School Board members, and agents, against any loss, damages, judgements, attorneys' fees or cost incurred by School Board as a result of the School District's providing the records in response to the public records request or withholding them based on Proposer's assertion of the Trade Secret exemption.

**The indemnification provisions survive the School Board's award of the contract and remain as long as the trade secret data is in the possession of the School Board.**

## **21C-26T - PLUMBING SERVICES – ATTACHMENT FORM**

### **PLUMBING SERVICES**

#### **QUESTIONNAIRE**

The following questionnaire shall be answered by the Bidder for use in evaluating the bid by determining the adequate qualifications. The School District of Palm Beach County shall weigh (a) experience, qualifications, and reputation of each Bidder and (b) the quality of products and services proposed by each bidder.		
<b>1. FIRM NAME:</b> _____		
Address: _____		
City: _____	State: ____	Zip: _____
Phone: _____	Fax: _____	
Contact for Inquiries: _____		
State License # _____		
<b>2. INSURANCE:</b>		
Insurance Company: _____		
Worker's Compensation Modifier for the past three (3) years _____		
<b>3. EXPERIENCE:</b>		
Years in business under present name:	_____	
Years performing work specialty:	_____	
Value of work now under contract:	\$ _____	
Value of work in place last year:	\$ _____	
Average annual value of work completed (last three [3] years)	\$ _____	
Trades usually self-performed:	_____	
Percentage (%) of work performed by own forces:	_____	
Licenses currently valid in force:	_____	
<b>Has firm:</b>		
Failed to complete a contract?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Been involved in bankruptcy or reorganization?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Failed to honor any warranty claims?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Pending judgment claims or suits against firm?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
If answer to preceding is yes, submit details:		
TOTAL NUMBER OF PERMANENT STAFF EMPLOYED INCLUDES THE FOLLOWING:		
Management _____	Foremen _____	Project Managers _____
Estimators _____	Plumbers _____	Apprentice/Helper _____
Project Engineers _____	Other _____	

IN-HOUSE ENGINEERING OR FABRICATION CAPABILITY:		
Fabrication floor area:	_____SF	
Approximate value of equipment owned by firm:	\$ _____	
(List of major equipment)		
<b>4. SAFETY:</b>		
<b>Have you had any OSHA fines within the last three (3) years?</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<b>Have you had jobsite fatalities within the last five (5) years?</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
If you have answered <b>YES</b> to either of the above questions, you <b>MUST</b> submit on a separate sheet the details describing the circumstances surrounding each incident.		

## 21C-26T Bid Summary

Vendor:

Plumber: Regular Hours (Mon-Fri, 7am to 5pm)	\$0.00 hr
Plumber: Alternative Hours (5:01pm through 6:59am, Mon-Fri; all hours Sat & Sun)	\$0.00 hr
Apprentice/Helper: Regular Hours (Mon-Fri, 7am to 5pm)	\$0.00 hr
Apprentice/Helper: Alternative Hours (5:01pm through 6:59am, Mon-Fri; all hours Sat & Sun)	\$0.00 hr
Materials/Equipment or Subcontracted Services - CP% (may not exceed 20%)	0%
Backhoe (operator included)	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Vacuun Truck (operator included)	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Jetter Machine (operator included)	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Bobcat (operator included)	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Dump Truck (operator included)	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Sewer Camera, operator, recording given to customer via eamil	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo
Smoke Testing	\$0.00 hr \$0.00 dy \$0.00 wk \$0.00 mo

21C-26T ADDITIONAL INFORMATION				
VENDOR NAME:	<div></div>			
This Additional Information will not be used in the evaluation of this Bid. Vendors shall identify any additional costs not identified that are related to the scope of services but not identified on BidSync. These rates will apply while contract is in effect and used when completing the quote sheet when pricing is requested.				
ITEM NO.	DESCRIPTION	Rate		Unit of Measure
1		\$		
2		\$		
3		\$		
4		\$		
5		\$		
6		\$		
7		\$		
8		\$		
9		\$		
10		\$		
11		\$		
12		\$		
13		\$		
14		\$		
15		\$		
16		\$		
17		\$		
18		\$		
19		\$		
20		\$		
21		\$		
22		\$		
23		\$		
24		\$		
25		\$		

## VILLAGE OF NORTH PALM BEACH COUNTRY CLUB – GOLF OPERATIONS

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Beth Davis, Country Club General Manager  
Allan Bowman, Head Golf Professional

DATE: September 28, 2023

SUBJECT: **RESOLUTION – Approving a Proposal from Marsh Management Systems, LLC for Pond Bank Stabilization at the Golf Course in an amount not to exceed \$50,000, authorizing execution of a Contract, and waiving the Village’s purchasing policies and procedures.**

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Village staff is requesting Council consideration and approval of a Resolution accepting a Proposal from Marsh Management Systems, LLC for the FY 2024 pond bank stabilization project at the North Palm Beach Country Club Golf Course a cost not to exceed \$50,000.00 and authorizing execution of a Contract. Approval of this Contract requires a waiver of the Village’s purchasing policies and procedures.

### **Background / Project Scope:**

Repair and Stabilization is needed on the golf course to protect the pond banks/fairways from heavy erosion due to sandy soil. The total amount of work to complete these two areas is 600 linear feet. This is part of the process that will assist in maintaining the bank edges and will culminate with plantings in and around the ponds.

### **History:**

As a golf course that is built on primary sand, the edges of the ponds are extremely soft under foot. Coupled with the Latitude 36 grass, some stabilization is needed. Previously, Golf Course Superintendent Corey Adams and Golf Professional Allan Bowman toured multiple courses and spoke with multiple vendors about the product selections/options available. This resulted in “select” stabilization features installed at select areas on North Palm Beach Golf Course. This project will be a continuation (same materials and vendors) of this process.

Additionally, Chris Cochran and Jack Nicklaus previously toured the property. They both have been impressed with the quality of the work performed and the attention to detail. Marsh Management, LLC (as a subcontractor to Brightview Golf Maintenance) has performed all of the pond stabilization at the North Palm Beach Country Club Golf Course during the last 3 years.

### **Purchasing:**

Staff has been able to work directly with Marsh Management, LLC (subcontractor for Brightview Golf Maintenance), resulting in a 20% - 25% savings to the Village of North Palm Beach; however, this will require a waiver of the Village’s purchasing policies and procedures.

**Account Information:**

<b>Fund</b>	<b>Department</b>	<b>Account Number</b>	<b>Account Description</b>	<b>Amount</b>
Country Club	Golf Course Maintenance	L8045-66210	Construction & Major Renovation	\$50,000

The attached Resolution and Contract have been prepared and/or reviewed for legal sufficiency by the Village Attorney.

**Recommendation:**

Village Staff requests Council consideration and approval of the attached Resolution approving a Proposal from Marsh Management Systems, LLC for pond stabilization services at the Country Club Golf Course at a cost of \$50,000, with funds expended from Account No. L8045-66210 (Golf Course Maintenance – Construction & Major Renovation), authorizing the Mayor and Village Clerk to execute a Contract for such services, and all waiving the purchasing policies and procedures.

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING A PROPOSAL FROM MARSH MANAGEMENT SYSTEMS, LLC FOR POND STABILIZATION AT THE NORTH PALM BEACH COUNTRY CLUB GOLF COURSE AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A CONTRACT FOR SUCH SERVICES; WAIVING THE VILLAGE'S PURCHASING POLICES AND PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mash Management Systems, LLC has provided a proposal for pond stabilization work (including littoral plantings) at the North Palm Beach Country Club Golf Course, and Village Staff recommended accepting the proposal submitted by Marsh Management Systems; and

WHEREAS, the Village Council determines that adoption of this Resolution is in the best interests of the residents of the Village of North Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF NORTH PALM BEACH, FLORIDA, as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby approves and accepts the proposal from Marsh Management Systems, LLC for pond stabilization work at the North Palm Beach Country Club at a total cost of \$50,000.00, with funds expended from Account No. L8045-66210 (Golf Course Maintenance – Construction and Major Renovation). The Village Council further authorizes the Mayor and Village Clerk to execute a Contract for such services, a copy of which is attached hereto and incorporated herein by reference.

Section 3. In approving this Contract, the Village Council hereby waives all conflicting provisions of the Village's purchasing policies and procedures.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK



## **CONTRACT**

THIS CONTRACT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the VILLAGE OF NORTH PALM BEACH, municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as VILLAGE, and MARSH MANAGEMENT SYSTEMS, LLC, a Florida limited liability company, hereinafter referred to as CONTRACTOR.

WHEREAS, the VILLAGE is need of services and materials for pond stabilization work at the North Palm Beach Country Club Golf Course; and

WHEREAS, CONTRACTOR has previously performed work at the Golf Course, and CONTRACTOR has provided the VILLAGE with a cost proposal to perform the work; and

WHEREAS, the VILLAGE wishes to retain CONTRACTOR to perform the work outlined in its proposal, pursuant to the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the mutual representations and obligations herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **ARTICLE 1. SERVICES OF CONTRACTOR.**

CONTRACTOR shall perform the services set forth in in its Project Quote/Proposal dated September 5, 2023, attached hereto as Exhibit "A" and incorporated herein by reference ("Work"). In the event of a conflict between the terms of the Project Quote/Proposal and this Contract, the terms of this Contract shall control. CONTRACTOR shall perform the Work to that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its vocation practicing in the same or similar locality at the time such services are performed.

### **ARTICLE 2. TERM OF CONTRACT.**

The term of this Contract shall commence upon the VILLAGE's issuance of a Notice to Proceed and shall remain in effect until CONTRACTOR completes all services within the scope of this Contract to the satisfaction of the VILLAGE, unless otherwise terminated in accordance with Article 8. CONTRACTOR shall complete the Work within ninety (90) calendar days after the issuance of the Notice to Proceed.

### **ARTICLE 3. COMPENSATION AND METHOD OF PAYMENT.**

A. The VILLAGE agrees to compensate CONTRACTOR in accordance with CONTRACTOR's Proposals in an amount not to exceed Fifty Thousand Dollars and No Cents (\$50,000.00).

B. CONTRACTOR shall invoice the VILLAGE on a monthly basis based on the percentage of work performed. Invoices received from CONTRACTOR pursuant to this Contract will be reviewed and approved by the VILLAGE's representative, indicating that the Work has been provided and rendered in conformity with the Contract and then will be sent to the Finance Department for payment. CONTRACTOR will invoice the VILLAGE in advance for each payment period. Invoices will normally be paid within thirty (30) days following the VILLAGE representative's approval.

- C. Work undertaken or expenses incurred that exceeds an amount set forth in the Proposals without prior written authorization from the VILLAGE shall be the liability of the CONTRACTOR.
- D. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Contract.
- E. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on CONTRACTOR's final/last billing to the VILLAGE. This certifies that all Work has been properly performed and all charges have been invoiced to the VILLAGE. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by CONTRACTOR. The VILLAGE will not be liable for any invoice from CONTRACTOR submitted thirty (30) days after the provision of the Work.

#### **ARTICLE 4. INSURANCE.**

- A. Prior to execution of this Contract by the VILLAGE, CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Article and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the VILLAGE'S representative. Compliance with the foregoing requirements shall not relieve CONTRACTOR of its liability and obligations under this Contract.
- B. CONTRACTOR shall maintain, during the life of this Contract, Commercial General Liability insurance in the amount of \$1,000,000.00 in aggregate to protect CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR.
- C. CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by CONTRACTOR or by anyone directly or indirectly employed by CONTRACTOR.
- D. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall, in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the VILLAGE.
- E. All insurance, other than Worker's Compensation, to be maintained by CONTRACTOR shall specifically include the VILLAGE OF NORTH PALM BEACH as an "**Additional Insured**".

## **ARTICLE 5. PERSONNEL.**

- A. CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the Work under this Contract. Such personnel shall not be employees of or have any contractual relationship with the VILLAGE.
- B. All of the Work required hereunder shall be performed by CONTRACTOR or under its supervision, and all personnel engaged in performing the Work (including subcontractors) shall be fully qualified and, if required, authorized or permitted under state and local law to perform such Work.
- C. All of CONTRACTOR's personnel (and all subcontractors) while on VILLAGE premises, will comply with all applicable requirements governing conduct, safety, and security, provided, however, that CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

## **ARTICLE 6. INDEMNIFICATION.**

- A. To the fullest extent permitted by applicable laws and regulations, CONTRACTOR shall indemnify and save harmless and defend the VILLAGE, its officials, agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action arising out of or in any way related to the services furnished by CONTRACTOR pursuant to this Contract, including, but not limited to, those caused by or arising out of any act, omission, negligence or default of the CONTRACTOR and/or its subcontractors, agents, servants or employees.
- B. CONTRACTOR shall not be required to indemnify the VILLAGE, its officials, agents, servants and employees when the occurrence results solely from the wrongful acts or omissions of the VILLAGE, its officials, agents, servants and employees. The terms of this Section shall survive completion of all services, obligations and duties provided for in this Contract as well as the termination of this Agreement for any reason.
- C. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the VILLAGE or CONTRACTOR, nor shall this Contract be construed a waiver of sovereign immunity beyond the waiver provided in § 768.28, Florida Statutes.

## **ARTICLE 7. INDEPENDENT CONTRACTOR.**

CONTRACTOR is, and shall be, in the performance of services pursuant to this Contract, an independent contractor and not an employee, agent or servant of the VILLAGE. All persons engaged in any services performed pursuant to this Contract shall at all times, and in all places, be subject to CONTRACTOR's sole discretion, supervision and control, and CONTRACTOR shall exercise sole control over the means and manner in which its employees, consultants and subcontractors perform such services.

## **ARTICLE 8. TERMINATION.**

This Contract may be terminated by CONTRACTOR upon ten (10) days' prior written notice to the VILLAGE's representative in the event of substantial failure by the VILLAGE to perform in accordance with the terms of this Contract through no fault of CONTRACTOR. It may also be terminated, in whole or in part, by the VILLAGE, with or without cause, upon ten (10) days' written notice to the CONTRACTOR. Unless CONTRACTOR is in breach of this Contract, CONTRACTOR shall be paid

for Work rendered to the VILLAGE's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the VILLAGE, CONTRACTOR shall:

- A. Stop work on the date and to the extent specified;
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work;
- C. Transfer all work in progress, completed work, and other materials related to the terminated work to the VILLAGE; and
- D. Continue and complete all parts of the work that have not been terminated.

#### **ARTICLE 9. SUCCESSORS AND ASSIGNS.**

The VILLAGE and CONTRACTOR each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the VILLAGE nor CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the VILLAGE which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the VILLAGE and CONTRACTOR.

#### **ARTICLE 10. ACCESS AND AUDITS.**

CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Work for at least three (3) years after completion of this Contract. The VILLAGE shall have access to such books, records, and documents as required in this ARTICLE for the purpose of inspection or audit during normal business hours, at CONTRACTOR's place of business. In no circumstances will CONTRACTOR be required to disclose any confidential or proprietary information regarding its products and service costs.

#### **ARTICLE 11. ENFORCEMENT COSTS.**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

#### **ARTICLE 12. PROTECTION OF WORK AND PROPERTY.**

A. CONTRACTOR shall continuously maintain adequate protection of all Work from damage, and shall protect the VILLAGE's property and adjacent private and public property from injury or loss arising in connection with the Contract. Except for any such damage, injury, or loss, except that which may be directly due to errors caused by the VILLAGE or employees of the VILLAGE, the CONTRACTOR shall provide any necessary materials to maintain such protection.

B. CONTRACTOR will also take every necessary precaution to ensure the safety of the VILLAGE, public and other guests and invitees thereof at or near the areas where work is being accomplished during and throughout the completion of all work.

### **ARTICLE 13. NOTICE.**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the VILLAGE shall be mailed to:

Village of North Palm Beach  
Attn: Village Manager  
Village Hall  
501 U.S. Highway One  
North Palm Beach, FL 33408

and if sent to the CONTRACTOR shall be mailed to:

Marsh Management Systems, LLC  
Attn: Dustin Anderson  
7957 N. University Drive, #1041  
Parkland, FL 33067

The foregoing names and addresses may be changed if such change is provided in writing to the other party.

### **ARTICLE 14. ENTIRETY OF CONTRACTUAL AGREEMENT.**

The VILLAGE and CONTRACTOR agree that this Contract, including all documents referenced herein, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

### **ARTICLE 15. TERMINOLOGY AND CAPTIONS.**

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

### **ARTICLE 16. PREPARATION.**

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

#### **ARTICLE 17. MATERIALITY.**

All provisions of the Contract shall be deemed material. In the event CONTRACTOR fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and VILLAGE may at its option and without notice terminate this Contract.

#### **ARTICLE 18. EXHIBITS AND CONTRACT DOCUMENTS.**

All exhibits and other documents referred to in this Contract form an essential part of this Contract. The exhibits and other documents, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

#### **ARTICLE 19. LEGAL EFFECT.**

This Contract shall not become binding and effective until approved by the Village Council of the Village of North Palm Beach.

#### **ARTICLE 20. SURVIVABILITY.**

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

#### **ARTICLE 21. WAIVER OF SUBROGATION.**

CONTRACTOR hereby waives any and all rights to Subrogation against the VILLAGE, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

#### **ARTICLE 22. WARRANTY.**

CONTRACTOR warrants that all Work, including goods and services, provided under this Contract will be free of defects in material and workmanship for a period of one (1) year following completion of the Work and successful final inspection, or as otherwise stated in the Proposals. Should any Work fail to comply with this warranty during the warranty period of one (1) year, upon written notification from the VILLAGE, CONTRACTOR shall immediately repair or replace said defective materials and/or workmanship at CONTRACTOR's sole expense.

#### **ARTICLE 23. REPRESENTATIONS/BINDING AUTHORITY.**

The persons executing this Contract represent that they have the full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract.

## **ARTICLE 24. GOVERNING LAW, VENUE AND REMEDIES.**

A. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Contract will be held in Palm Beach County.

B. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

C. The VILLAGE and CONTRACTOR **knowingly, voluntarily and intentionally waive any right they may have to a trial by jury** with respect to any litigation arising out of or in connection with this Contract.

## **ARTICLE 25. FEDERAL AND STATE TAXES.**

The VILLAGE is exempt from federal tax and state sales tax and use taxes. Upon request, the VILLAGE shall provide an exemption certificate to CONTRACTOR. CONTRACTOR is not exempt from paying sales tax to its suppliers for materials used to fulfill its obligations under this Contract, nor shall CONTRACTOR be authorized to use the VILLAGE's tax exemption number in securing such materials.

## **ARTICLE 26. INSPECTOR GENERAL**

CONTRACTOR is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Contract, and in furtherance thereof, may demand and obtain records and testimony from CONTRACTOR and its subcontractors. CONTRACTOR understands and agrees that in addition to all other remedies and consequences provided by law, the failure of CONTRACTOR or its subcontractors to fully cooperate with the Inspector General when requested may be deemed by the VILLAGE to be a material breach of the Contract Documents justifying termination.

## **ARTICLE 27. PUBLIC RECORDS.**

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: (561) 841-3355; [NPBCLERK@VILLAGE-NPB.ORG](mailto:NPBCLERK@VILLAGE-NPB.ORG); OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.

In performing services pursuant to this Contract, CONTRACTOR shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, CONTRACTOR shall:

1. Keep and maintain public requires required by the VILLAGE to perform the service.

2. Upon request from the VILLAGE's custodian of public records, provide the VILLAGE with a copy 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 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 for the duration of the Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the VILLAGE.
4. Upon completion of the Contract, transfer, at no cost, to the VILLAGE all public records in possession of CONTRACTOR or keep and maintain public records required by the VILLAGE to perform the services. If CONTRACTOR transfers all public records to the VILLAGE upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the VILLAGE, upon request from the VILLAGE's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

#### **ARTICLE 28. E-VERIFY**

CONTRACTOR warrants and represents that CONTRACTOR and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. CONTRACTOR has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. If the VILLAGE has a good faith belief that CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes, the VILLAGE shall terminate this Contract pursuant to Section 448.095(2), Florida Statutes, as may be amended. If the VILLAGE has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but CONTRACTOR has otherwise complied, it shall notify CONTRACTOR, and CONTRACTOR shall immediately terminate its contract with the subcontractor.

#### **ARTICLE 29. CONVICTED VENDOR LIST/BOYCOTT OF ISRAEL**

As provided in section 287.135, Florida Statutes, CONTRACTOR certifies that it and any authorized subcontractors are not participating in a boycott of Israel. CONTRACTOR further certifies that it and its affiliates have not been placed on the Convicted Vendor List under section 287.133, Florida Statutes. The VILLAGE and CONTRACTOR agree that the VILLAGE shall have the right to immediately terminate this Contract if CONTRACTOR, its authorized subcontractors or affiliates have been placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, or has been placed on the Convicted Vendor List maintained by the State of Florida.

*Remainder of page blank – signatures on next page*



IN WITNESS WHEREOF, the VILLAGE and CONTRACTOR hereto have made and executed this Contract as of the day and year first above written.

**CONTRACTOR:**

**MARSH MANAGEMENT SYSTEMS, LLC**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**VILLAGE OF NORTH PALM BEACH**

BY: \_\_\_\_\_

DAVID NORRIS  
MAYOR

ATTEST:

BY: \_\_\_\_\_

JESSICA GREEN  
VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

BY: \_\_\_\_\_

VILLAGE ATTORNEY



## Customer Acceptance

The above prices, specifications and conditions are hereby accepted for:

# North Palm Beach Country Club

## SCHEDULE OF PAYMENT

**50% - Mobilization & Scheduling Deposit Due due with Signed Contract - \$25,000.00**

**50% - Due Immediately Upon Project Completion - \$25,000.00**

**Billing Address: 7957 N University Dr. #1041, Parkland, FL 33067**

### Customer:

**Mr. Allan Bowman**  
**North Palm Beach Country Club**  
**951 US-1**  
**North Palm Beach, FL 33408**  
**Phone: (908)666-2668**  
[Abowman@village-npb.org](mailto:Abowman@village-npb.org)

**Dustin Anderson**  
**Marsh Management Systems, LLC.**  
**7957 N University Dr. #1041**  
**Parkland, FL 33067**  
**Contact: 561-596-2002**  
[dustin@marshmgtsystems.com](mailto:dustin@marshmgtsystems.com)

Signature: \_\_\_\_\_

Signature: Dustin Anderson

Printed Name: \_\_\_\_\_

Printed Name: Dustin Anderson

Date: \_\_\_\_\_

Date: 9/5/2023

**SOX Erosion Solutions™ Certified Service Provider**



## **CONDITIONS CONTINUED**

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9. Marsh Management Systems, LLC. shall not be responsible for acts beyond its reasonable control, including adverse soil and/or water conditions, adverse weather conditions, unavailable materials, Each party will be excused for a delay of performance under this Agreement if such delay is due to vandalism, acts of war or terrorism, transportation restrictions, strikes, embargoes, acts of God (including, but not limited to, fires, floods, hurricanes, tsunamis, earthquakes, mudslides and severe weather), government orders, or failure of transportation or communications carriers (each a "Force Majeure Event") for the period of such delay, provided that the party seeking such delay promptly informs the other party of the difficulty encountered and resumes its responsibilities as promptly as practicable.

10. Customer shall permit Marsh Management Systems, LLC. without additional consideration to Customer, to take photographs or video at the project site of both completed work and work in progress.

11. Severability. If any part of this Agreement is determined to be invalid or illegal by any court or agency of competent jurisdiction, then that part shall be limited or curtailed to the extent necessary to make such provision valid, and all other remaining terms of this Agreement shall remain in full force and effect.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

13. No Third-Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective successors or permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other person or entity.

14. Waiver. The waiver of any breach of any provisions of this Agreement will not operate or be construed as a waiver of any subsequent breach of the same or other provision of this Agreement.

15. No Rights of Set-Off. In no event shall CUSTOMER be entitled to offset against any payment due or to become due to Marsh Management Systems, LLC. under this Agreement.

16. Attorney's Fees. In the event any party shall be forced to enforce this Agreement, whether or not through litigation, the prevailing party shall be entitled to receive reasonable attorney's fees and all costs incurred in connection with such enforcement, including fees and costs of appeal.



## **CONDITIONS**

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1. Ownership of property is implied by CUSTOMER with acceptance of this Agreement. In the event that CUSTOMER does not expressly own the areas where the above stated services are to be provided, CUSTOMER represents that express permission of the owner is given and that authorization to commence the above-mentioned services is allowed. In the event of dispute of ownership, CUSTOMER agrees to hold harmless Marsh Management Systems, LLC. for the consequences of such services.
2. Marsh Management Systems, LLC. shall not be responsible for acts beyond its reasonable control, including adverse soil and / or water conditions, adverse weather conditions, unavailable materials, Acts of God, war, acts of vandalism, theft or third-party actions. CUSTOMER further states that neither party shall be responsible in damages or penalties for any failure or delay in performance of any of its obligations caused by above named incidences.
3. Invoices submitted for work completed shall be paid within 30 days of receipt. A finance charge of 1.500% per month or an annual percentage rate of 18.000% will be computed on all past due balances.
4. Any incidental activity not explicitly mentioned in this proposal is excluded from the scope of work.
5. This proposal shall be valid for 30 days.
6. If Marsh Management Systems, LLC. is required to enroll in any third-party compliance programs, invoicing or payment plans that access fees to perform work for CUSTOMER, those charges will be invoiced back to CUSTOMER as invoiced to Marsh Management Systems, LLC.
7. Marsh Management Systems, LLC. will maintain insurance coverage, which includes but is not limited to; General Liability Property Damage, Automobile Liability, and Workman's Compensation at its own expense.
8. No alterations or modifications, oral or written, of the terms contained above shall be valid unless made in writing and accepted in its entirety by authorized representatives of both Marsh Management Systems, LLC. and the CUSTOMER.



## **EROSION CONTROL AGREEMENT**

**MMS** will provide equipment needed to transport the fill on the course from the staging area to the installation area. **CUSTOMER** will provide the sand/fill mix for the project. We used approximately 30 cubic yds of fill per 100 LF of 12' material.

**CUSTOMER** will provide and install sod once the SOX system has been installed. It will be the responsibility of the **CUSTOMER** to irrigate the new sod/planted area once installed.

Sprinkler heads will be marked by **CUSTOMER** otherwise **MMS** will not be responsible for damage to them during the project. **MMS** will repair any exposed sprinkler heads damaged during erosion work in a timely manner.

A staging area for materials and equipment will be required. **MMS** will access the waterway at designated areas and sod these areas to bring the property back to complete restoration if needed.

**MMS** is not responsible for damage to any underground irrigation, headwalls, piping, electrical, trees or any lines not noted on the as-builts or not located by Sunshine Locating Services (where digging is necessary).

**CUSTOMER** is responsible for the cost of any necessary permits that may be required prior to commencement of work.

The labor warranty for any manual adjustments needed is for a one (1) year period. Our guarantee does not include the loss of material due to 'acts of God' such as floods, fire, hurricanes, or other catastrophic events, nor does it include losses due to theft, lack of adequate irrigation, vandalism or negligence by others, or other factors outside the control of our organization. **CUSTOMER** will be responsible for the purchase of additional materials lost and additional labor needed during the event of a situation mentioned above.



## **EROSION CONTROL AGREEMENT**

**This agreement dated September 5, 2023, is made between  
Marsh Management Systems, LLC. (MMS) and CUSTOMER:**

**North Palm Beach Country Club**  
951 US-1  
North Palm Beach, FL 33408

Phone: (908)666-2668  
Email: Abowman@village-npb.org  
Contact: Allan Bowman

### **Project Description**

SOX Erosion Solutions shoreline erosion restoration services located at North Palm Beach Country Club in North Palm Beach, Florida. Services include shoreline restoration for approximately 600 linear feet and/or littoral plantings. Project includes 400 LF of 12' system and 200' of 6' system. The SOX system will be set up on the course at desired eroded areas and filled using sand/fill mix that is provided by the customer. We will transport and windrow the fill along the eroded area and simultaneously wash-in the fill with a pump until the system is full. When the installation is complete and the shoreline is stabilized, we will harvest and install littoral plantings on the course. The course will provide and install the sod for this project.

### **Project Pricing – SOX INSTALL & PLANTING**

- Repair approximately **600** linear feet of eroded shoreline at **\$90.00/Ft.**
- **Harvest & Install Littoral Planting on the Course – Included in Price**
- Prep areas of debris/trash for SOX Material
- Layout SOX Material, install staking system and secure the material
- Course will provide sand/fill mix for the installation
- Transport the sand/fill from the staging to the installation area
  - Approx. 30 cubic yards of fill per 100 LF of 12' SOX system
- Wash in fill with pumps, grade and secure it to stable ground
- Sod will be installed by the golf course for this project

**EROSION RESTORATION COST: \$54,000.00**

**FL GCSAA DISCOUNT: -\$5.00/FT.**

**Total Erosion & Planting Investment (\$85.00/Ft.): \$50,000.00**

Service includes SOX material, custom stakes & rope, equipment, supervisor, labor, travel, and insurance to complete the project.





September 5, 2023

Mr. Allan Bowman  
**North Palm Beach Country Club**  
951 US-1  
North Palm Beach, FL 33408

Dear Mr. Bowman,

We appreciate the opportunity to bid on this project for you! Attached is the Agreement for the SOX Erosion Solutions™ erosion restoration at North Palm Beach Country Club in North Palm Beach, Florida.

SOX Erosion Solutions™ suite of patented erosion control products are eco-friendly, bioengineered and designed to immediately halt soil erosion and stabilizes shorelines using rip-stop technology. Our SOX erosion control systems offer these unique attributes:

- Long lasting results that continue to improve over time,
- Superior buffering and filtering results in improved waterway and ecosystem,
- Exceptional water retention for vigorous growth of new vegetation,
- The only erosion control system that integrates into the Earth,
- Uses locally sourced organic fill
- Attaches directly to "intact" shore bank NOT to unstable shore bed,
- Allows SOX to be re-tensioned whenever necessary,
- Subsurface staking system eliminates injury liability to humans and animals,
- SOX "self-tightens" due to its ability to manage incredible weight displacement.

We take pride in providing the highest level of service in the industry and look forward to the opportunity of exceeding your expectations!

Respectfully yours,

*Dustin Anderson*

Marsh Management Systems, LLC.  
**SOX Erosion Solutions™ Certified Service Provider**



**MARSH**  
MANAGEMENT SYSTEMS

**EROSION RESTORATION  
PROJECT QUOTE**

# North Palm Beach Country Club

Custom Erosion Restoration Proposal

September 5, 2023 • North Palm Beach • Florida



*Prepared by:*

**Dustin Anderson**

**Marsh Management Systems, LLC.**

1312 Commerce Lane 16B, Jupiter FL, 33458

Mobile 561-596-2002 • Office 561-246-3763

dustin@marshmgtsystems.com



**CERTIFIED  
SERVICE PROVIDER**



**VILLAGE OF NORTH PALM BEACH**  
**VILLAGE ATTORNEY'S OFFICE**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Leonard G. Rubin, Village Attorney

DATE: September 28, 2023

SUBJECT: **RESOLUTION** – Appointing a Representative and an Alternative Representative to the Public Risk Management of Florida Board of Directors

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The Village is currently a member of Public Risk Management of Florida ("PRM"), a risk management and self-insurance pool for property and casualty insurance. PRM is a risk management pool that operates in accordance with an Intergovernmental Cooperative Agreement ("Agreement") and is governed by a Board of Directors.

The Village is a Standard Member of PRM, and the Agreement requires the Village Council to appoint a representative and alternate representative to PRM's Board of Directors. Representatives of Standard Members do not vote; however, participation on the Board will allow the Village to remain fully informed as to the operation and administration of the risk management pool. Through the adoption of Resolution No. 2023-18 on March 9, 2023, the Village Council designated former Director of Human Resources Renee Govig to serve as the Village's representative and Village Manager Chuck Huff as its alternate representative.

In order to avoid having to redesignate the Village's representatives due to changes in Village Staff, PRM has authorized the Village to designate its representatives by position. Consequently, the attached Resolution designates the Village Manager to serve as the Village's representative to the PRM Board of Directors and the Director of Human Resources to serve as its alternate representative.

The attached Resolution has been prepared/reviewed for legal sufficiency by the Village Attorney.

**Recommendation:**

**Village Staff requests Council consideration and approval of the attached Resolution designating its representative and alternate representative to the Public Risk Management of Florida Board of Directors in accordance with Village policies and procedures.**

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPOINTING THE VILLAGE'S REPRESENTATIVE AND ALTERNATIVE REPRESENTATIVE TO THE PUBLIC RISK MANAGEMENT OF FLORIDA ("PRM") BOARD OF DIRECTORS; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Public Risk Management of Florida ("PRM") provides the Village with property, casualty, and workers' compensation insurance coverage; and

WHEREAS, PRM is a risk management pool governed by an Intergovernmental Cooperative Agreement setting forth the Contract and By-Laws for the pool ("Agreement"), and the Village is a Standard Member of PRM; and

WHEREAS, while Standard Members do not vote, the Agreement provides that each Member shall appoint one person to represent the Member on the Board of the Directors, along with another person to serve as an alternate representative; and

WHEREAS, the Village Council wishes to formally appoint the Village's representative and alternative representative to serve on the PRM Board of Directors.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby appoints the Village Manager to serve as the Village's representative on the PRM Board of Directors and the Director of Human Resources to serve as the Village's alternative representative.

Section 3. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 4. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

**VILLAGE OF NORTH PALM BEACH**  
**Leisure Services**

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TO: Honorable Mayor and Members of the Village Council

THRU: Chuck Huff, Village Manager

FROM: Zakariya M. Sherman, Director of Leisure Services

DATE: September 28, 2023

SUBJECT: **RESOLUTION** – Approving a Contract with Starfire Corporation for a July 4th Fireworks Display, with the option to yearly renew for two more years: FY 2025, FY 2026, at an annual cost not to exceed \$30,000, and authorizing the Mayor and Village Clerk to execute a Contract for such services in accordance with Village policies and procedures.

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**Background:**

On August 15, 2023, the Village issued an RFP for a July 4th Fireworks Display, with the option to yearly renew for two more years: FY 2025, FY 2026.

A Selection Committee consisting of Leisure Services Director Zak Sherman, Superintendent of Parks and Recreation Stephen Poh, and Administrative Coordinator Becky Ring participated in the initial review of the proposals. The following firm submitted their sealed proposal on September 14, 2023:

- Starfire Corporation

Based upon the Committee's review of the proposal, the Committee awarded the bid to Starfire Corporation. It's worth noting that Starfire Corporation has been our go-to provider for the July 4th fireworks display for several years running.

**Scope of Work:**

The scope of work includes a 25-minute show using 7,586 firework shells ranging from 2.5 to 8 inches in diameter. The scope encompasses provision of all labor, materials, and a thorough post-event cleanup. While the contract holds potential to span three years, it may be subject to earlier termination as per standard conditions. Renewals up to 2026 hinge on satisfactory performance and mutual agreement of the Village and Starfire.

**Funding:**

Parks and Recreation budgeted \$30,000 for a Fireworks Display in FY24.

**Account Information:**

Fund	Department	Account Number	Account Description	Amount
General Fund	Parks and Recreation	A8229-35651	July 4 <sup>th</sup> Celebration	\$30,000

The attached Resolution and Contract have been prepared and/or reviewed by the Village Attorney for legal sufficiency.

**Recommendation:**

**Village Staff requests Council consideration and approval of the attached Resolution approving a Contract with Starfire Corporation for a July 4<sup>th</sup> Fireworks Display, with the option to extend renew for two additional years, at a total cost not to exceed \$30,000, with funds expended from Account Number A8229-35651 (Parks and Recreation – July 4<sup>th</sup> Celebration), and authorizing the Mayor and Village Clerk to execute a Contract for such services in accordance with Village policies and procedures.**

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA ACCEPTING THE PROPOSAL OF STARFIRE CORPORATION TO PROVIDE THE JULY 4<sup>TH</sup> FIREWORKS DISPLAY AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE A CONTRACT RELATING TO SUCH SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village issued Request for Proposals for the July 4<sup>th</sup> Fireworks Display for 2024, with the option to extend through 2026; and

WHEREAS, Village Staff recommended accepting the proposal submitted by Starfire Corporation at a total annual cost of \$30,000; and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the residents and citizens of the Village of North Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby accepts the proposal submitted by Starfire Corporation for the July 4<sup>th</sup> fireworks display at a total annual cost of \$30,000, with funds expended from Village Account No. A8229-35651 (Parks and Recreation – July 4<sup>th</sup> Celebration).

Section 3. The Village Council further authorizes and directs the Mayor and Village Clerk to execute a Contract with Starfire Corporation to perform such services in accordance with the terms and conditions of the Request for Proposals, a copy of which is attached hereto and incorporated herein.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

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(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

## **CONTRACT**

This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the VILLAGE OF NORTH PALM BEACH, a Florida municipal corporation, hereinafter referred to as the VILLAGE, and STARFIRE CORPORATION, Pennsylvania corporation authorized to do business in the State of Florida, hereinafter referred to as CONTRACTOR.

In consideration of the promises and mutual covenants herein contained, it is hereby agreed that CONTRACTOR shall provide to the VILLAGE all goods and services requested under **Request for Proposals for July 4<sup>th</sup> Fireworks Display** and as further stated in CONTRACTOR's Proposal and pursuant to the terms and conditions of this Contract.

### **ARTICLE 1. SERVICES OF CONTRACTOR.**

A. CONTRACTOR shall provide all goods and services as stated in the Request for Proposals and CONTRACTOR's Proposal, as incorporated herein by reference, to that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the time the services are provided.

B. CONTRACTOR certifies that it is licensed to perform the requested services in the State of Florida and Palm Beach County. CONTRACTOR shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.

C. CONTRACTOR shall provide the required goods and services in accordance with the following:

1. CONTRACTOR shall stage all necessary fireworks and equipment at the VILLAGE's designated location on or before **July 4, 2024 (2025, 2026)** so as to be able to provide the required services after sundown on that date.
2. In the event of inclement weather, CONTRACTOR shall provide the required services at the VILLAGE's designated location on **July 5, 2024 (2025, 2026)**.
3. If inclement weather continues and the VILLAGE, in its sole discretion, decides not to reschedule the fireworks displays, the VILLAGE shall pay CONTRACTOR for the actual costs of goods and services provided to date, with said costs not to exceed fifty percent (50%) of the total compensation due to CONTRACTOR in accordance with Section 4 below.
4. CONTRACTOR shall obtain all required permits and inspections. To the extent permitted by law, the VILLAGE shall waive all VILLAGE permit and inspection fees.
5. CONTRACTOR shall be responsible for maintaining, storing and protecting all goods and equipment necessary for the fireworks displays from all acts of nature, theft, vandalism or other means of damage or destruction.
6. CONTRACTOR and the VILLAGE shall cooperate to secure a clear area for the fireworks display. However, CONTRACTOR shall be responsible for ensuring such area is consistent with all permitting and inspection requirements.

7. CONTRACTOR shall be responsible for removing and clearing all excess material from the fireworks display area, including any related debris.

D. The services provided by CONTRACTOR shall be commenced subsequent to the execution and approval of this Contract and as stated in the Request for Proposals.

## **ARTICLE 2. PERIOD OF SERVICE.**

A. CONTRACTOR shall provide all goods and services in accordance with the terms of the Request for Proposals, CONTRACTOR's Proposal, and this Contract. Time is of the essence.

B. In the event of unpreventable acts or occurrences wholly beyond the control of and attributable to CONTRACTOR or the VILLAGE, including, by way of example, acts of God, pandemic, fire, flood, riots, war, terrorist activities, drought conditions, hurricanes or other severe and unforeseen storm events ("Force Majeure Events"), prevent the CONTRACTOR from performing the services contemplated by this Contract, the CONTRACTOR shall be excused from performance under the terms of this Contract and the VILLAGE shall be relieved from payment for such services.

C. Notwithstanding the foregoing, CONTRACTOR shall not be entitled to an increase in the agreed to compensation in this Contract or payment or compensation of any kind from the VILLAGE 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. Provided, however, that this provision shall not preclude recovery or damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of the VILLAGE or its agents.

D. This Contract shall become effective upon approval by the VILLAGE Council and shall remain in effect for a period of one year, unless earlier terminated in accordance with Article 7. By mutual agreement, the VILLAGE and CONTRACTOR may extend the term of the Contract for two additional years.

## **ARTICLE 3. VILLAGE'S REPRESENTATIVE.**

Unless otherwise specified by the VILLAGE, the VILLAGE's representative shall be the Village Parks and Recreation Director.

## **ARTICLE 4. COMPENSATION AND METHOD OF PAYMENT.**

A. The VILLAGE agrees to compensate CONTRACTOR for the provision of all goods and services set forth in the Request for Proposals and as stated in CONTRACTOR's Proposal in an amount not to exceed **Thirty Thousand Dollars and No Cents (\$30,000.00)** for each year of the Contract. All fireworks displays shall conform with CONTRACTOR's Proposal submitted in response to the Request for Proposals.

B. CONTRACTOR shall submit invoices to the VILLAGE for said compensation on dates mutually agreed upon by the VILLAGE and CONTRACTOR. All invoice(s) received from CONTRACTOR pursuant to this Contract will be reviewed and approved by the VILLAGE's representative, indicating that goods and services have been provided and rendered in conformity

with the Contract and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the VILLAGE representative's approval.

C. Services undertaken or expenses incurred that exceed the amount set forth in this Contract without prior written authorization from the VILLAGE shall be the sole liability of CONTRACTOR.

D. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Contract.

E. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on CONTRACTOR's final/last billing to the VILLAGE. This certifies that all goods have been provided and services performed and all charges have been invoiced to the VILLAGE. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by CONTRACTOR. The VILLAGE will not be liable for any invoice from CONTRACTOR submitted thirty (30) days after the provision of the required goods and services.

F. If the VILLAGE disputes any invoice or part of an invoice, VILLAGE shall notify CONTRACTOR of such dispute within fifteen (15) days of receipt of the invoice. VILLAGE reserves the right to off-set, reduce or withhold any payment to CONTRACTOR in accordance with the terms and conditions of this Contract.

#### **ARTICLE 5. INDEMNIFICATION.**

A. To the fullest extent permitted by applicable laws and regulations, CONTRACTOR shall indemnify and save harmless and defend the VILLAGE, its officials, agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action arising out of or in any way related to the services furnished by the CONTRACTOR pursuant to this Contract, including, but not limited to, those caused by or arising out of any act, omission, negligence or default of the CONTRACTOR and/or its subcontractors, agents, servants or employees.

B. The CONTRACTOR shall not be required to indemnify the VILLAGE, its officials, agents, servants and employees when the occurrence results solely from the wrongful acts or omissions of the VILLAGE, its officials, agents, servants and employees. The terms of this Section shall survive completion of all services, obligations and duties provided for in this Contract as well as the termination of this Agreement for any reason.

C. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the VILLAGE or the CONTRACTOR, nor shall this Contract be construed a waiver of sovereign immunity beyond the limited waiver provided in Section 768.28, Florida Statutes.

#### **ARTICLE 6. PERSONNEL.**

A. CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the Work under this Contract. Such personnel shall not be employees of or have any contractual relationship with the VILLAGE.



B. All of the Work required hereunder shall be performed by CONTRACTOR or under its supervision, and all personnel engaged in performing the Work shall be fully qualified and, if required, authorized or permitted under state and local law to perform such Work.

C. All of CONTRACTOR's personnel (and all sub-contractors) while on VILLAGE premises, will comply with all VILLAGE requirements governing conduct, safety, and security.

#### **ARTICLE 7. TERMINATION.**

This Contract may be cancelled by CONTRACTOR upon ninety (90) days' prior written notice to the VILLAGE's representative in the event of substantial failure by the VILLAGE to perform in accordance with the terms of this Contract through no fault of CONTRACTOR. It may also be terminated, in whole or in part, by the VILLAGE, with or without cause, upon thirty (30) days' prior written notice to CONTRACTOR. Unless CONTRACTOR is in breach of this Contract, CONTRACTOR shall be paid for services rendered to the VILLAGE's satisfaction through the date of termination.

#### **ARTICLE 8. FEDERAL AND STATE TAX.**

The VILLAGE is exempt from payment of Florida State Sales and Use Tax. CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the VILLAGE, nor is CONTRACTOR authorized to use the VILLAGE's Tax Exemption Number in securing such materials.

#### **ARTICLE 9. INSURANCE.**

CONTRACTOR shall be required to carry and maintain the following insurance coverage through the time it furnishes all required goods and services to the Village and completes its obligations under the contract:

A. CONTRACTOR shall maintain Comprehensive General Liability Insurance with minimum coverage limits of \$1,000,000 combined single limit of insurance per occurrence and \$2,000,000 in the general aggregate for bodily injury and property damage and \$2,000,000 in the general aggregate for products/completed operations. Comprehensive General Liability Insurance shall include endorsements for property damage, personal injury, contract liability, product liability and independent contractor coverage.

B. CONTRACTOR shall maintain Comprehensive Automobile Liability Insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect against claims which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by CONTRACTOR or by anyone directly or indirectly employed by CONTRACTOR.

C. CONTRACTOR shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

All insurance, other than Worker's Compensation, to be maintained by CONTRACTOR shall specifically include the VILLAGE as an Additional Insured and shall require thirty (30) day prior

notice to the VILLAGE in the event of cancellation. CONTRACTOR shall be responsible for any deductibles related to said insurance.

#### **ARTICLE 10. PAYMENT AND PERFORMANCE BOND.**

A. CONTRACTOR shall be required to furnish a payment and performance bond with a carrier duly licensed and authorized to do business in the State of Florida, equal to one hundred percent of the total amount of the contract to assure faithful performance and timely payments to all persons providing labor, materials or supplies used in the performance of the work.

B. CONTRACTOR shall be required at all times to have a valid payment and performance bond in force covering the work being performed. A failure to have such a bond in force at any time shall constitute a default on the part of CONTRACTOR. A bond written by a surety, who becomes disqualified to do business in the State of Florida, shall automatically constitute a failure on the part of the selected proposer to meet the above requirements.

#### **ARTICLE 11. SUCCESSORS AND ASSIGNS.**

The VILLAGE and CONTRACTOR each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the VILLAGE nor CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the VILLAGE which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the VILLAGE and CONTRACTOR.

#### **ARTICLE 12. GOVERNING LAW, VENUE AND REMEDIES.**

A. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

B. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

C. The VILLAGE and CONTRACTOR **knowingly, voluntarily and intentionally waive any right they may have to trial by jury** with respect to any litigation arising out of or in connection with this Contract.

#### **ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP.**

CONTRACTOR is, and shall be, in the performance this Contract, an Independent Contractor, and not an employee, agent, or servant of the VILLAGE. All persons engaged in any of the work performed pursuant to this Contract shall at all times, and in all places, be subject to CONTRACTOR's sole direction, supervision, and control. CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the Work.

#### **ARTICLE 14. NONDISCRIMINATION.**

CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

#### **ARTICLE 15. ENFORCEMENT COSTS.**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

#### **ARTICLE 16. AUTHORITY TO PROVIDE REQUIRED SERVICES.**

CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Contract, and that it will at all times conduct its business and provide the services required under this Contract in a reputable manner. Proof of such licenses and approvals shall be submitted to the VILLAGE's representative upon request.

#### **ARTICLE 17. SEVERABILITY.**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 18. MODIFICATIONS OF WORK.**

A. The VILLAGE reserves the right to make changes in the Work, including alterations, reductions therein or additions thereto. Upon receipt by CONTRACTOR of the VILLAGE's notification of a contemplated change, CONTRACTOR shall, in writing, provide a detailed estimate for the increase or decrease in cost due to the contemplated change.

B. If the VILLAGE elects to make the change, the VILLAGE shall initiate a Contract Amendment and CONTRACTOR shall not commence work on any such change until such written amendment is signed by CONTRACTOR and approved and executed by the VILLAGE.

#### **ARTICLE 19. PROTECTION OF WORK AND PROPERTY.**

A. CONTRACTOR shall continuously maintain adequate protection of all goods and services provided pursuant to this Contract from damage, and shall protect the VILLAGE's property from injury or loss arising in connection with the Contract. Except for any such damage, injury, or loss,

except that which may be directly due to errors caused by the VILLAGE or employees of the VILLAGE, CONTRACTOR shall provide any necessary materials to maintain such protection.

B. CONTRACTOR will also take every necessary precaution to ensure the safety of the VILLAGE, public and other guests and invitees thereof at or near the areas where services are being performed and throughout the completion of such services.

#### **ARTICLE 20. NOTICE.**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the VILLAGE shall be mailed to:

Village of North Palm Beach  
Attn: Chuck Huff, Village Manager  
501 U.S. Highway One  
North Palm Beach, FL 33408

and if sent to CONTRACTOR shall be mailed to:

Starfire Corporation  
Attn: Charlie Rappa, Vice President of Sales  
566 Theater Road  
P.O. Box 179  
St. Benedict, PA 15722

The foregoing names and addresses may be changed if such change is provided in writing to the other party.

#### **ARTICLE 21. ENTIRETY OF CONTRACTUAL AGREEMENT.**

The VILLAGE and CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

#### **ARTICLE 22. TERMINOLOGY AND CAPTIONS.**

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein," "hereof," "hereunder," "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

### **ARTICLE 23. WAIVER.**

Failure of a party to enforce or exercise any of its right(s) under this Contract shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

### **ARTICLE 24. PREPARATION.**

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

### **ARTICLE 25. MATERIALITY.**

All provisions of the Contract shall be deemed material. In the event CONTRACTOR fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and VILLAGE may at its option and without notice terminate this Contract.

### **ARTICLE 26. EXHIBITS AND CONTRACT DOCUMENTS.**

Each exhibit and document referred to in this Contract forms an essential part of this Contract. The exhibits and other contract documents, if not physically attached, including, but not limited to the Request for Proposals and the CONTRACTOR's Proposal, should be treated as part of this Contract and are incorporated herein by reference. Any express conflict among the documents shall be resolved in the order: this Contract, the Request for Proposals, and CONTRACTOR's Proposal.

### **ARTICLE 27. LEGAL EFFECT.**

This Contract shall not become binding and effective until approved by the Village Council of the Village of North Palm Beach.

### **ARTICLE 28. SURVIVABILITY.**

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

### **ARTICLE 29. DEFAULT.**

A. Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be grounds for immediate termination:

1. The filing of any judgment lien against the assets of CONTRACTOR related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR; or
2. The filing of a petition by or against CONTRACTOR for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of CONTRACTOR or CONTRACTOR's property; or an assignment by CONTRACTOR for the benefit of creditors; or the taking possession of the property of CONTRACTOR

by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of CONTRACTOR; or if a temporary or permanent receiver or trustee shall be appointed for CONTRACTOR or for CONTRACTOR's property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

3. Due to circumstances within the control of the CONTRACTOR, CONTRACTOR fails to provide the goods and services required pursuant to this Contract on schedule as agreed to by CONTRACTOR in this Contract.

B. CONTRACTOR shall provide written notice to the VILLAGE of the occurrence of any event of default within five (5) days of CONTRACTOR's receipt of notice or knowledge of any such default.

### **ARTICLE 30. WAIVER OF SUBROGATION.**

CONTRACTOR hereby waives any and all rights to Subrogation against the VILLAGE, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

### **ARTICLE 31. INSPECTOR GENERAL**

CONTRACTOR is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Contract, and in furtherance thereof, may demand and obtain records and testimony from CONTRACTOR and its subcontractors. CONTRACTOR understands and agrees that in addition to all other remedies and consequences provided by law, the failure of CONTRACTOR or its subcontractors to fully cooperate with the Inspector General when requested may be deemed by the VILLAGE to be a material breach of the Contract Documents justifying termination.

### **ARTICLE 32. PUBLIC RECORDS.**

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: (561) 841-3355; [NPBCLERK@VILLAGE-NPB.ORG](mailto:NPBCLERK@VILLAGE-NPB.ORG); OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.

In performing services pursuant to this Contract, CONTRACTOR shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, CONTRACTOR shall:

1. Keep and maintain public records required by the VILLAGE to perform the service.
2. Upon request from the VILLAGE's custodian of public records, provide the VILLAGE with a copy 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 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 for the duration of the Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the VILLAGE.
4. Upon completion of the Contract, transfer, at no cost, to the VILLAGE all public records in possession of CONTRACTOR or keep and maintain public records required by the VILLAGE to perform the services. If CONTRACTOR transfers all public records to the VILLAGE upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the VILLAGE, upon request from the VILLAGE's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

### **ARTICLE 33. E-VERIFY**

VENDOR warrants and represents that VENDOR and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. VENDOR has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with unauthorized aliens. If the VILLAGE has a good faith belief that VENDOR has knowingly violated Section 448.09(1), Florida Statutes, the VILLAGE shall terminate this Contract pursuant to Section 448.095(2), Florida Statutes, as may be amended. If the VILLAGE has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but VENDOR has otherwise complied, it shall notify VENDOR, and VENDOR shall immediately terminate its contract with the subcontractor.

### **ARTICLE 34. REPRESENTATIONS/BINDING AUTHORITY.**

The persons executing this Contract represent that they have the full power, authority, and legal right to execute and deliver this Contract and perform all of its obligations under this Contract.

*[Remainder of page blank – signatures on next page]*

IN WITNESS WHEREOF, the VILLAGE and CONTRACTOR hereto have made and executed this Contract as of the day and year first above written.

**CONTRACTOR:**

BY: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**VILLAGE OF NORTH PALM BEACH**

BY: \_\_\_\_\_

DAVID NORRIS  
MAYOR

ATTEST:

BY: \_\_\_\_\_

JESSICA GREEN  
VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

BY: \_\_\_\_\_

LEONARD G. RUBIN  
VILLAGE ATTORNEY





**Corporate Office**

566 Theatre Rd • PO Box 179 • St. Benedict, PA 15773

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**FIREWORKS – PYROTECHNICS – CRYOGENICS/CO2 – WATER EFFECTS – CONFETTI – FLAME EFFECTS – LASERS**

**Zakariya M. Sherman**  
**Director of Leisure Services**  
***Village of North Palm Beach***  
**North Palm Beach, FL 33408**

**Hello**

**Please find our program proposal in response to your RFP for fireworks.**

**Starfire Corporation has been entertaining millions of fans for 40 years. Our World Class Firework programs feature an exciting mix of fireworks manufactured to our specifications from prominent providers from around the Globe. In addition to our Worldwide providers, Starfire is one of only a handful of U.S. Manufacturers in existence today. Our specially designed fireworks manufactured in the U.S. will only be seen on those programs we produce.**

**Our turnkey event solutions take our clients vision from studio design, through permitting and onto production. All our events include \$10MM in G/L, W/C and all other applicable insurances. Our team of highly trained technicians are employees of Starfire Corp. with years of dedicated experience.**

**Starfire Corporation prides itself as being distinguished as a WOSM / WOB.**

**Please feel free to contact me with any questions you may have.**

**We look forward to the prospect of continuing our work with your community for future events.**

**All the best,**

**Charlie Rappa**  
**VP Sales**  
**Starfire Corporation**  
**631-624-4976**

PROPOSAL FORM CONTINUED

Total Shells

<u>Shell size</u>	<u>Quantity</u>
Under 3"-----	<u>6512</u>
2 1/2- 3" shells -----	<u>700</u>
4" shells -----	<u>174</u>
5" shells -----	<u>116</u>
6" shells -----	<u>72</u>
8" shells -----	<u>12</u>
10" shells -----	<u>—</u>
12" shells -----	<u>—</u>
Total Shells	<u>7,586</u>

**RFP EXHIBIT "C"**  
**PROPOSAL FORM**

Name of Proposer: STAR FIRE CORPORATION

**Opening Segment:**

Shell size	Quantity	Basic effects presented:
<u>2 1/2 - 3"</u>	<u>40</u>	<u>SEE ATTACHED</u>
<u>4</u>	<u>5</u>	
<u>5</u>	<u>5</u>	
<u>1 1/2 - 2</u>	<u>600</u>	

**Main Body Segment:**

Shell size	Quantity	Basic effects presented
<u>1 1/2 - 2"</u>	<u>4922</u>	<u>SEE ATTACHED</u>
<u>2 1/2 - 3"</u>	<u>240</u>	
<u>4</u>	<u>144</u>	
<u>5</u>	<u>96</u>	
<u>6</u>	<u>63</u>	
<u>8</u>	<u>10</u>	

**Grand Finale Segment:**

Shell size	Quantity	Basic effects presented
<u>2 1/2 - 3"</u>	<u>360</u>	<u>SEE ATTACHED</u>
<u>3"</u>	<u>40</u>	
<u>4</u>	<u>25</u>	
<u>5</u>	<u>15</u>	
<u>6</u>	<u>9</u>	
<u>8</u>	<u>2</u>	
<u>1 1/2 - 2"</u>	<u>1000</u>	

# **VILLAGE OF NORTH PALM BEACH**



**FIREWORKS DISPLAY(S)**

**JULY 4, 2024-2026**





# Technical & Creative Proposal

**CONCEPT**



**DESIGN**



**PRODUCTION**





## MISSION STATEMENT

**Our goal is to provide our clients with an unrivaled level of service in all areas pyrotechnics demonstrating a level of excellence that only Starfire can provide. Many of our clients, and guests they have entertained, have seen fireworks & pyrotechnic displayed to music, but few have enjoyed the sheer magic of a genuine pyro-musical display, where precise design and interpretation allows for the most elaborate juxtaposition of fire, music and pyrotechnics. This is our expertise, and we submit the following creative firework and special effects concepts for your review and consideration.**

**Concept:** The integration of well known musical scores into our productions combines space for the pyrotechnics to develop with a strong sense of direction and purpose. Audiences respond well to contrast, and we use a number of atmospheric effects to create the background for sudden and overwhelming injections of pace, color and scale. These changes are achieved by a sudden change of mood within a piece of music or video presentation, by transitioning from one piece to another. Utilizing your existing launch environment, we will employ all aspects and materials available in our industry; Fireworks and Pyrotechnics. Contained in the following pages are just a few of our choice effects that are built to our specifications, and are designed specifically for venues such as yours.

**Design:** Utilizing specialized designs and launch apparatus for each event is imperative. Our design engineers who have visited your firing locations, have taken precise measurements to prescribe well in advance exactly what will be needed to ensure that our show design parameters meet our specifications for safety and integrity while maximizing visual impact. Your musical presentation will draw all the elements together into one clear and concise program.

**Production:** Starfire will provide a site visit to review show specifics and to make certain all materials in our proposal are in conformity with your display site which will meet and exceed local permitting requirements. Our team will deliver and begin the installation of the pyrotechnic materials. The person in charge of the command center will meet with your designated liaison to review musical coordination. Our team will then produce a flawless production.





## **SCOPE OF SERVICES**

**Starfire** is well known for attentiveness and responsiveness to our clients needs. Our prompt and courteous service, along with our web of strategically located storage and distribution facilities makes us uniquely qualified to design and produce hundreds of events across the Nation. Our diverse list of clientele and their testimonials to our achievements, assures new generations of events that they too are in good company. Within this diverse list of credits and clientele are groups who appreciate the true art of pyrotechnics and welcome the opportunity to be involved in the various stages of their productions. Others however, prefer little if any involvement. Whatever your preference, the finished productions are flawless works of art.

Our strict adherence over the last 50 years to all Bureau of Alcohol Tobacco & Firearms, Department of Transportation, and Occupational Safety & Health Association standards recognizes us as industry leaders in safety and compliance.

Based on our recent conversation we propose the following to ensure turnkey productions:

### **Design:**

1. Provide a preliminary site inspection.
2. Establish the selected firing or launch sites within your parameters.
3. Determine the correct firing and launch specifics regarding equipment and redundancy.
4. Build and assemble to Starfire Corporation specifications launch infrastructure, with strict compliance to NFPA standards.
5. Fully integrate all firing and command locations, into one seamless element.

### **Production:**

1. Maintain any necessary wiring or hardware required.
2. Provide a World Class Pyrotechnic display.
3. Strike the command center returning the area in "like condition".



**PRESENTS**

# **VILLAGE OF NORTH PALM BEACH**

*Fireworks Spectacular*  
**Fireworks Spectacular**

**JULY 4, 2024 - 2026**

***Featuring***

- \* The Most Creative Pyrotechnical Staff in the Business.
- \* A Huge Variety of World Class Quality Aerial Pyrotechnics.
- \* Comprehensive Insurance Coverage on an Occurrence Form Basis, with a World-Known, Top Rated Carrier.
- \* Our Professional Media and Public Relations Department to Assist you in Event Promotion.
- \* A Logistical Team and Office Staff who are Totally Dedicated to the Success of Your Fireworks Program.
- \* Our State-of-the-Art, Multi Media Production Services, featuring program media on the latest digital format.
- \* Spectacular computer designed, digitally fired fireworks performances, featuring the Fire One® computer system.





# VILLAGE OF NORTH PALM BEACH

Inventory page 1

## "TWIN THEATER PERFORMANCE"

OPENING SEGMENT	QTY
<b>SPECIAL BARRAGES PG. 2</b>	<b>600</b>
2.5"-Three-Inch Shells	40
Four-Inch Shells	5
Five-Inch Shells	5

BODY OF PROGRAM	QTY
<b>SPECIAL BARRAGES PG. 2</b>	<b>4,912</b>
2.5" -Three-Inch Shells	240
Four-Inch Shells	144
Five-Inch Shells	96
Six-Inch Shells	63
Eight-Inch Shells	10

GRAND FINALE	QTY
<b>SPECIAL BARRAGES PG. 2</b>	<b>1,000</b>
2.5"-Three-Inch Salute	360
Three-Inch Salute Shells	40
Four -Inch Shells	25
Five-Inch Shells	15
Eight & Six-Inch Shells	11

**Proposed Inventory  
Aerial Shell Segment  
July 4, 2023–2024  
PROGRAM VALUE; \$30,000**



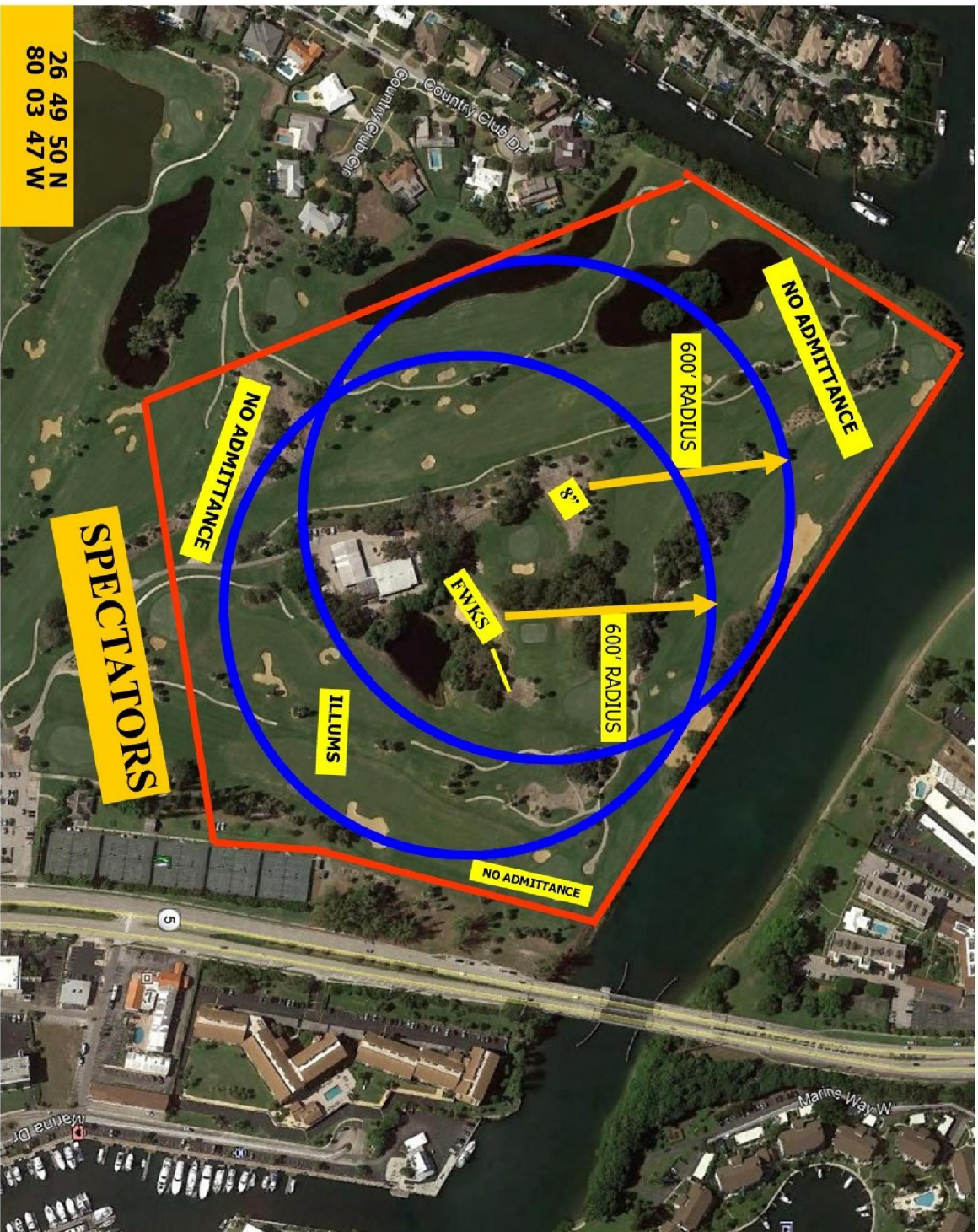


# VILLAGE OF NORTH PALM BEACH GRAND ILLUMINATIONS

Inventory page 2

SPECIAL EFFECT BARRAGE ILLUMINATIONS	Formation	Quantity
600 S RWB W/CRACKLE TO REPORT Z	\\ /	1 / 600
500 S YELL/PURP/GOLD GLIT WATERFALL Z SHAPE	\\\\\\ /////	1 / 500
372 S "W" GOLD WILLOW COMET W/ BLUE PISTOL	\\ /	1 / 372
200 S "V" RAPID FIRE BLUE STARS	\\	0 / 800
210 S "Z" Shape RAPID FIRE RED STARTS	\\\\\\ /	0 / 210
200 S PALM TREE & FALLING LEAVES W/ WHITE TAIL		0 / 800
210 S "Z" Shape ALTERNATING RWB PATTERN	\\\\\\ /	0 / 840
100 S FAN BLUE PIS & COLORFUL FALLING LEAVES		0 / 200
165 S 8 SHAPE WHITE STROBE WITH COLOR PISTIL	\\ /	0 / 336
100 S GREEN DAHLIA W/CHRY (fan)		0 / 200
100S RED-GRN TLS SPIT SIL FISH BLUE PEARL-CHRY-REPORT	\\\\\\ /////	0 / 200
280 S FAN HEPTAGON FIRE TREE TL & PINK TL	\\\\\\ /////	2 / 560
200 S RWB W/SALUTE FAN	\\\\\\ /	0 / 400
100 S PENTAGON FAN BROCC CROWN MINE & BLUE MINE		0 / 200
480 S CHANGING DRAGON	\\\\\\ /////	1 / 480
1000 S FEELING IN SNOW Z SHAPE		2 / 2000
1000 S WHISTLING DRAGON	\\\\\\ /////	2 / 2,000
1000 S BUMPER HARVEST	\\\\\\ /	0 / 4000
ALL SELECTED ABOVE EFFECTS	TOTAL PIECES	6,512





VILLAGE OF  
NORTH PALM  
BEACH  
JULY 4TH  
8" MAX  
SHELLS  
600' RADIUS







# STARFIRE CORPORATION

## **VILLAGE OF** **NORTH PALM BEACH**

### ***Management Team***

#### **EXECUTIVE PRODUCER**

Works directly with your Event Staff covering all ends of the spectrum. Responsible for reporting directly to the Sr. Design Producer and is the “go-to” or point person for the entire project enterprise. All project managers directly report to the Executive Producer, allowing for a smooth and efficient chain of command.

#### **PROJECT MANAGER**

This role oversees the entire project enterprise. In addition, this role oversees the coordination of personnel, equipment, and all matters pertaining to the smooth and efficient deployment of the programs. The Project Manager insures that design is properly met and is appropriate for the Venues. The Project Manager also handles all communication issues, as well as, equipment and firing system installation and on site maintenance.

#### **VENUE, SAFETY & COMPLIANCE MANAGER (SCM)**

The Venue Manager is responsible for the coordination of all activities at the Venues. This Manager oversees the physical set-up, discharge, and strike of all pyrotechnics and equipment at all the assigned venues. The VSCM oversees the set-up and use of the firing system to ensure functionality in accordance to design specs.

#### **TECHNICIANS**

Technicians are responsible for the physical assembly and installation of all equipment based on the final design specifications. Technicians are responsible for the installation of all pyrotechnic devices used at the various venues. The Technicians are also responsible for setup and strike of firing cue equipment, which include a post display “dud” search. The Technicians report directly to the Venue Safety & Compliance Manager.

# **Technical Crew Assignments**

## **VILLAGE OF NORTH PALM BEACH**

### **SAMPLING OF LEAD PERSONEL**

**Charles Rappa Executive Producer 35 years experience**

**Ralph Piacquadio Chief Designer 30 years experience.**  
**(See Next Page)**

**Dan Harris Class A Technician 15 years experience.**

**Vince Terrizzi Class A Technician 35 years experience.**  
**Licensed in NY, NJ, CT, MA, DE, MD**

**Vin Mazza Class A Technician 15 years experience**  
**Licensed in NY, NJ, PA,**

**Assistant Technicians TBD**



**NY METS**



**CITY OF PITTSBURGH**



**PYRO ARCH**

**CORPORATE HEADQUATERS**  
**566 THEATER RD. PO BOX 179**  
**ST. BENEDICT, PA 15773**  
**800-806-4486**

# **Ralph Piacquadio**

## **CHIEF DESIGNER (Partial List)**

### **Philadelphia, PA**

(Multiple shows over 11 years)

“Welcome America” (Museum of Art)

“2 Cities 2 States” (Barges Penn’s Landing)

Penn’s Landing New Year’s Eve (Barges Penn’s Landing)

Philadelphia Phillies

Philadelphia Eagles (Opening of Lincoln Financial Field)

### **Design/Production Pyrotechnics for Sports Teams:**

New York Mets

Miami Marlins

Cleveland Indians

Philadelphia Phillies

Akron Aeros

Pittsburgh Steelers

Philadelphia Eagles

Cleveland Browns

Toledo Mud Hens

### **Houston, TX Super Bowl XXXVIII Halftime Pyrotechnics**

#### **City Show - Pittsburgh , PA**

(2009, 2011, 2012, 2015, 2017, 2018)

July 4<sup>th</sup> (Barges Ohio River)

#### **City Show - Columbus, OH**

(2003 thru 2019)

“Red, White & Boom” (Downtown Columbus)

#### **City Show – Toledo, OH**

(2017, 2018, 2019)

#### **City Show – Fair St. Louis, MO**

(2017, 2018, 2019)

#### **Boston, MA**

Democratic National Convention (Barges Charles River)

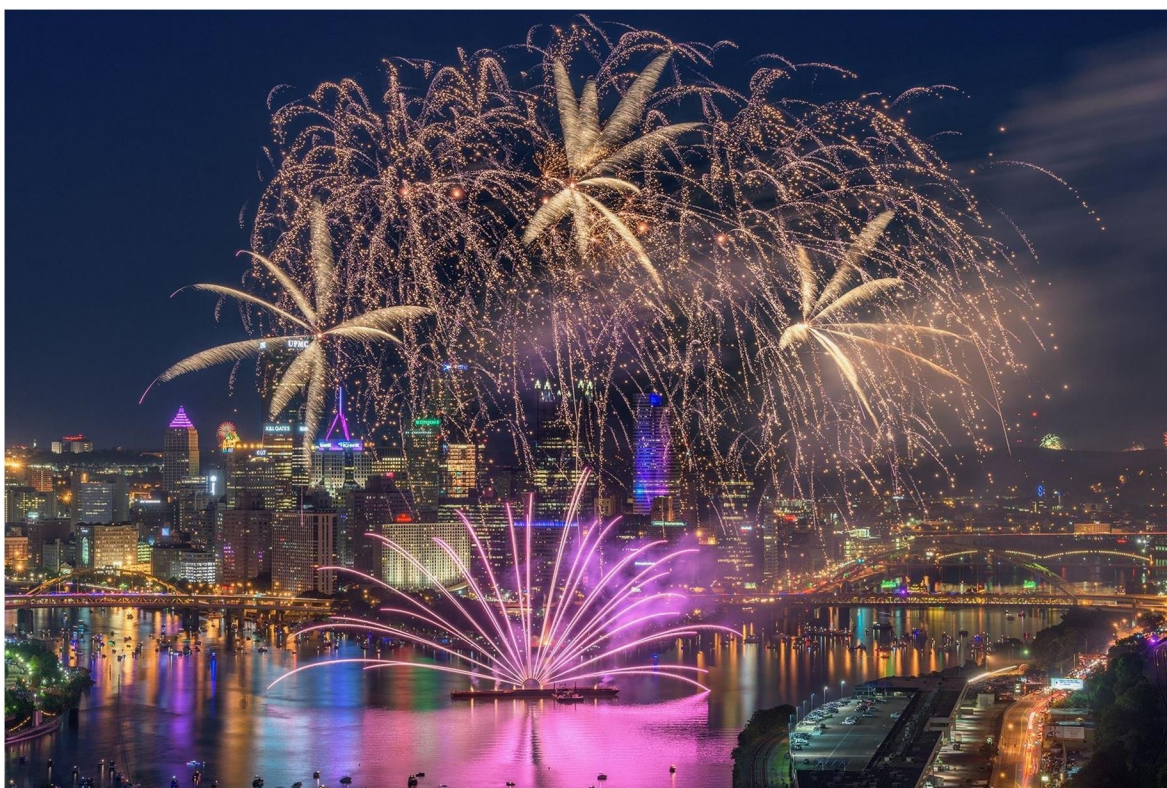
#### **Montreal, Canada**

Gold Jupiter Winner

L’International des Faux Loto-Quebec Pyromusical Competition



# **OUTDOOR HIGH ALTITUDE AERIAL EFFECTS AND DESCRIPTIONS**



# Outdoor Aerial Fireworks

## Three-Inch Through Ten-Inch Shells

Shell sizes are available according to site dimensions

CHRYSANTHEMUM SHELLS - Brilliant colors in a perfectly round burst. Most shells feature rising effects such as rising comet tails or rising whistles. Inventory includes:

- *Strobing Two Color Changing "Ghost" Shells*
- *Glittering Silver and Wave series*
- *Crackling Chrysanthemums*
- *Gold Spider*

### SPECIAL EFFECT SHELLS

- *Screaming Whistle Shells*
- *Electric Storm Shells (dragon eggs)*
- *Gold Flitter*
- *Spider (Gold, Silver)*
- *Two Break Color and Report*
- *Magnesium Combo*

SALUTE AND THUNDER SHELLS - A variety of effects that incorporate powerful reports into their display. Featuring:

- *Artillery Titanium, Thunder Blossom, Battle Clouds*

STROBE, TWINKLING AND SPARKLING STAR SHELLS - A variety of beautiful twinkling star shells, featuring:

- *Strobe Shells (Red, White, Silver, Green)*
- *Flashing Light Shells (Pink, Gold, Silver, Red, Green)*
- *Sparkling Light Shells (Gold, Red, Green, Silver)*
- *Twinkling Stars (Spangle, Silver, Gold)*

MULTI-COLORED JAPANESE STYLE PEONIES - Variegated colors in a spherical burst resembling a peony flower, many with rising effects (tails, flowers, whistles, etc).

- *Color Changing Peony (Two, Three or Four Color Changes)*
- *Peony With Pistil*

SPECIAL AND MULTI-PATTERN SHELLS \*- Forming fantastic, unusual patterns.

- *Olympic Ring Pattern, Happy Face Pattern, Five-Pointed Star (White, Red, Blue) Red*
- *Snail Pattern with Drifting Purple Small Flowers, Saturn Planet, Bow Tie Pattern, Hourglass with Color Ring Diamond, Shamrock, Club Pattern with Strobing Center, Gold Hour Glass with Red or Blue Ring, Red—White—Blue Shell of Shell Rings, Umbrella Pattern, Kiddy Fishes in Crowds with Crackling Stars, Stained Glass, Poinsettia Pattern—Variegated Colors, Sunflower Pattern, Butterfly in Circle Pattern, 3-D Tetrahedron Pattern*



# Outdoor Aerial Fireworks

**PALM TREE SHELLS** - A huge palm tree with rising comet tails.

- *Blue Palm Tree with Yellow Trunk, Green Palm Tree Shell of Shells, Glitter Palm with Glittering Comet Tail, Crackling Palm Tree with Rising Crackling Tail, Red Coconut Leaves*

**MULTI-BREAK SHELL OF SHELLS** - A variety of effects that incorporate hundreds of components into their display.

- *Thousands of Colorful Strobes, Thousands of Brocade Waterfall, Thousands of Glittering Kamuro*
- *Artillery Titanium, Thundering Blossom, Battle in the Clouds*

**JAPANESE BROCADE WATERFALL** - It looks just like a shimmering golden waterfall high in the sky. (Also in shell-of-shells variety)

**SHATTERING GLASS** - Looks like glass shattering - Very Different! Yellow to Red color changing stars with Glitter Strobe effects.

**WAGON WHEEL COMET** - A Huge break of a Glitter Ring pattern with comets protruding from center to form the pattern of a wheel. Very Unique.

**MAG ILLUMINATORS** - Super flights that are intensely bright.

**GO-GETTERS** - Rich, vibrant colors featuring Violet, Bright Red and Rich Emerald Green. Shell breaks soft - then waves of corkscrew erratic propulsion in every direction.

**COMET SHELLS** - A variety of special effects.

- *Split Comets—Gold Flitter, White Flitter, Crossette—Red, Green, Silver, Glitter, Scattering - Criss Crossing comets, Magic Scatter—Yellow Comet Flower, Snowball Crossette—Long Tailed, Fluffy White Glitter*

## ADVANCED EFFECT AND DESIGNER JAPANESE SHELLS

- *Gold Flitter Split Comets, Super Crown, Designer Three and Four Color Change Effects, Eddy In Chrysanthemum*
- *Crackling Dahlia with Crackling Mag Stars Pistil, Farfalle, Diadem with Scrambling Red & Green Comets, Comet Mine Shell of Shells*
- *Brocade Diadem Kamuro Shell of Shells, Floral Shell of Shells with Popping Brocade Small Flowers Pistil, Lightning Bugs (Strobing stars)*
- *Blue Comets to Floral Salute Shell of Shells, Floral Fancy (Chrysanthemum with Ring of Diadem Stars)*
- *Silver Waterfall with Red and Blue Scrambling Comets, Palm Flowers (Palm Tree without trunk)*
- *Japanese Kaleidoscope with Color Pistil, Circle of Bouquets—Assorted Colors, Magic Peony, Spangle Peony with Coconut Core*

# Outdoor Aerial Fireworks

## Opening Scene & Grand Finale

**Level 1: Multi-Shot Fanned Crossette Barrage**

**Level 2: Aerial Shells in Three-Inch Color & Titanium Salute Shells**

**Level 3: Huge Aerial Shells blossom over the top**

**Starfire** is known for MANUFACTURING and producing the most exciting Openings and Grand Finales in the business. We use special effect, and multi-break shells, rising flowers and tails, along with large support shells, all timed to allow for a continuous barrage.

Most finales are **TWIN—THEATER** presentations, designed to be displayed from **two locations** simultaneously:

☀ **2.5”- 3” Special Color Shell “Fan”** - Hundreds of spectacular Japanese-style shells volley into the sky into a widely “fanned” overlay of multi-colored floral patterns. Our 2.5” diameter shells have rising effects.

☀ **2.5” - 3” Titanium Salute Shells w/ Silver Tails** - The color shells are joined by a bombardment of electric flash salutes, again exploding into a wide fan pattern for maximum coverage. All salutes are followed by brilliant magnesium comets. Our 2.5” diameter shells have rising effects.

☀ **Multi Break Shells** - The sky now turns into a multi-level barrage of color, and booming reports. High over the top of the finale, huge oriental chrysanthemum bursts soar up to 1,000 feet above the barges.

☀ **Japanese Special Effect Shells** The heavens ignite with the sights and sounds of a full-scale aerial barrage above pounding flash salutes that are heard for miles around. This scene includes a full multi-level compliment of the most spectacular aerial effects available.

- ☀ *Brilliant Brocade Chrysanthemums*
- ☀ *Nishiki Kamuro Shells with Spangle Pistil*
- ☀ *Popping Brocade Flowers*
- ☀ *Color Changing Mums w/ Changing Pistils*
- ☀ *Artillery Titanium (Shell of Shells)*
- ☀ *Half Blue & Half Red Chrysanthemum w/ Pistil*
- ☀ *Brocade Diadem to Twinkle with Strobing Pistil*







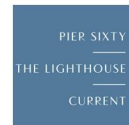
# REFERENCES



## STARFIRE CORPORATION

STARFIRE CORPORATION  
566 Theater Rd, PO Box 179  
ST. Benedict, PA 15773

631-624-4976 ph 814-344-9222 fax





**CONFIDENTIAL DO NOT DISTRIBUTE**

### Recent Clients / Venues

<b>Ms. Alison Dlugazt</b> General Manager <i>Trump National, Doral</i> Miami, FL	305-785-4335
<b>Linsey Bruce Lefkowitz</b> General Manager <i>BallenIsles Country Club</i> Palm Beach, FL	561-775-4730
<b>Ms. Tracy Bailey</b> City Manager <i>City of Titusville</i> Titusville, FL	321-567-3734
<b>Mr. Bob Gallagher</b> General Manager <i>Windsor Country Club</i> Vero Beach, FL	772-321-8068

Additional References Furnished Upon Request



# SCOPE OF SERVICES

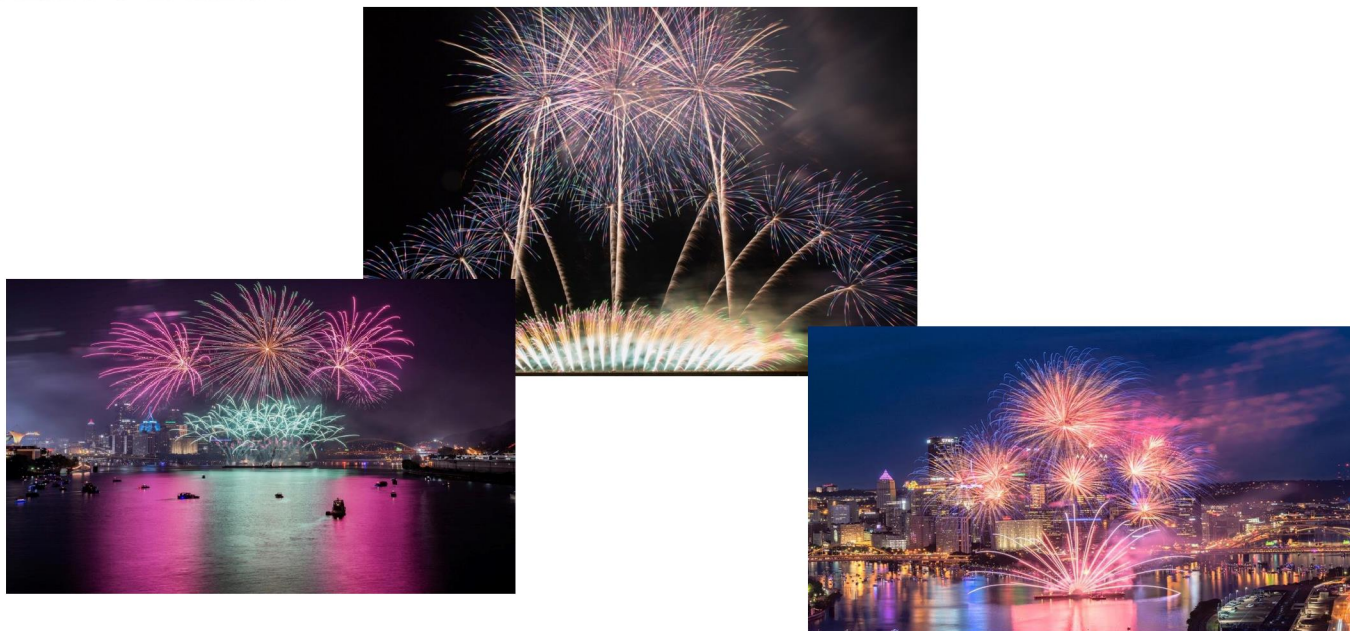
## PROGRAM VALUE: \$30,000

Proposals pricing is valid for 60 days from postmarked date

### OTHER SERVICES:

#### INSURANCE LIABILITY COVERAGE\*:

Insurance: \$10,000,000 General Liability  
\$5,000,000 Motor Carrier



#### WORKER'S COMPENSATION:

Full coverage as required by law.

#### U.S. LONGSHOREMAN & HARBOR WORKER'S ACT:

We provide full coverage for Pyrotechnicians who perform fireworks exhibitions on barge based programs.

#### COMPLIANCE: Starfire strictly adheres to the following requirements:

- \* NFPA 1123, BATF, OSHA
- \* U.S. Department of Transportation
- \* U.S. Coast Guard

**VISIT US AT [WWW.STARFIRECORPORATIONCOM](http://WWW.STARFIRECORPORATIONCOM)**

800-806-4486

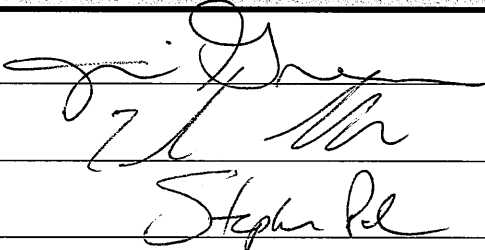
© STARFIRE CORPORATION Contents, pricing & quantities of this proposal are valid for 60 days

**CONFIDENTIAL INFORMATION**—The data on all pages of this proposal is proprietary, and is to be accorded confidential treatment. This proposal and its contents shall not be disclosed other than to the official representatives of the organization listed on the cover, and only then when used in the evaluation of this proposal for awarding a contract. Any reproduction of the contents of this proposal, whether in whole or in part is expressly forbidden. STARFIRE CORPORATION requests that all the information included in this proposal submission be safeguarded from release pursuant to any request under the Freedom of Information Law (FOIL) of your state, or any other state or jurisdiction, as it may result in a competitive disadvantage to our company. The enclosed concepts and materials are the sole and exclusive property of STARFIRE CORPORATION Photocopies forbidden without permission of STARFIRE CORPORATION.

**CONTENT SUBJECT TO REDESIGN:** We reserve the right to make substitutions in the products, types, quantities and sizes listed herein, provided such substitutions are in accordance with NFPA 1123. The value of this program among other production elements, is based on the programs esthetic look. Different firework effects and shells of the same size may have significantly different values, therefore, a fireworks program can never be valued on shell counts alone. Shells \* Insurance limits are valid through our policy period February 15, 2021—February 15, 2022 (Policy subject to renewal at that time)

PAGE 1 OF 1

No. of Proposals Received:

DESCRIPTION	VENDORS			
Requirements: accepting qualification proposals for the July Fourth Firework Display RFP Bid Opening.	StarFire Corporation 566 Theatre Rd PO. Box 179 St. Benedict PA 15773			
	\$30,000.00			
VILLAGE OFFICIALS PRESENT (Signature)		VENDOR REPRESENTATIVES PRESENT (Print name of Rep and Company)		
				

**REQUEST FOR PROPOSALS FOR**  
**July 4<sup>th</sup> Fireworks Display**



**VILLAGE OF NORTH PALM BEACH**  
**501 U.S. HIGHWAY ONE**  
**NORTH PALM BEACH, FLORIDA 33408-4906**

**ADVERTISEMENT, INSTRUCTIONS FOR**  
**SPECIFICATIONS, PROPOSAL FORMS**

## **ADVERTISEMENT**

The Village of North Palm Beach, Florida, a Florida municipal corporation located in Palm Beach County, Florida (“Village”), is accepting sealed proposals from qualified companies and contractors (“Proposers”) to furnish all labor, material, equipment and all other required goods and services to provide a 2024 July 4th fireworks display, with the option to yearly renew for two more years, until **3:00 P.M. EST on September 14, 2023**, at the Village of North Palm Beach, Village Clerk’s Office, 501 U.S. Highway One, North Palm Beach, FL 33408. Proposals received after the aforementioned date and time will be returned unopened.

The complete Request for Proposals, including all specifications and forms, may be obtained by bona fide proposers upon application at the Village of North Palm Beach, 501 U.S. Highway One, North Palm Beach, Florida 33408, DemandStar or from the Village website at [www.village-npb.org](http://www.village-npb.org).

Proposals shall be submitted with an original and three (3) copies and one (1) electronic copy in sealed envelopes/packages addressed to Village of North Palm Beach, Village Clerk’s Office, 501 U.S. Highway One, North Palm Beach, Florida 33408 and marked **“SEALED PROPOSAL – JULY 4<sup>TH</sup> FIREWORKS DISPLAY.”** The Village shall evaluate the proposals in accordance with the criteria set forth in the RFP. The Village anticipates an award to the proposer with the proposal determined by the Village to be most advantageous. The Village may conduct interviews and/or require presentations as part of the evaluation process. The Village shall not be liable for any costs incurred by any proposer in connection with its response to this RFP. The Village reserves the right to reject all RFP submittals, to waive any formalities, to solicit and re-advertise for new RFP submittals, or to abandon the project in its entirety.

VILLAGE OF NORTH PALM BEACH, FLORIDA

Zakariya M. Sherman,

Director of Leisure Services

[zsherman@village-npb.org](mailto:zsherman@village-npb.org)

Publish: Palm Beach Post

Date: August 15, 2023

Publish: DemandStar

Date: September 14, 2023



## **REQUEST FOR PROPOSALS FOR JULY 4<sup>TH</sup> FIREWORKS DISPLAY**

### 1. GENERAL INFORMATION:

The Village of North Palm Beach, Florida (“Village”) is accepting sealed proposals from qualified companies and contractors (“Proposers”) to furnish all labor, material, equipment and all other required goods and services to provide a 2024 July 4th fireworks display, with the option to yearly renew for two more years (as more fully described in the specifications attached hereto as Exhibit “A”), until **3:00 p.m. EST on September 14, 2023** at the Village of North Palm Beach, Village Clerk’s Office, 501 U.S. Highway One, North Palm Beach, FL 33408. Proposals received after the aforementioned date and time will be returned unopened. Proposal packages are available for review and printing from the Village’s web site: [www.village-npb.org](http://www.village-npb.org).

### 2. PREPARATION OF PROPOSAL:

This Request for Proposals (“RFP”) provides the complete set of terms and conditions, specifications and proposal forms for the required goods and services. The specifications are attached hereto and incorporated by reference as Exhibit “A”. The following forms are attached hereto and incorporated herein by reference:

Scope of Work/Specifications	Exhibit “A”
Proposer’s Acknowledgement	Exhibit “B”
Proposal Form	Exhibit “C”
Public Entity Crimes Statement	Exhibit “D”
Scrutinized Vendor Certification	Exhibit “E”
Confirmation of Drug Free Workplace	Exhibit “F”
Standard Village Contract	Exhibit “G”

This RFP is available for review and printing from the Village’s web site: [www.village-npb.org](http://www.village-npb.org) or from [DemandStar](#).

All proposal forms must be completed in full and include a manual signature, in ink, where applicable. The signature must be of an authorized representative who has the legal ability to bind the proposing entity in contractual obligations. Unsigned proposals will not be accepted.

All proposal forms must be typed or legibly printed in ink. Use of erasable ink is not permitted. All corrections made by a proposer to any part of a proposal form must be initialed in ink. It is a proposer’s sole responsibility to assure that its proposal is complete and delivered at the proper time and place of the proposal opening. The Village will not be responsible for any expenses incurred in connection with the preparation and/or delivery of a proposal.

An original of all proposal forms, three (3) copies and one (1) electronic copy, along with other required information (as stated in Section 9 below), must be submitted in a sealed envelope to the address provided above via hand-delivery or mail. Faxed or e-mailed proposals are not acceptable. The face of the sealed envelope shall state **“SEALED PROPOSAL – JULY 4<sup>TH</sup> FIREWORKS DISPLAY”** and contain the proposer’s name, return address, title of the proposal,

and the date and time for proposal opening. Proposals not submitted in a sealed envelope or on the enclosed proposal forms may be rejected.

All questions regarding this RFP must be submitted to **Zakariya Sherman** by e-mail to [zsherman@village-npb.org](mailto:zsherman@village-npb.org) no later than seven (7) days prior to the date scheduled for proposal opening. Responses to questions will be provided as expeditiously as possible, generally within two (2) business days. If any question requires a response, which the Village in its sole discretion, determines should be provided to all potential proposers, the Village will issue an official addendum to this RFP. The Village will endeavor to make sure all potential proposers receive such addendum by posting the addendum on Demand Star for the respective proposal solicitation; however, it is the sole responsibility of every proposer to verify with the Village whether any addendum has been issued prior to submitting a proposal. The Village will not issue an addendum five (5) days or less before proposal opening.

### 3. PROPOSAL EVALUATION AND AWARD:

On the date and time specified in this RFP, the Village will open and announce aloud all proposals received on time. The evaluation of the proposals will occur soon thereafter. The proposal opening may be delayed if, at the sole discretion of the Village, it is considered to be in the Village's best interests.

The Village Administration will evaluate the proposals in order to prepare a recommendation to the Village Council for award of the proposal for the required goods and services. The resulting contract shall be awarded to the responsible Proposer that best meets the needs of the Village, taking into consideration, among other things, the financial responsibility of the Proposer, proven skill and experience, abilities to timely perform the contract, previous satisfactory performance and such other abilities of the proposer that the Village in its sole discretion determines will enable the Proposer to perform effectively and efficiently. The Village, in its sole discretion, reserves the right to waive all technicalities or irregularities and to reject any or all proposals. The Village further reserves the right, in its sole discretion, to award a contract to the Proposer whose proposal best serves the interests of the Village.

The selected proposer will be required to execute a contract with the Village in the form attached hereto as Exhibit G.

**The Village, in its sole discretion, reserves the right to waive all technicalities or irregularities, to reject any or all proposals or any part of a proposal, to award to a single proposer or to divide the award between proposers, and to re-solicit this RFP or any part of this RFP. The Village further reserves the right, in its sole discretion, to award a contract to the proposer (or proposers) whose qualifications best serves the interests of the Village.**

4. INSURANCE REQUIREMENTS:

The selected Proposer shall be required to carry and maintain the following insurance coverages through the time it furnishes all required goods and services to the Village and completes its obligations under the contract:

- A. The Proposer shall maintain Comprehensive General Liability Insurance with minimum coverage limits of \$1,000,000 combined single limit of insurance per occurrence and \$2,000,000 in the general aggregate for bodily injury and property damage and \$2,000,000 in the general aggregate for products/completed operations. Comprehensive General Liability Insurance shall include endorsements for property damage, personal injury, contract liability, product liability and independent contractor coverage.
- B. The Proposer shall maintain Comprehensive Automobile Liability Insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect against claims which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Proposer or by anyone directly or indirectly employed by the Proposer.
- C. The Proposer shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.
- D. All insurance, other than Worker's Compensation, to be maintained by the Proposer shall specifically include the Village as an Additional Insured. The Proposer shall be responsible for any deductibles related to said insurance.

5. REGULATIONS, PERMITS AND FEES:

The selected Proposer will be required to obtain its own expense all permits, inspections and/or licenses required to provide the required goods and/or services to the Village and these costs should be included in the bid proposal. The selected Proposer must comply with all federal, state, and local laws and regulations that may apply, including the standards of the National Fire Protection Association.

6. PUBLIC ENTITY CRIMES:

In accordance with section 287.133, Florida Statutes, any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a VENDOR, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of \$35,000 for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

A public entity crimes statement must be completed and signed by an authorized

representative and be included with the proposal. A copy of the public entity crimes statement is attached to this RFP as Exhibit “D.”

7. PUBLIC RECORDS:

Upon award recommendation or thirty (30) days after opening, whichever is earlier, all proposals and information submitted with each proposal become “public record” and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (“Public Records Law”). In order to be exempt from disclosure, a proposer must invoke the exemptions to disclosure provided by law in its proposal by providing the specific statutory authority for the claimed exemption, identifying the data or other materials to be protected, and stating the reasons why such exclusion from public disclosure is necessary.

8. PAYMENT AND PERFORMANCE BOND:

The selected Proposer, when awarded a contract, will be required to furnish a payment and performance bond with a carrier duly licensed and authorized to do business in the State of Florida, equal to one hundred percent of the total amount of the contract to assure faithful performance and timely payments to all persons providing labor, materials or supplies used in the performance of the work.

The selected Proposer will be required at all times to have a valid payment and performance bond in force covering the work being performed. A failure to have such a bond in force at any time shall constitute a default on the part of the selected proposer. A bond written by a surety, who becomes disqualified to do business in the State of Florida, shall automatically constitute a failure on the part of the selected proposer to meet the above requirements.

9. PROPOSER’S CERTIFICATIONS:

Each proposer submitting a proposal acknowledges, agrees and certifies as follows:

- A. The proposer and its proposal are subject to all terms and conditions specified herein with no exceptions unless authorized in writing by the Village;
- B. The proposal constitutes an offer to the Village, which shall remain open, irrevocable and unchanged for ninety (90) days after proposal opening;
- C. The proposer has not given, offered nor intends to give or offer any economic opportunity, future employment, favor or gratuity of any kind to any employee of the Village in connection with this RFP;
- D. The proposer has not divulged or discussed its proposal with other proposers;
- E. The proposal is made based on independent determination of the proposer without collusion with other proposers in an effort to restrict competition;
- F. The proposer has not made any attempt to induce any potential proposer from submitting or declining to submit a proposal in response to this RFP;

- G. The proposer is financially solvent and sufficiently experienced and competent to provide all goods and/or services required in this RFP;
- H. The proposer shall indemnify, defend and hold harmless the Village, its officers, employees and agents from any and all claims, damages, causes of action or liability related to or arising from this RFP;
- I. Proposer certifies that neither Proposer nor any of Proposer's principals have been convicted of a felony or any crime involving fraud.
- J. Proposer certifies that Proposer and any parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives thereof are not presently debarred, proposed for debarment or declared ineligible to bid or participate in competitive procurement by any Federal, State or Local Government agency and are not listed on the Florida convicted vendor list.
- K. No member of the proposer's ownership, management or staff has any vested interest in or employment relationship with the Village; and
- L. All information provided in the proposal is true and correct in all respects.

If any proposer fails to meet the foregoing certifications, said failure will constitute grounds for rejecting the proposal.

10. **PROPOSAL FORMAT AND SUBMITTAL REQUIREMENTS:**

Each proposal shall be submitted in a clear, concise format, on 8½ x 11 paper. Each proposal set shall contain all information requested herein to be considered for award. Omission of required information may be cause for disqualification. Each proposal shall consist of the following:

**A. Cover Letter of Transmittal (no more than two pages).**

The cover letter will summarize in a brief and concise statement the proposer's qualifications, how it is organized, and its location relative to the Village. Minimum qualifications should be stated and must include:

- (1) A statement that the proposer is licensed in the State of Florida and qualified to provide all services requested under this RFP;
- (2) A statement that if selected by the Village, the proposer understands the work to be done, commits to perform the work within the time period, is able to and will comply with all applicable laws, rules, regulations and ordinances of the Village, Palm Beach County, the State of Florida and the United States; and
- (3) A statement that the proposer is able and will provide the required insurance as stated herein if selected by the Village Council.

The Cover Letter should also identify the Project manager for the proposer. An official authorized to bind the proposer and execute a contract must sign the letter of transmittal. The following proposal forms should be attached to the Cover Letter:

Proposer's Acknowledgement	Exhibit "B"
Proposal Form	Exhibit "C"
Public Entity Crimes Statement	Exhibit "D"
Scrutinized Vendor Certification	Exhibit "E"
Confirmation of Drug Free Workplace	Exhibit "F"

**B. ADDITIONAL INFORMATION.**

- (1) **Proposer's References:** The proposer shall submit a list of at least three (3) entities for which the proposer has presented a fireworks show. Proposer shall indicate a contact person's name, address and telephone number for each reference, and a general description of the services provided and the cost of such services.
- (2) **Subcontractors:** The proposer shall identify all subcontractors, if any, the proposer plans to utilize in the provision of all services under this RFP.
- (3) **Equipment:** The proposer shall provide a list of equipment that is available to perform the services included within the Scope of Services.
- (4). **Conflict of Interest Disclosure.**

The proposer shall disclose with its proposal the name(s) of any officer, director, agent, employee or immediate family member (spouse, parent, sibling and child) who is also an employee or officer of the Village. Furthermore, all proposers shall disclose the name of any Village employee or officer who, either directly or indirectly, owns a material interest in the proposer's company, firm or group or in that of any of its affiliates. If no such conflict of interests exists, the proposer should clearly state this in its proposal.

**11. CONE OF SILENCE:**

This Request for proposals is expressly subject to the Cone of Silence provisions of Section 2-355 of the Palm Beach County Code of Ordinances. Any contract resulting from this RFP entered into in violation of the cone of silence provisions shall render the transaction voidable.

**12. SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS**

Pursuant to section 287.05701, Florida Statutes (2023), the Village may not request documentation of or consider a proposer's social, political, or ideological interests when determining if the proposer is responsible. Further, the Village may not give a preference to a proposer based on the proposer's social, political, or ideological interests.

**RFP EXHIBIT “A”**  
**SCOPE OF WORK/SPECIFICATIONS**

1. **IN GENERAL:**

The Village of North Palm Beach is seeking proposals for a 2024 July 4th Fireworks Display, with the option to continue each year for the following two (2) years: 2025, 2026. The Contract shall remain in effect for a period of three (3) years, unless earlier terminated in accordance with Section 7 of Standard Village Contract. Any variation to the terms and conditions set forth herein shall be in writing and meet all applicable requirements as set forth in the RFP, including, but not limited to, the Proposal Form and the Specifications.

A. **WORK INCLUDED**

The selected proposer shall provide all labor, materials, and appurtenances necessary for the pyrotechnic displays and the full cleanup of the entire area after the event.

B. **SYSTEM DESCRIPTION**

The selected Proposer shall supply a July 4th fireworks display for a minimum duration of twenty-five (25) minutes with shells that range from one (1”) inch to twelve (12”) inches in size.

C. **QUALITY ASSURANCE**

The selected Proposer shall provide certified pyrotechnicians and supervisors who are thoroughly familiar with the type of display involved and the materials and techniques specified.

D. **SUBMITTAL**

The selected Proposer shall submit the manufacturer’s literature to the Village.

E. **PRODUCT HANDLING AND STORAGE**

Upon arrival at the designated location for the fireworks display, all materials shall be checked to ensure that no damage occurred during shipping or handling. Materials shall be stored in such a manner to ensure proper safety, ventilation and drainage; to prevent an unsightly appearance; and to protect against damage, weather, vandalism and theft.

2. **EXECUTION**

A. **INSTALLATION**

The display shall be a turn-key operation and meet all proposal and manufacturer warranty requirements.

B. **CLEANING**

Upon conclusion of the fireworks display, the selected proposer shall clear the designated location of any excess materials or debris.

**RFP SUBMITTAL SCORING:**

All complete proposals received will be reviewed by Village Staff. The Staff's recommendation will go to Village Council for final approval.

**Scoring Matrix:**

Total cost to provide service based on Scope, including description of carnival rides, concessions, and amusements- 80%

References- 20%

**Tentative RFP Schedule (*subject to change at the discretion of the Village*):**

August 15, 2023	Public Advertisement of RFP
September 14, 2023	Proposals due by 3:00 PM
Late September, 2023	Evaluation Committee Review of RFP (Step 1)
Early October, 2023	Contract Recommendation to Council (Step 2)



**RFP EXHIBIT "B"**  
**PROPOSER'S ACKNOWLEDGEMENT**

**SUBMIT ONE (1) ORIGINAL, THREE (3) COPIES AND ONE (1) ELECTRONIC COPY OF YOUR PROPOSAL TO:**

Village of North Palm Beach  
Village Clerk's Office  
501 U.S. Highway One,  
North Palm Beach, FL 33408

**RFP TITLE: July 4<sup>th</sup> Fireworks Display**

Proposal must be received **PRIOR TO 3:00 P.M. on September 14, 2023**, at which time proposals will be opened.

Proposer's Name: \_\_\_\_\_  
(Please specify if a corporation, partnership, other entity or individual)

Fed. ID# or SSN: \_\_\_\_\_

Address: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Contact representative: \_\_\_\_\_

The undersigned authorized representative of the Proposer agrees to all terms and conditions stated in the RFP, to supply a July 4th fireworks display meeting all specifications, and proposes and agrees that if this proposal is accepted by the Village, the Proposer will in good faith enter into contract negotiations with the Village utilizing the standard Village in accordance with the terms and conditions of this RFP. No proposal may be withdrawn for a period of ninety (90) days following the opening of the proposals. The Proposer further acknowledges and affirms the certifications set forth in Section 8 of the RFP.

**PROPOSER REPRESENTATIVE WITH AUTHORITY TO BIND CONTRACT**

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

**CORPORATE SEAL**

Attest By: \_\_\_\_\_  
Secretary

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**RFP EXHIBIT “C”**  
**PROPOSAL FORM**

Name of Proposer: \_\_\_\_\_

**Opening Segment:**

Shell size	Quantity	Basic effects presented:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Main Body Segment:**

Shell size	Quantity	Basic effects presented
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Grand Finale Segment:**

Shell size	Quantity	Basic effects presented
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**PROPOSAL FORM CONTINUED**

**Total Shells**

<b><u>Shell size</u></b>	<b><u>Quantity</u></b>
<b>Under 3"</b> -----	_____
<b>3" shells</b> -----	_____
<b>4" shells</b> -----	_____
<b>5" shells</b> -----	_____
<b>6" shells</b> -----	_____
<b>8" shells</b> -----	_____
<b>10" shells</b> -----	_____
<b>12" shells</b> -----	_____
<b>Total Shells</b>	_____

**RFP EXHIBIT "D"**  
**PUBLIC ENTITY CRIMES STATEMENT**  
**UNDER § 287.133, FLORIDA STATUTES**

1. This sworn statement is submitted to the Village of North Palm Beach, Florida

by \_\_\_\_\_  
(print individual's name and title)

for \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: \_\_\_\_\_)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision or any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:

- a. A predecessor or successor of a person convicted of a public entity crime; or
- b. An entity under the control any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power

to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies.)**

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **(attach a copy of the final order)**

**I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT HIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.**

\_\_\_\_\_  
**(Signature)**

The foregoing document was sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is personally known to me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**RFP EXHIBIT "E"**  
**SCRUTINIZED VENDOR CERTIFICATION**  
**PURSUANT TO SECTION 287.135, FLORIDA STATUTES**

This sworn statement is submitted to the Village of North Palm Beach, Florida

by \_\_\_\_\_  
(print individual's name and title)

for \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: \_\_\_\_\_)

1. I hereby certify that the above-named entity:

- A. Does not participate in the boycott of Israel; and
- B. Is not on the Scrutinized Companies that Boycott Israel List.

2. If the Contract for goods and services is for more than \$1,000,000, I hereby certify that the above-named entity:

- A. Is not on the Scrutinized Companies with Activities in Sudan List; and
- B. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
- C. Has not engaged in business operations in Cuba or Syria.

Section 287.135, Florida Statutes, prohibits the Village from: (1) contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; and (2) contracting with companies, for goods or services over \$1,000,000 that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria.

As the person authorized to sign on behalf of the above-named entity, I hereby certify that the statements set forth above are true and that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees and/or costs. I further understand that any contract with the Village for goods or services may be terminated at the option of the Village if the company has been found to have submitted a false certification.

---

**(Signature)**

The foregoing document was sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is personally known to me or produced \_\_\_\_\_ as identification.

---

Notary Public  
My Commission Expires:

**RFP EXHIBIT "F"**  
**CONFIRMATION OF DRUG-FREE WORKPLACE**

In accordance with Section 287.087, Florida Statutes, whenever two or more Proposals are equal with respect to price, quality, and service which are received by any political subdivision for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. 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 violation 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 proposal a copy of the statement specified in subsection (1).

(4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

(5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.

(6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement on behalf of \_\_\_\_\_,  
I certify that \_\_\_\_\_ complies fully with the above requirements.

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Position:



**RFP EXHIBIT “G”**  
**STANDARD VILLAGE CONTRACT**

This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the VILLAGE OF NORTH PALM BEACH, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as the VILLAGE, and \_\_\_\_\_, an individual or corporation authorized to do business in the State of Florida, hereinafter referred to as the VENDOR.

In consideration of the promises and mutual covenants herein contained, it is hereby agreed that the VENDOR shall provide to the VILLAGE all goods and services necessary to provide a 2024 **July 4th fireworks display**, with the option to yearly renew for two more years pursuant to the terms and conditions of this Contract.

**SECTION 1: SCOPE OF SERVICES OF THE VENDOR.**

The Scope of Work is for a 2024 **July 4<sup>th</sup> Fireworks Display** in accordance with the Request for Proposals issued by the Village, which is incorporated herein by reference.

**SECTION 2: TERM OF CONTRACT.**

A. This Contract shall become effective October 1, 2023 and shall remain in effect for a period of three (3) years, unless earlier terminated in accordance with Section 7. This Contract shall automatically renew for two (2) additional one (1) year periods upon the same terms and conditions contained herein unless either party provides the other party with ninety (90) days’ written notice of its intent not to renew prior to the expiration of the initial term or renewal term. Any variation to the terms and conditions set forth herein shall be in writing and signed by both parties.

B. The VENDOR shall not be entitled to an increase in the agreed to compensation resulting from this Contract or payment or compensation of any kind from the VILLAGE for direct, indirect, consequential, impact or other costs, expenses or damages.

**SECTION 3: VILLAGE’S REPRESENTATIVE.**

Unless otherwise specified by the VILLAGE, the VILLAGE’s representative shall be Zakariya Sherman, Director of Leisure Services. The Village Manager or Village Representative shall have the right at all reasonable times during the term of this Contract to inspect or otherwise evaluate the work being performed thereunder and the premises in which it is being performed.

**SECTION 4: COMPENSATION AND METHOD OF PAYMENT.**

A. The VILLAGE agrees to compensate the VENDOR for providing a 2024 **July 4<sup>th</sup> Fireworks Display** and for which Purchase Orders are issued in accordance with VENDOR’s proposal, which is attached hereto and incorporated herein by reference.

B. In order for both parties herein to close their books and records, VENDOR will clearly state “final invoice” on the VENDOR’s final/last billing to the VILLAGE. This certifies that all goods and services have been properly performed and all charges have been invoiced to the VILLAGE. Since this account will thereupon be closed, any and other further charges if not

properly included in this final invoice are waived by the VENDOR. The VILLAGE will not be liable for any invoice from the VENDOR submitted thirty (30) days after the provision of all goods and services.

#### **SECTION 5: INDEMNIFICATION.**

A. The VENDOR shall indemnify and save harmless and defend the VILLAGE, its agents, servants, and employees from and against any and all claims, liability, losses, and/or cause of action which may arise from any negligent act or omission of the VENDOR, its agents, servants or employees in the performance of services under this Contract.

B. The VENDOR further agrees to indemnify, save harmless and defend the VILLAGE, its agents, servants 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 VENDOR its agents, servants, or employees not included in the paragraph above and for which the VILLAGE, its agents, servants or employees are alleged to be liable.

C. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the VILLAGE or VENDOR, nor shall this Contract be construed a waiver of sovereign immunity beyond the waiver provided in § 768.28, Florida Statutes.

#### **SECTION 6: PERSONNEL.**

A. The VENDOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract.

B. All of the services required hereunder shall be performed by the VENDOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

C. All of the VENDOR's personnel (and all sub-contractors OR sub-consultants) while on VILLAGE premises, will comply with all VILLAGE requirements governing conduct, safety, and security.

#### **SECTION 7: TERMINATION.**

This Contract may be cancelled by the VENDOR upon thirty (30) days prior written notice to the VILLAGE's representative in the event of substantial failure by the VILLAGE to perform in accordance with the terms of this Contract through no fault of the VENDOR. It may also be terminated, in whole or in part, by the VILLAGE without cause upon thirty (30) days written notice to the VENDOR. The VILLAGE may also terminate this Contract with written notice of cause to the VENDOR, who fails to cure such cause within ten (10) days of the receipt of the VILLAGE's notice. Unless the VENDOR is in breach of this Contract, the VENDOR shall be paid for services rendered to the VILLAGE's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the VILLAGE, the VENDOR shall:

- A. Stop work on the date and to the extent specified;
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work;

- C. Transfer all work in progress, completed work, and other materials related to the terminated work to the VILLAGE; and
- D. Continue and complete all parts of the work that have not been terminated.

**SECTION 8: FEDERAL AND STATE TAX.**

The VILLAGE is exempt from payment of Florida State Sales and Use Tax. Unless purchased directly by the VILLAGE, the VENDOR shall not be exempted from paying sales tax to its suppliers for materials used to fill contractual obligations with the VILLAGE, nor is the VENDOR authorized to use the VILLAGE's Tax Exemption Number in securing such materials.

**SECTION 9: INSURANCE.**

A. Prior to commencing any work, the VENDOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the VENDOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the VILLAGE's representative. Failure to comply with the foregoing requirements shall not relieve the VENDOR of its liability and obligations under this Contract.

B. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the VILLAGE.

C. The VENDOR shall maintain, during the life of this Contract, Professional Liability/Error and Omission Insurance/Third Party Crime Coverage to include money and securities, forgery or alteration and employee dishonesty in the minimum amount of \$1,000,000 per occurrence.

D. All insurance, other than Worker's Compensation, to be maintained by the VENDOR shall specifically include the VILLAGE as an Additional Insured.

**SECTION 10: SUCCESSORS AND ASSIGNS.**

The VILLAGE and the VENDOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the VILLAGE nor the VENDOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the VILLAGE which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the VILLAGE and the VENDOR.

#### **SECTION 11: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.**

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The VILLAGE and the **VENDOR knowingly, voluntarily, and intentionally waive any right they may have to trial by jury with respect to any litigation arising out of or in connection with this Contract.**

#### **SECTION 12: INDEPENDENT CONTRACTOR RELATIONSHIP.**

The VENDOR is, and shall be, in the performance of all Services under this Contract, an Independent Contractor, and not an employee, agent, or servant of the VILLAGE. All persons engaged in any of the Services performed pursuant to this Contract shall at all times, and in all places, be subject to the VENDOR'S sole direction, supervision, and control. The VENDOR shall exercise control over the means and manner in which it and its employees perform the Services.

#### **SECTION 13: ACCESS AND AUDITS.**

The VENDOR shall maintain adequate records to justify all charges, expenses and costs incurred in estimating and performing the Services for at least three (3) years after completion of this Contract. The VILLAGE shall have access to such books, records and documents as required in this section for the purpose of inspection or audit during normal business hours, at the VENDOR's place of business. In no circumstances will VENDOR be required to disclose any confidential or proprietary information regarding its products and service costs.

#### **SECTION 14: NONDISCRIMINATION.**

The VENDOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status or sexual orientation.

#### **SECTION 15: ENFORCEMENT COSTS.**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

#### **SECTION 16: SEVERABILITY.**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held

invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 17: MODIFICATIONS OF WORK.**

A. The VILLAGE reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the VENDOR of the VILLAGE's notification of a contemplated change, the VENDOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the VILLAGE of any estimated change in the completion date, and (3) advise the VILLAGE if the contemplated change shall effect the VENDOR's ability to meet the completion dates or schedules of this Contract.

B. If the VILLAGE so instructs in writing, the VENDOR shall suspend work on that portion of the work affected by the contemplated change, pending the VILLAGE's decision to proceed with the change.

C. If the VILLAGE elects to make the change, the VILLAGE shall initiate a Change to the Purchase Order and the VENDOR shall not commence work on any such change until such revised Purchase Order is received.

**SECTION 18: PUBLIC ENTITY CRIMES.**

VENDOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a VENDOR, supplier, sub-VENDOR or VENDOR 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, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. The VENDOR will advise the VILLAGE immediately if it becomes aware of any violation of this statute.

**SECTION 19: PROTECTION OF WORK AND PROPERTY.**

A. The VENDOR shall continuously maintain adequate protection of all work from damage, and shall protect the VILLAGE's property from injury or loss arising in connection with the Contract. Except for any such damage, injury or loss, except that which may be directly due to errors caused by the VILLAGE or employees of the VILLAGE, the VENDOR shall provide any necessary materials to maintain such protection.

B. The VENDOR will also take every necessary precaution to ensure the safety of the VILLAGE, public and other guests and invitees thereof at or near the areas where work is being accomplished during and throughout the completion of all work.

**SECTION 20: WARRANTY/GUARANTY.**

VENDOR warrants that its goods and services under this Contract will be free of defects in materials and workmanship for a period of one (1) year following the provision of said goods and

services.

**SECTION 21: COMPLIANCE WITH LAWS.**

VENDOR shall, in performing the services contemplated by this Contract, faithfully observe and comply with all federal, state and local laws, ordinances and regulations that are applicable to the services to be rendered under this Contract.

**SECTION 22: NOTICE.**

All notices required in this Contract shall be sent by certified mail, return receipt requested and if sent to the VILLAGE shall be mailed to:

**Village of North Palm Beach  
Village Manager  
501 U.S. Highway One  
North Palm Beach, FL 33408**

and if sent to the VENDOR shall be mailed to:

**SECTION 23: ENTIRETY OF CONTRACTUAL AGREEMENT.**

The VILLAGE and the VENDOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. In the event of a conflict between this Contract and the VILLAGE's Request for Qualifications and the VENDOR's proposal, this Contract shall take precedence with the VILLAGE's Request for Qualifications taking precedence over the VENDOR's proposal. All such documents shall be read in a manner so as to avoid a conflict.

**SECTION 24: WAIVER.**

Failure of a party to enforce or exercise any of its right(s) under this Contract shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 25: PREPARATION.**

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

**SECTION 26: SURVIVABILITY.**

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

**SECTION 27: WAIVER OF SUBROGATION.**

VENDOR hereby waives any and all rights to Subrogation against the VILLAGE, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then VENDOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should VENDOR enter into such an agreement on a pre-loss basis.

**SECTION 28: INSPECTOR GENERAL.**

VENDOR is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Contract and in furtherance thereof, may demand and obtain records and testimony from VENDOR. VENDOR understands and agrees that in addition to all other remedies and consequences provided by law, the failure of VENDOR to fully cooperate with the Inspector General when requested may be deemed by the VILLAGE to be a material breach of this Contract justifying its termination.

**SECTION 29: INVOICING AND PAYMENT:**

Payment for any and all invoice(s) that may arise as a result of a Contract or Purchase Order issued pursuant to this Request for Qualifications shall minimally meet the following conditions to be considered as a valid payment request:

- A. A timely submission of a properly certified invoice(s) in strict accordance with the price(s) and delivery elements as stipulated in the Contract or Purchase Order document, and submitted to:

Village of North Palm Beach  
501 U.S. Highway One  
North Palm Beach, Florida 33408  
ATTN: Accounts Payable

- B. All invoices submitted shall consist of an “original” invoice which clearly references the subject Contract or Purchase Order Number; provide a sufficient salient description to identify the good(s) and/or service(s) for which payment is requested; include and be clearly marked as “partial,” “complete” or “final invoice.”
- C. The invoice shall contain the Proposer’s Federal Employer Identification Number.
- D. All payments made by the Village pursuant to the Contract Documents shall be in accordance with Florida’s Prompt Payment Act (for non-construction).

### **SECTION 30: ADDITIONAL SERVICES;**

If during the contractual period covered by the agreement, additional services are needed, VENDOR may, at the option of the Village Council, be engaged to perform these services under the terms of the contract.

### **SECTION 31: PUBLIC RECORDS.**

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE VILLAGE'S CUSTODIAN OF PUBLIC RECORDS AT: (561) 841-3355; [NPBCLERK@VILLAGE-NPB.ORG](mailto:NPBCLERK@VILLAGE-NPB.ORG); OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.

In performing services pursuant to this Contract, VENDOR shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, VENDOR shall:

1. Keep and maintain public records required by the VILLAGE to perform the service.
2. Upon request from the VILLAGE's custodian of public records, provide the VILLAGE with a copy 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 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 for the duration of the Contract term and following completion of the Contract if the VENDOR does not transfer the records to the VILLAGE.
4. Upon completion of the Contract, transfer, at no cost, to the VILLAGE all public records in possession of VENDOR or keep and maintain public records required by the VILLAGE to perform the services. If VENDOR transfers all public records to the VILLAGE upon completion of the Contract, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains public records upon completion of the Contract, VENDOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the VILLAGE, upon request from the VILLAGE's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

### **SECTION 32. PROHIBITION AGAINST CONTINGENT FEES.**

VENDOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for VENDOR, to solicit or secure this Contract and that VENDOR has not paid, or agreed to pay, any person, company, corporation, individual or firm, other than a bona fide employee working solely for VENDOR, any fee, commission, percentage, gift or other consideration contingent upon, or resulting from, aware or making of the Contract. For the breach or violation of this provision, the VILLAGE shall have the right to terminate this Contract



and its sole discretion, without liability, and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, fit or consideration.

**SECTION 33. E-VERIFY.**

VENDOR warrants and represents that VENDOR and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. VENDOR has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with unauthorized aliens. If the VILLAGE has a good faith belief that VENDOR has knowingly violated Section 448.09(1), Florida Statutes, the VILLAGE shall terminate this Contract pursuant to Section 448.095(2), Florida Statutes, as may be amended. If the VILLAGE has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but VENDOR has otherwise complied, it shall notify VENDOR, and VENDOR shall immediately terminate its contract with the subcontractor.

IN WITNESS WHEREOF, the VILLAGE and VENDOR hereto have made and executed this Contract as of the day and year first above written.

**VENDOR**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Position: \_\_\_\_\_

**VILLAGE OF NORTH PALM BEACH**

BY: \_\_\_\_\_  
DAVID NORRIS, MAYOR

ATTEST:

BY: \_\_\_\_\_  
JESSICA GREEN, VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

BY: \_\_\_\_\_  
VILLAGE ATTORNEY

**VILLAGE OF NORTH PALM BEACH  
PUBLIC WORKS DEPARTMENT**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Jamie Mount, P.E., Assistant Director of Public Works

DATE: September 28, 2023

SUBJECT: **RESOLUTION – Acceptance of bid from Coston Marine Services, Inc. for Canal Dredging Services and Authorizing the Execution of a Contract.**

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The Village budgets for stormwater improvement projects within the five-year Capital Improvement Plan utilizing the Stormwater Fund. These projects may consist of swale regrading, new drainage structure installation, pipe lining, canal dredging, etc.

The Village of North Palm Beach sought bids from qualified firms to provide canal dredging services for the existing canal located between Atlantic Road and Ebbside Drive, as well as the disposal of dredged material in accordance with the terms and conditions of the approved environmental permits. The western limits of this canal received sediment deposits from previously compromised Village stormwater infrastructure and requires dredging to accommodate a return to normal tidal flows and to accommodate boat traffic during low tide.

The low-bid contractor was Coston Marine Services, Inc. (Coston). The total cost of Coston's proposal is \$70,350.00. Due to the nature of this project, Village Staff is requesting a project contingency of 10%, which equates to \$7,035.00. If approved, the total project budget would be \$77,385.00. There are sufficient funds available in the Stormwater Fund for this purchase.

The attached Resolution and Contract have been prepared and/or reviewed for legal sufficiency by the Village Attorney.

**Account Information:**

Fund	Department / Division	Account Number	Account Description	Amount
Stormwater Fund	Public Works	H7321-34684	Stormwater Drainage System	\$70,350.00
			Contingency	\$7,035.00
			<b>Total w/ Contingency</b>	<b>\$77,385.00</b>

**Recommendation:**

Village Staff requests Council consideration and approval of the attached Resolution accepting a proposal from Coston Marine Services, Inc., to provide canal dredging and dredge spoil material disposal for the existing canal located between Atlantic Road and Ebbside Drive in an amount not to exceed \$70,350.00 (and a total project budget including contingency of \$77,385.00), with funds expended from the Stormwater Fund Account No. H7321-34684 (Public Works – Stormwater Drainage System) and authorizing the Mayor and Village Clerk to execute the Contract for such services in accordance with Village policies and procedures.

## RESOLUTION 2023-\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, ACCEPTING THE BID OF COSTON MARINE SERVICES, INC. FOR CANAL DREDGING AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE AN AGREEMENT FOR SUCH SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Village Staff issued an Invitation to Bid for Canal Dredging Services for the existing canal between Atlantic Road and Ebbtide Drive (“ITB”); and

WHEREAS, the Village received five bid proposals in response to the ITB, and Village Staff recommended accepting the lowest bid submitted by Coston Marine Services, Inc.; and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF NORTH PALM BEACH, FLORIDA, as follows:

Section 1. The foregoing “whereas” clauses are hereby ratified and incorporated herein.

Section 2. The Village Council hereby accepts the bid proposal submitted by Coston Marine Services, Inc. for Canal Dredging Services for the existing canal between Atlantic Road and Ebbtide Drive at a total cost of \$70,350.00, with funds expended from Account No. H7321-34684 (Stormwater Fund – Stormwater Drainage System). Including contingency, the total project budget shall be \$77,385.00. The Village Council further authorizes the Mayor and Village Clerk to execute an Agreement for such services, a copy of which is attached hereto and incorporated herein.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

## AGREEMENT

THIS AGREEMENT is hereby made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, (the “effective date”) by and between the **Village of North Palm Beach**, a Florida municipal corporation organized and existing under the laws of the State of Florida (“Village”), whose address is 501 U.S. Highway One, North Palm Beach, Florida 33408, and **Coston Marine Services, Inc.**, a Florida corporation (hereafter referred to as “Contractor”), whose address is 1400 Water Tower Road, Lake Park, Florida 33403.

WHEREAS, the Village desires to retain the services of the Contractor to provide the goods and services in accordance with the Village’s Invitation to Bid for Canal Dredging Services, and the Contractor’s response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the Village agree as follows:

### ARTICLE 1. INCORPORATION OF INVITATION TO BID

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the Village’s Invitation to Bid for Canal Dredging Services, all Addenda issued by the Village, and the Contractor’s bid proposal submitted in response to the Invitation to Bid, including all documentation required thereunder.

### ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Contractor shall provide the goods and/or perform those services identified in the specifications accompanying the Village’s Invitation to Bid, which are incorporated herein by reference (“Work”).

### ARTICLE 3. COMPENSATION

The Village shall compensate the Contractor for the performance of the Work in the amount set forth in the Contractor’s bid proposal according to the terms and specifications referenced in the Invitation to Bid. The total compensation shall not exceed **Seventy Thousand Three Hundred and Fifty Dollars and No Cents (\$70,350.00)**.

### ARTICLE 4. MISCELLANEOUS PROVISIONS

a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

- i. As to the Village: Village of North Palm Beach  
501 US Highway One  
North Palm Beach, Florida 33408  
Attn: Village Manager  
Email: [chuff@village-npb.org](mailto:chuff@village-npb.org)
- ii. with a copy to: Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, Florida 33408  
Attn: Assistant Director Public Works  
Email: [jmount@village-npb.org](mailto:jmount@village-npb.org)
- iii. As to the Contractor: Coston Marine Services, Inc.  
1400 Water Tower Road  
Lake Park, Florida 33404  
Attn.: Daniel Coston, President  
Email: [costonmarine@gmail.com](mailto:costonmarine@gmail.com)

b. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

c. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

#### **ARTICLE 5. CONTRACT TERM**

a. This Contract shall remain in effect until such time as the Work is completed, inspected, and accepted by the Village, provided, however, that any obligations of a continuing nature shall survive the expiration or termination of the Contract.

b. The services provided by Contractor shall be commenced subsequent to execution and approval of this Contract by the Village Council and upon written notice from the Village to Contractor to proceed and shall be completed within **ninety (90) calendar days**.

#### **ARTICLE 6. E-VERIFY**

Contractor warrants and represents that Contractor and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. Contractor has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with unauthorized aliens. If the Village has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, the Village shall terminate this Contract pursuant to

Section 448.095(2), Florida Statutes, as may be amended. If the Village has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but Contractor has otherwise complied, it shall notify Contractor, and Contractor shall immediately terminate its contract with the subcontractor.

#### **ARTICLE 7. PUBLIC RECORDS**

**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: (561) 841-3355; [NPBCLERK@VILLAGE-NPB.ORG](mailto:NPBCLERK@VILLAGE-NPB.ORG); OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.**

In performing services pursuant to this Contract, Contractor shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, Contractor shall:

- a. Keep and maintain public records required by the Village to perform the service.
- b. Upon request from the Village's custodian of public records, provide the Village with a copy 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 Chapter 119, Florida Statutes, 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 Contract term and following completion of the Contract if the Contractor does not transfer the records to the Village.
- d. Upon completion of the Contract, transfer, at no cost, to the Village all public records in possession of Contractor or keep and maintain public records required by the Village to perform the services. If Contractor transfers all public records to the Village upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Village, upon request from the Village's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

(Remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereinafter written.

VILLAGE OF NORTH PALM BEACH, FLORIDA

[SEAL]

By: \_\_\_\_\_  
David Norris, Mayor

ATTEST:

By: \_\_\_\_\_  
Jessica Green, CMC, Village Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Leonard G. Rubin, Village Attorney

COSTON MARINE SERVICES, INC.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

## BID SUBMITTAL

**THIS PAGE** and all following pages comprise your original Bid Submittal package. Please also attach any additional information or documentation requested in this Invitation to Bid. There is no need to include the preceding Sections 1, 2, and 3 in your Bid Submittal package.

### INSTRUCTIONS

Sealed Bids must be received on or before the due date and time (local time) at the office of the Village Clerk, 501 U.S. Highway One, North Palm Beach, Florida 33408. Normal Village business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. **All Bids will be publicly opened and read aloud** at Village Hall. Each Bid submitted to the Village Clerk **shall have the following information clearly marked on the face of the envelope:** The Bidder's name, return address, "Invitation To Bid – Canal Dredging Services", due date for Bids, and the title of the Bid. Included in the envelope shall **be one (1) original and one (1) electronic version on CD or a thumb drive in a usable PDF format.** If the Solicitation Summary is not included in the envelope as a hard copy, the Village may deem your Bid non-responsive. The original should be marked "ORIGINAL", and the electronic copy must be identical to the original. In the event of any discrepancy between the original bid and the electronic copy, the original bid shall be the governing document. Bids must contain all information required to be included in the submittal, as described in the Solicitation.

Invitation to Bid: Canal Dredging Services

Due Date and Time: Monday, September 18, 2023 @ 3:00PM

COSTON MARINE SERVICES, INC.

Name of Bidder



**SECTION 4**  
**COMPANY SUMMARY INFORMATION AND PRICING**

4.1 SUMMARY INFORMATION

To be considered for evaluation to be added to the Vendor Pool, the Bidder must submit the following Company Summary information.

Name of Firm: COSTON MARINE SERVICES, INC.

Owner or Principal: DANIEL COSTON

Years in Business: 25+ YEARS

Number of Employees: 13

Name of Primary Contact: DANIEL COSTON

Telephone of Primary Contact: OFFICE- 561-747-4382 / cell: 561-248-3978

NOTE: The Bidder shall attach additional information demonstrating they:

- are a licensed and bonded General Contractor within Florida.
- have performed similar canal dredging services for the past 5 years within Martin, Palm Beach, Broward, or Miami-Dade County.
- have provided similar canal dredging services within the last 6 months of the date of this Invitation to Bid.
- have successfully completed similar canal dredging projects with United States Army Corp of Engineers and Department of Environmental Protection permits.

\* SEE ATTACHED

# ***COSTON MARINE SERVICES, INC.***

*1400 Water Tower Road  
Lake Park, FL 33403  
Office: 561-747-4382 Fax: 561-745-2387  
Email: [mike@costonmarine.com](mailto:mike@costonmarine.com)*

The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408  
Attn: Jamie Mount  
561-296-1077  
Email: [jmount@village-npb.org](mailto:jmount@village-npb.org)

September 15, 2023

## **ITB-CANAL DREDGING SERVICES**

---

### **Location**

ITB-Dredge Canal Between Atlantic Road & Ebb Tide Dr  
Village of North Palm Beach, Florida

### **QUALIFICATION PACKAGE**

1. Attached please find contractor license.
2. Please see a list of dredge projects over the past several years and current projects. All projects on this list are within Palm Beach and Broward County and all are projects that have been approved by the Department of Environmental Protection, the Army Corps Of Engineers & the Broward County Environmental Protection & Growth Management Department.

Projects: 2017-2018 – Riverbend Marina for B&M Marine = 3,000 cy.  
2018-2019 – Lauderdale Marine Center for B&M Marine = 26,393 cy.  
2018-2019 – Westrec Harbour Towne Marina = 9,500 cy.  
2019 – Westrec Sunrise Harbor Marina = 3,880 cy.  
2018-2020 – Town of Palm Beach Lake Worth Lagoon Dredge Project = 65,000 cy.  
2020-2021 – Town of Palm Beach Marina for Murray Logan= 35,000 cy.  
2021 – Westrec Harbour Towne Phase 2 = 4,713 cy.  
2022 – Billfish Marina for B&M Marine = 1,300 cy.  
2022 – Hendricks Automotive Group for B&M Marine = 3,800 cy.  
2023 – in Process Palm Beach Intracoastal Neighbors = 10,500 cy.

Contact information can be provided upon request.

If you have any questions, please feel free to contact our office at 561-747-4382 or by email at [info@costonmarine.com](mailto:info@costonmarine.com).

Sincerely;

***Daniel Coston***

Daniel Coston  
Coston Marine Services, Inc.  
President

Peter Ringle, Chair

Construction Industry Licensing Board  
of Palm Beach County

Oscar Alvarez, Director

**License Number**

**Type of Competency Certification**

U-21984

MARINE CONSTRUCTION CONTRACTOR

Named below is a Certified Contractor as outlined in the Standards to perform under the provisions of Special Act Chapter 67-1876, Laws of Florida as amended and as mandated by State Statute.



NAME : DANIEL L. COSTON

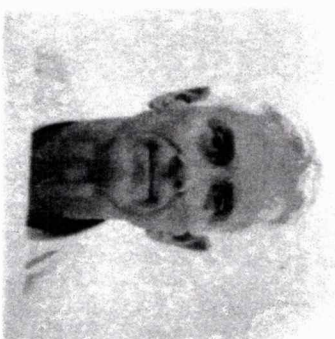
FIRM : COSTON MARINE SERVICES INC

DBA :

228 HIBISCUS ST

SUITE 4

JUPITER, FL 33458



Issued : 09/24/2021

Expiration date: 09/30/2023

**SECTION 5**  
**ACKNOWLEDGEMENT OF ADDENDA**

INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES

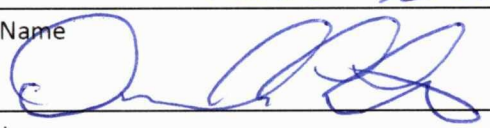
**PART I:**

List below the dates of issue for each addendum received in connection with this Solicitation:

Addendum #1, Dated SEPT. 1, 2023  
Addendum #2, Dated SEPT. 6, 2023  
Addendum #3, Dated SEPT. 6, 2023  
Addendum #4, Dated SEPT. 6, 2023  
Addendum #5, Dated SEPT. 8, 2023  
Addendum #6, Dated SEPT 11, 2023  
Addendum #7, Dated SEPT 12, 2023  
Addendum #8, Dated \_\_\_\_\_  
Addendum #9, Dated \_\_\_\_\_  
Addendum #10, Dated \_\_\_\_\_

**PART II:**

☐ NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS SOLICITATION

COSTON MARINE SERVICES, INC.  
Firm Name  
  
Signature  
DANIEL COSTON (PRESIDENT)  
Name and Title (Print or Type)  
Date 9-15-2023



**SECTION 6**  
**BID SUBMITTAL SIGNATURE PAGE**

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

Firm Name:

COSTON MARINE SERVICES, INC.

Street Address:

1400 WATERTOWER ROAD, LAKE PARK, FL. 33403

Mailing Address (if different than Street Address):

SAME

Telephone Number(s): 561-747-4382

Fax Number(s): 561-745-2387

Email Address: costonmarine@gmail.com / info@costonmarine.com

Federal Employer Identification Number: 65-0850783

Prompt Payment Terms: 0 % 0 days' net 0 days

Signature:   
(Signature of authorized agent)

Print Name: DANIEL COSTON

Title: PRESIDENT

By signing this document, the Bidder agrees to all Terms and Conditions of this Solicitation and the resulting Contract/Agreement.

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF BIDDER TO BE BOUND BY THE TERMS OF ITS OFFER, FOR NOT LESS THAN 90 DAYS, AND THE BIDDER'S UNEQUIVOCAL OFFER TO BE BOUND BY THE TERMS AND CONDITIONS SET FORTH IN THIS INVITATION TO BID. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED ABOVE, BY AN AUTHORIZED REPRESENTATIVE, SHALL RENDER THE BID NON-RESPONSIVE. THE VILLAGE MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY BID THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER TO THE TERMS OF ITS OFFER.

## **SECTION 7**

### **AFFIDAVITS, PERFORMANCE AND PAYMENT BONDS FORMAT, LETTER OF CREDIT FORMAT**

#### **7.1 AFFIDAVITS**

The forms listed below must be completed by an official having legal authorization to contractually bind the company or firm. Each signature represents a binding commitment upon the Bidder to provide the goods and/or services offered to the Village if the Bidder is determined to be the lowest responsive and responsible Bidder.

- a. Conflict of Interest Disclosure Form
- b. Notification of Public Entity Crimes Law
- c. Drug-Free Work Place
- d. Sworn Statement on Discrimination
- e. Scrutinized Vendor Certification
- f. Non-Collusion Affidavit
- g. Trench Safety Affidavit

## DRUG-FREE WORKPLACE

Coston Marine Services, Inc. is a drug-free workplace and has  
(Company Name)  
a substance abuse policy in accordance with and pursuant to Section 440.102, *Florida Statutes*.

Acknowledged by:

Coston Marine Services, Inc.  
Firm Name

  
Signature

DANIEL COSTON (PRESIDENT)  
Name and Title (Print or Type)

9-15-2023  
Date

**SWORN STATEMENT PURSUANT TO SECTION 287.134(3)(a),  
FLORIDA STATUTES, ON DISCRIMINATION**

1. This sworn statement is submitted to the Village of North Palm Beach, Florida

by DANIEL COSTON, PRESIDENT  
(print individual's name and title)  
for COSTON MARINE SERVICES, LLC.  
(print name of entity submitting sworn statement)

whose business address is 1400 WATERTOWER ROAD,  
LAKE PARK, FLORIDA 33403

and (if applicable) its Federal Employer Identification Number (FEIN) is: 65-0850783

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: \_\_\_\_\_)

2. I understand that "discrimination" as defined in Section 287.134(1)(b), **Florida Statutes**, means a determination of liability by a state circuit court or federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion.

3. I understand that an "affiliate" as defined in Section 287.133(1)(a), **Florida Statutes**, means:

- a. A predecessor or successor of an entity that discriminated; or
- b. An entity under the control any natural person who is active in the management of the entity that discriminated. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another entity, or the pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one entity controls another entity.

4. I understand that an "entity" as defined in Section 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity.

5. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies)**

☒ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been placed on the discriminatory vendors list.



\_\_\_\_\_The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been placed on the discriminatory vendors list.

\_\_\_\_\_The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been placed on the discriminatory vendors list. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the discriminatory vendors list. **(attach a copy of the final order)**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.



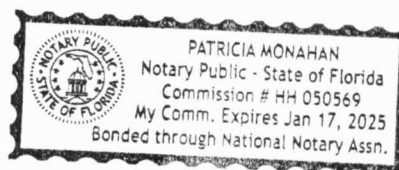
(Signature)

The foregoing document was sworn and subscribed before me this 15 day of SEPTEMBER, 2023 by DANIEL COSTONI, who is personally known to me or produced N/A as identification.



Notary Public

My Commission Expires:



**SCRUTINIZED VENDOR CERTIFICATION  
PURSUANT TO SECTION 287.135, FLORIDA STATUTES**

This sworn statement is submitted to the Village of North Palm Beach, Florida

by DANIEL COSTON (PRESIDENT)  
(print individual's name and title)  
for COSTON MARINE SERVICES, INC.  
(print name of entity submitting sworn statement)

whose business address is 1400 WATERTOWER ROAD  
LAKE PARK, FL. 33403

and (if applicable) its Federal Employer Identification Number (FEIN) is: 65-0850783

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: \_\_\_\_\_)

1. I hereby certify that the above-named entity:
  - A. Does not participate in the boycott of Israel; and
  - B. Is not on the Scrutinized Companies that Boycott Israel List.
2. If the Contract for goods and services is for more than \$1,000,000, I hereby certify that the above-named entity:
  - A. Is not on the Scrutinized Companies with Activities in Sudan List; and
  - B. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
  - C. Has not engaged in business operations in Cuba or Syria.

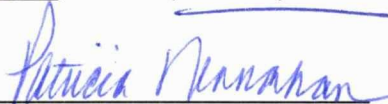
Section 287.135, Florida Statutes, prohibits the Village from: (1) contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; and (2) contracting with companies, for goods or services over \$1,000,000 that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria.

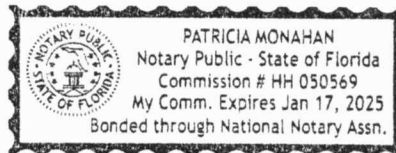
As the person authorized to sign on behalf of the above-named entity, I hereby certify that the statements set forth above are true and that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees and/or costs. I further understand

that any contract with the Village for goods or services may be terminated at the option of the Village if the company has been found to have submitted a false certification.

  
(Signature)

The foregoing document was sworn and subscribed before me this 15 day of SEPTEMBER, 2023 by DANIEL COSTON, who is personally known to me or produced N/A as identification.

  
Notary Public  
My Commission Expires:





### NON-COLLUSION AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared DANIEL COSTON, who, after being by me first duly sworn, deposes and says of his/her personal knowledge that:


- a. He/She is DANIEL COSTON of COSTON MARINE SERVICES, LLC, the Bidder that has submitted a Bid to perform work for the following:

ITB No.: CANAL DREDGING SERVICES Title: PRESIDENT

- b. He/She is fully informed respecting the preparation and contents of the attached Request for Bids, and of all pertinent circumstances respecting such Solicitation.

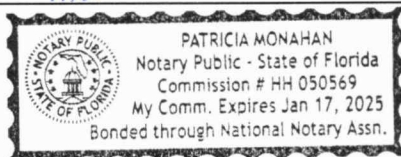
Such Bid is genuine and is not a collusive or sham Bid.

- c. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Solicitation and Contract for which the attached Bid has been submitted or to refrain from proposing in connection with such Solicitation and Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or any other Bidder, or to fix any overhead, profit, or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the Village or any person interested in the proposed Contract.
- d. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

  
Signature

Subscribed and sworn to (or affirmed) before me this 15 day of SEPTEMBER 2023 by DANIEL COSTON who is personally known to me or who has produced n/a as identification.

SEAL



Notary Signature Patricia Monahan  
Notary Name: PATRICIA MONAHAN  
Notary Public (State): FLORIDA  
My Commission No: HH 050569  
Expires on: JAN 17, 2025



**SECTION 10**  
**SOLICITATION SUMMARY**

The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408

PUBLIC WORKS DEPARTMENT

**SOLICITATION SUMMARY**

**IMPORTANT NOTICE**

The information you provide on this page will be read aloud at the PUBLIC OPENING for this Solicitation. It is VERY IMPORTANT that the summary information you provide below is exactly the same information contained in your Bid. If subsequent to the opening of Bids, the Village determines that the information contained in the electronic version of your Bid is different from the information on this Solicitation Summary, the Village reserves the right to deem your Bid NON-RESPONSIVE, and remove your Bid from further evaluation and consideration for Contract award.

**BID INFORMATION**

Invitation To Bid: Canal Dredging Services

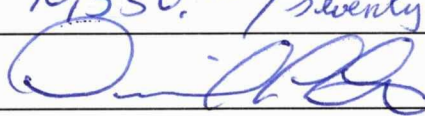
Due Date and Time: Monday, September 18, 2023 @ 3:00PM

Name of Proposer: COSTON MARINE SERVICES, INC.

Address: 1400 WATERTOWER ROAD, LAKE PARK, FL. 33403

Contact Person: DANIEL COSTON

Bid Amount(s): \$ 70,350.00 / Seventy thousand three hundred fifty and 00/100 -

Authorized Signature: 

Date: SEPTEMBER 15, 2023

By signing and submitting this Solicitation Summary, the Bidder affirms that the information provided above is an exact and correct summary of the information contained in the electronic version of the Bidder's Bid to the Village of North Palm Beach.

**NOTE: This Solicitation Summary must be signed and included as an ORIGINAL HARDCOPY in the envelope containing your Bid.**





Village of North Palm Beach  
Public Works Department

*"The Best Place to Live Under the Sun"*

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Invitation To Bid  
Canal Dredging Services  
**Addendum**

**No. 1**

**September 1, 2023**

---

**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

---

**Question 1:** *We are a licensed and bonded Marine Contractor in the state of Florida. Please confirm this license is acceptable to bid on this project.*

**Response 1:** **The stated Marine Contractor license is acceptable.**

**Question 2:** *No mention of marine insurance as a requirement. Longshoreman and Jones Act is always requirement when working on the water.*

**Response 2:** **WORKERS COMPENSATION - Awarded Bidder shall carry Workers Compensation Insurance to apply for all employees in compliance with the "Workers Compensation Law" of the State of Florida and all applicable Federal laws. Worker's compensation coverage shall include U.S. Longshoremen's and Harbor Works Act and Jones Act coverage as required by law for work performed in, on, or near navigable waters. The Village reserves the right not to accept exemptions to the Workers Compensation requirements of this Solicitation.**

**COMPREHENSIVE GENERAL LIABILITY - Awarded Bidder shall carry Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00); and include Products/Completion Liability and Watercraft Liability of One Million Dollars (\$1,000,000). Such certificate shall list the Village as additional insured.**

*Question 3: I can't find any information on how the job will be signed off or final elevation will be determined? Is the contractor responsible for hiring a PSM and provide a S&S drawings at the end to confirm final elevations?*

**Response 3: The Awarded Bidder shall be responsible for hiring a Professional Surveyor & Mapper to survey the dredged channel and provide a signed and sealed survey confirming permitted elevations have been satisfied after dredging.**

*Question 4: What is the acceptable dredge tolerance? Usually there is a minimum of 6" +/- to avoid overdredging. With the box cut, we will definitely leave less than -7 MLW along the sides of the cut so need to know what tolerance will be acceptable.*

**Response 4: Dredge tolerance will meet permit requirements, or 6" if not addressed by permit.**

*Question 5: If we can get permission from one of the residents or businesses along the dredge cut, can we hydraulically pump into dewatering trucks instead of mechanically dredging? It will be much faster, cheaper, and keep the unnecessary sectional barges out of this narrow canal. We will run our dredge and return line between the houses and be responsible for any restoration if needed.*

**Response 5: The Village is open to the Awarded Bidder utilizing creative means and methods to expedite construction, minimize potential environmental impacts, and minimize costs. Any agreements with local property owners to achieve means and methods shall be the responsibility of the Awarded Bidder. Should such an agreement be reached, the Awarded Bidder shall provide a written, signed, and notarized document demonstrating such an agreement.**





**Village of North Palm Beach**  
**Public Works Department**

*"The Best Place to Live Under the Sun"*

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**Invitation To Bid**  
**Canal Dredging Services**  
**Addendum**

**No. 2**

**September 6, 2023**

---

**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

---

*Question 1: Is there an estimated budget or value you were willing or able to share with me at this time?*

**Response 1: No estimated budgets have been developed.**

*Question 2: Is there a list of plan holders or potential bidders you could send my way?*

**Response 2: There is no plan holder list for this solicitation. Potential bidders will not be known until bids have been submitted.**

*Question 3: Have start and end dates for the actual work on the project been established yet?*

**Response 3: Construction start/end dates will be dependent on the awarded bidder's available schedule, and subject to the conditions of the permits.**



**Village of North Palm Beach**  
**Public Works Department**

*"The Best Place to Live Under the Sun"*

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**Invitation To Bid**  
**Canal Dredging Services**  
**Addendum**

**No. 3**

**September 6, 2023**

---

**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

---

*Question 1: What is the engineer's estimate or The Village's budget for this project?*

**Response 1: No estimated budgets have been developed.**

*Question 2: In addendum 01, a question was asked if the dredge material can be hydraulically pumped into dewatering trucks. The Village's response was they are open to creative means and methods. However, the USACE permit specifically calls out mechanical dredge. Please confirm that the use of hydraulic dredging/pumping is allowed.*

**Response 2: It is understood that all contractor means and methods shall meet permit conditions and requirements.**



## Village of North Palm Beach

### Public Works Department

*"The Best Place to Live Under the Sun"*

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## Invitation To Bid Canal Dredging Services Addendum

**No. 4**

**September 6, 2023**

---

**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

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*Question 1: I noticed in the Addendum responses that a State General Contractor License is not Required that a Certificate of Competency License for Marine Construction is allowed?*

**Response 1: The awarded bidder must be either a Florida General Contractor or Florida Marine Contractor certified by the Construction Industry Licensing Board (CILB) in Florida, and demonstrate the required project experience as identified in the Invitation to Bid. The awarded bidder will be required to demonstrate certification by the CILB.**

*Question 2: Is there a bid tabulation sheet with the proposed quantity and your total bid number?*

**Response 2: Estimated dredged quantities can be found within the permit documentation. A bid estimate is not available.**

*Question 3: I noticed that a bid bond is not required, but a payment and performance bond will be required, is that correct?*

**Response 3: A Bid Bond is not required. A Performance Bond is required pursuant to Section 255.05 of the Florida Statutes.**

*Question 4: The Conditions states that the contractor is supposed to warranty the work for 1 year after completion. Can we change the one year warranty to warranty upon approved as built survey?*

**Response 4: The one-year warranty requirement has been waived. The project will be Final Accepted upon Village approval of the awarded bidder's As-Built Survey.**



Village of North Palm Beach  
Public Works Department

*"The Best Place to Live Under the Sun"*

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Invitation To Bid  
Canal Dredging Services  
**Addendum**

**No. 5**

**September 8, 2023**

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**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

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*Question 1: Do you have a recommended staging lot for dredge/offloading? Or is this the full responsibility of the awarded contractor?*

**Response 1: The offloading of dredged material will be the responsibility of the awarded bidder.**

*Question 2: Has the material been tested? Is it anticipated to be disposed of as clean material? What is your recommended disposal location?*

**Response 2: The material has not been tested. It is anticipated to be clean material. The disposal location will be the responsibility of the awarded bidder.**

*Question 3: Will the disposal fees be reimbursed by the Village?*

**Response 3: Disposal fees will not be reimbursed as a separate cost by the Village.**

*Question 4: Can the Village break the bid down into itemized prices? For Ex: Mobilization, dredge, Staging, environmental measures, disposal.*

**Response 4: Bids are to be itemized at the discretion of proposed bidders.**

*Question 5: Is bonding a requirement?*

**Response 5: Bonding is a requirement in accordance with Section 2.14 of the Invitation to Bid.**



Village of North Palm Beach

Public Works Department

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## Invitation To Bid Canal Dredging Services Addendum

**No. 6**

**September 11, 2023**

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**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

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**Question 1:** *Noticed that Page 37, Section 10, Solicitation Summary Sheet, of the Bid Documents shows the Bid Amount as a Single Line Item. It is our understanding this represents a Lump Sum Bid, if so then how will a change in Dredge Quantity be handled since there is No Request for a Unit Price. ie: Pre-Dredge Survey and or Post Dredge Survey show a difference in quantities then that shown on the Permit Dwg's.*

**Response 1:** **This is a Lump Sum bid project. Any deviation in quantity of material removed is understood to be included in the Lump Sum bid, regardless of whether the quantity deviation is higher or lower than the estimated dredged quantity shown in the permit.**

**Question 2:** *USACE's permit No. SAJ-2022-02800 (LP-KMM) dated June 06, 2023 clearly states this project is a Mechanical Dredging Type Project. In Addendum #01 Question 5 Response, you say the Village will consider any cost saving idea's by the contractor such as Hydraulic Dredging, yet in Addendum #03 Question 2 Response, you say the contractor must conform to the Permit Conditions. If Contractor submits their Bid Based on Hydraulic Dredging vs. Mechanical Dredging is the Village going to request a Permit Modification, and cover any Permit Modification Fees, also what happens if The Permit Modification Request is denied does the Contractor have the right to modify their Bid Proposal which is not fair to other bidders.*

**Response 2:** **As addressed in Addendum 3, which is considered supplemental information to preceding addendums, it is understood that all contractor means and methods shall meet permit conditions and requirements.**





## Village of North Palm Beach

### Public Works Department

*"The Best Place to Live Under the Sun"*

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# Invitation To Bid Canal Dredging Services Addendum

## No. 7

### September 12, 2023

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**SUBMITTAL DUE: 3:00 PM, Local Time, September 18, 2023**

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**Question 1:** *Is the contractor allowed to use the open grassy area located north of the canal and east of 106 Atlantic Rd, as a staging and access area?*

**Response 1:** **The grassy area referred to is not available for contractor staging or access.**

**Question 2:** *Is the access road located south of the canal and west of 161 Ebbtide Dr, North Palm Beach, FL 33408, an approved access, and staging area?*

**Response 2:** **The access roadway referred to is on private property and not readily available for use.**

**Question 3:** *Is there an approved mooring location?*

**Response 3:** **It will be the responsibility of the Awarded Bidder to obtain appropriate permits for any mooring.**

**Question 4:** *Is there an approved boat ramp to offload spoils?*

**Response 4:** **It will be the responsibility of the Awarded Bidder to identify a boat ramp suitable to offload spoils. No ramps are available within the Village of North Palm Beach.**

**Question 5:** *Is local water vessel traffic within the canal to be halted during the dredging activities?*

**Response 5:** **The Village of North Palm Beach will request that all homeowners with canal access cease canal boat traffic during construction.**

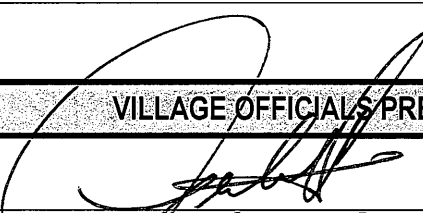
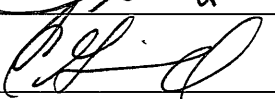
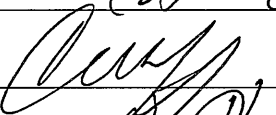

# Village of North Palm Beach Bid Summary Sheet

PAGE 1 \_\_\_\_ OF 1 \_\_\_\_

Proposal for: <b>ITB Canal Dredging</b>		Date: <b>September 18, 2023</b>		No. of Proposals Received:
DESCRIPTION	VENDORS			
Requirements: accepting ITB Bid and Proposal for qualified firms to provide canal dredging services.	<i>Bay side Dredging llc</i> 5035 Ulmerton Rd Clearwater, FL 33760	Landshore Enterprises, LLC 2462 Laurel Rd E North Venice, FL 34275	Custom Built Marine Construction, Inc. 3119 Hammond Road Fort Pierce, FL 34946	Coston Marine Services, Inc. 1400 Water Tower Rd Lake Park, FL 33403
	<i>\$174,964.00</i>	<i>\$385,000.00</i>	<i>\$294,841.00</i>	<i>\$70,350.00</i>
VILLAGE OFFICIALS PRESENT (Signature)	VENDOR REPRESENTATIVES PRESENT (Print name of Rep and Company)			
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>Philippe D</i>				

# Village of North Palm Beach Bid Summary Sheet

PAGE 2 \_\_\_\_ OF 2 \_\_\_\_

Proposal for: <b>ITB Canal Dredging</b>		Date: <b>September 18, 2022</b>		No. of Proposals Received:
DESCRIPTION	VENDORS			
Requirements: accepting ITB Bid and Proposal for qualified firms to provide canal dredging services.	Arbor Tree and Landscape 7089 Hemstreet Pl West Palm Beach, FL 33413			
	\$ 533,902.00			
VILLAGE OFFICIALS PRESENT (Signature)		VENDOR REPRESENTATIVES PRESENT (Print name of Rep and Company)		
				
				
				
				



# LOCALiQ

The Gainesville Sun | The Ledger  
Daily Commercial | Ocala StarBanner  
News Chief | Herald-Tribune  
News Herald | The Palm Beach Post  
Northwest Florida Daily News

PO Box 631244 Cincinnati, OH 45263-1244

## PROOF OF PUBLICATION

North Palm Beach, Village Of  
North Palm Beach, Village Of  
501 US HIGHWAY 1

NORTH PALM BEACH FL 334084901

STATE OF WISCONSIN, COUNTY OF BROWN

Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the Palm Beach Post, published in Palm Beach County, Florida; that the attached copy of advertisement, being a Bids & Proposals, was published on the publicly accessible website of Palm Beach County, Florida, or in a newspaper by print in the issues of, on:

08/29/2023

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 08/29/2023



Legal Clerk

Notary, State of WI, County of Brown

3/7/27

My commission expires

Publication Cost: \$228.66

Order No: 9212444

# of Copies:

Customer No: 731044

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KAITLYN FELTY  
Notary Public  
State of Wisconsin

The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408  
LEGAL ADVERTISEMENT  
INVITATION TO BID

CANAL DREDGING SERVICES  
The Village of North Palm Beach is seeking Bids from qualified firms to provide canal dredging services for the existing canal located between Atlantic Road and Ebbtide Drive, within the Village of North Palm Beach, in accordance with the terms, conditions, and specifications contained in this Invitation to Bid. Invitation to Bid documents are available beginning Monday, August 28, 2023, at 8:00 a.m. local time on the Village of North Palm Beach website at [www.Village-npb.org](http://www.Village-npb.org), and following the link to the Bids and Proposals webpage, or by contacting the Public Works Office at (561) 691-3440. Bids documents can also be found on DemandStar as referenced on the previous page. Sealed Bid packages must be clearly marked "Invitation To Bid - Canal Dredging Services" and delivered to the Office of the Village Clerk at 501 U.S. Highway One, North Palm Beach, Florida 33408. The deadline for submission of Bids is Monday, September 18, 2023, at 3:00 p.m. local time. At that time, the Bids will be publicly opened and read aloud at Village Hall, 501 U.S. Highway One, North Palm Beach, Florida 33408. Late Bids will not be accepted and will be returned to the sender unopened.

It is the responsibility of the Bidder to ensure all pages are included in the submission. All Bidders are advised to closely examine the Solicitation package. Any questions regarding the completeness or substance of the Solicitation package or the goods or services must be submitted in writing via email or fax to James Mount, Assistant Public Works Director, [jmount@village-npb.org](mailto:jmount@village-npb.org) or (561) 626-5869 (fax) at least seventy-two (72) hours before the Due Date for Bids. The Village of North Palm Beach is exempt from Federal and State Taxes for tangible personal property tax.

The Village of North Palm Beach reserves the right to accept or reject any or all Bid submittals, in whole or in part, with or without cause, to waive any irregularities and/or technicalities, and to award the Contract to the responsive and responsible bidder it determines, in its sole discretion, will best serve the interests of the Village.  
VILLAGE OF NORTH PALM BEACH  
Charles Huff, Village Manager  
8/29/23 9212444



The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408

PUBLIC WORKS DEPARTMENT

## INVITATION TO BID

### CANAL DREDGING SERVICES

**DUE DATE AND TIME: Monday, September 18, 2023 @ 3:00PM**

#### INSTRUCTIONS

Sealed Bids must be received on or before the due date and time (local time) at the office of the Village Clerk, 501 U.S. Highway One, North Palm Beach, Florida 33408. Normal Village business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. **All Bids will be publicly opened and read aloud** at Village Hall. Each Bid submitted to the Village Clerk **shall have the following information clearly marked on the face of the envelope:** The Bidder's name, return address, "Invitation To Bid – Canal Dredging Services", due date for Bids, and the title of the Bid. Included in the envelope shall **be one (1) original and one (1) electronic version on CD or a thumb drive in a usable PDF format**. If the Solicitation Summary is not included in the envelope as a hard copy, the Village may deem your Bid non-responsive. The original should be marked "ORIGINAL", and the electronic copy must be identical to the original. In the event of any discrepancy between the original bid and the electronic copy, the original bid shall be the governing document. Bids must contain all information required to be included in the submittal, as described in the Solicitation.

#### BROADCAST

The Village of North Palm Beach utilizes electronic online services for notification and distribution of its Solicitation documents. The Village's Solicitation information can be obtained from: **a) Village's Website (Bids and Proposals)**- Please contact Public Works at [jmount@village-npb.org](mailto:jmount@village-npb.org), for additional information **b) DemandStar** - Please contact DemandStar at [www.demandstar.com](http://www.demandstar.com) or by calling them at 1-800-711-1712. The Village is not responsible for errors and omissions occurring in the transmission or downloading of any documents, addenda, plans, or specifications from these websites. In the event of any discrepancy between information on these websites and the hard copy Solicitation documents, the terms and conditions of the hardcopy documents will prevail.

#### CONTACT PERSON

Any questions regarding the specifications and Solicitation process must be submitted in writing to the Public Works Department for the Assistant Director at [jmount@village-npb.org](mailto:jmount@village-npb.org). To allow enough time for the Village to respond, requests for clarification and additional information should be received at least seventy-two (72) hours before the Due Date for Bids.

The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408

**LEGAL ADVERTISEMENT**

INVITATION TO BID

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VILLAGE OF NORTH PALM BEACH  
Charles Huff, Village Manager

Publish: Palm Beach Post  
Monday, August 28, 2023

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## SECTION 1 GENERAL TERMS AND CONDITIONS

### 1.1 DEFINITIONS

- a. *Bid: any offer(s) submitted in response to an Invitation to Bid.*
- b. *Bidder: person or firm submitting a Bid in response to an Invitation to Bid.*
- c. *Bid Solicitation or Invitation to Bid: this Solicitation documentation, including any and all addenda.*
- d. *Bid Submittal Form: describes the goods or services to be purchased, and must be completed and submitted with the Bid.*
- e. *Village: shall refer to the Village of North Palm Beach, Florida.*
- f. *Contract or Agreement: The Invitation to Bid, all addenda issued thereto, all affidavits, the signed agreement, and all related documents which comprise the totality of the Contract or agreement between the Village and the Bidder.*
- g. *Contractor: successful Bidder or Bidder who is awarded a Contract to provide goods or services to the Village.*
- h. *Invitation to Bid: formal request for Bids from qualified Bidders.*
- i. *Public Works Department: The Public Works Department of the Village of North Palm Beach, Florida.*
- j. *Responsible Bidder: A Bidder which has the capability in all respects to perform in full the Contract requirements, as stated in the Invitation to Bid, and the integrity and reliability that will assure good-faith performance.*
- k. *Responsive Bidder: A Bidder whose Bid conforms in all material respects to the terms and conditions included in the Invitation to Bid.*

### 1.2 CONE OF SILENCE

*Pursuant to Section 2-355 of Palm Beach County Code, the Public Works policies of the Village of North Palm Beach, all Solicitations, once bids are received and until the appropriate authority has approved an award recommendation, are under the "Cone of Silence". This limits and requires documentation of communications between potential Bidders and/or Bidders on Village Solicitations, the Village's professional staff, and the Village Council members.*

### 1.3 ADDENDUM

*The Public Works Department may issue an addendum in response to any inquiry received, prior to the close of the Solicitation period, which changes, adds, or clarifies the terms, provisions, or requirements of the Solicitation. The Bidder*

*should not rely on any representation, statement, or explanation, whether written or verbal, other than those made in the Solicitation document or in the addenda issued. Where there appears to be a conflict between the Solicitation and any addenda, the last addendum issued shall prevail. It is the vendor's responsibility to ensure receipt of all addenda, and any accompanying documentation. The vendor is required to submit with its Bid or Bid a signed "Acknowledgment of Addenda" form, when any addenda have been issued.*

### 1.4 LEGAL REQUIREMENTS

*This Solicitation is subject to all legal requirements contained in the applicable Village Ordinances and Resolutions, as well as all applicable local, State, and Federal laws and regulations.*

### 1.5 CHANGE OF BID

*Prior to the scheduled Bid opening, a Bidder may change its Bid by submitting a new Bid (as indicated on the cover page) with a letter on the firm's letterhead, signed by an authorized agent stating that the new submittal replaces the original submittal. The new submittal shall contain the letter and all information as required for submitting the original Bid. No changes to a Bid will be accepted after the Bid has been opened.*

### 1.6 WITHDRAWAL OF BID

*A Bid shall be irrevocable unless the Bid is withdrawn as provided herein. Only a written letter received by the Public Works Department prior to the Bid opening date may withdraw a Bid.*

### 1.7 CONFLICTS WITHIN THE BID SOLICITATION

*Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, the Technical Specifications, the Bid Submittal Form, or any addendum issued, the order of precedence shall be: the last addendum issued, the Bid Submittal Form, the Technical Specifications, the Special Conditions, and then the General Terms and Conditions.*

### 1.8 PROMPT PAYMENT TERMS

*It is the policy of the Village of North Palm Beach that payment for all purchases by Village departments shall be made in a timely manner. The Village will pay the awarded Bidder upon receipt and acceptance of the goods or services by a duly authorized representative of the Village. In accordance with Section 218.74, Florida Statutes, the time at which payment shall be due from the Village shall be forty-five (45) days from receipt of a proper invoice. Proceedings to resolve disputes for payment of obligations shall be concluded by final written*

decision of the Village Manager or designee, not later than sixty (60) days after the date on which the proper invoice was received by the Village.

#### 1.9 DISCOUNTS (PROMPT PAYMENTS)

Discounts will not be applicable to this contract.

#### 1.10 PREPARATION OF BIDS

- a. The Bid forms define requirements of items to be purchased, and must be completed and submitted with the Bid. Use of any other forms will result in the rejection of the Bidder's offer. The Bid submittal forms must be legible. Bidders shall use typewriter, computer, or ink. All changes must be crossed out and initialed in ink. Failure to comply with these requirements may cause the Bid to be rejected.
- b. An authorized agent of the Bidder's firm must sign the Bid submittal form. **Failure to sign the Signature Page of the Bid shall render the Bid non-responsive.**
- c. The Bidder may be considered non-responsive if Bids are conditioned upon modifications, changes, or revisions to the terms and conditions of this Solicitation.
- d. The Bidder may submit alternate Bid(s) for the same Solicitation provided that such offer is allowable under the terms and conditions. The alternate Bid must meet or exceed the minimum requirements and be submitted as a separate Bid submittal marked "Alternate Bid".
- e. When there is a discrepancy between the unit prices and any extended prices, the unit prices will prevail.
- f. Late Bids will not be accepted and will be returned to the sender unopened. It is the Bidder's responsibility to ensure timely delivery by the due date and time, and at the place stated in this Solicitation. No exceptions will be made due to weather, carrier, traffic, illness, or other issues.

#### 1.11 CANCELLATION OF BID SOLICITATION

The Village of North Palm Beach reserves the right to cancel, in whole or in part, any Invitation to Bid when it is in the best interest of the Village.

#### 1.12 AWARD OF CONTRACT

- a. The Contract may be awarded to the responsive and responsible Bidder meeting all requirements as set forth in the Solicitation. The Village reserves the right to reject any and all Bids, to waive irregularities or technicalities, and to re-advertise for all or any part of this Bid Solicitation as deemed in its best interest. The Village shall be the sole judge of its best interest.
- b. The Village reserves the right to reject any and all Bids if it is determined that prices are excessive, best offers are

determined to be unreasonable, or it is otherwise determined to be in the Village's best interest to do so.

- c. The Village reserves the right to negotiate prices **with the responsive and responsible low Bidder**, provided that the scope of work of this Solicitation remains the same.
- d. The Bidder's performance as a prime Contractor or subcontractor on previous Village Contracts shall be taken into account in evaluating the Bid received for this Bid Solicitation.
- e. The Village will provide a copy of the Bid Tabulation to all Bidders responding to this Solicitation.
- f. The Bid Solicitation, any addenda and/or properly executed modifications, the signed Agreement, the purchase order, and any change order(s) shall constitute the Contract.
- g. The Public Works Director will decide all tie Bids.
- h. Award of this Bid may be predicated on compliance with and submittal of all required documents as stipulated in the Bid Solicitation.
- i. The Village reserves the right to request and evaluate additional information from any Bidder after the submission deadline as the Village deems necessary.

#### 1.13 CONTRACT EXTENSION

Contract extensions will not be applicable to this contract.

#### 1.14 WARRANTY

All warranties express and implied shall be made available to the Village for goods and services covered by this Bid Solicitation. All goods furnished shall be fully guaranteed by the awarded Bidder against factory defects and workmanship. At no expense to the Village, the awarded Bidder shall correct any and all apparent and latent defects that may occur within the manufacturer's standard warranty.

#### 1.15 ESTIMATED QUANTITIES

Estimated quantities or dollars are for Bidder's guidance only: (a) estimates are based on the Village's anticipated needs and/or usage; and (b) the Village may use these estimates to determine the low Bidder. No guarantee is expressed or implied as to quantities or dollars that will be used during the Contract period. The Village is not obligated to place any order for the given amount subsequent to the award of this Bid Solicitation.

#### 1.16 NON-EXCLUSIVITY

It is the intent of the Village to enter into an agreement with the awarded Bidder that will satisfy its needs as described herein. However, the Village reserves the right as deemed in its best interest to perform, or cause to be performed, the

work and services, or any portion thereof, herein described in any manner it sees fit, including but not limited to, award of other Contracts, use of any Contractor, or perform the work with its own employees.

**1.17 CONTINUATION OF WORK**

Any work that commences prior to and will extend beyond the expiration date of the current Contract period shall, unless terminated by mutual written agreement between the Village and the successful Bidder, continue until completion at the same prices, terms, and conditions.

**1.18 LAWS AND REGULATIONS**

The awarded Bidder shall comply with all laws and regulations applicable to provide the goods or services specified in this Bid Solicitation. The Bidder shall be familiar with all federal, state, and local laws that may affect the goods and/or services offered.

**1.19 LICENSES, PERMITS AND FEES**

The awarded Bidder(s) shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations, and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the Village or an awarded Bidder for failure to obtain and maintain required licenses, certifications, permits, and/or inspections shall be borne by the awarded Bidder. The Village will reimburse the awarded Bidder all required permit fees.

**1.20 SUBCONTRACTING**

Unless otherwise specified in this Bid Solicitation, the successful Bidder shall not subcontract any portion of the work without the prior written consent of the Village. The ability to subcontract may be further limited by the Special Conditions. Subcontracting without the prior consent of the Village may result in termination of the Contract for default.

**1.21 ASSIGNMENT**

The awarded Bidder shall not assign, transfer, hypothecate, or otherwise dispose of this Contract, including any rights, title, or interest therein, or its power to execute such Contract to any person, company, or corporation without the prior written consent of the Village. Assignment without the prior consent of the Village may result in termination of the Contract for default.

**1.22 RESPONSIBILITIES AS EMPLOYER**

The employee(s) of the awarded Bidder shall be considered to be at all times its employee(s), and not an employee(s) or agent(s) of the Village or any of its departments. The awarded Bidder shall provide physically competent employee(s) capable of performing the work as required. The Village may require the awarded Bidder to remove any employee it deems unacceptable. All employees of the awarded Bidder shall wear proper identification.

**1.23 INDEMNIFICATION**

The awarded Bidder shall indemnify and hold harmless the Village and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the Village or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the awarded Bidder or its employees, agents, servants, partners, principals, or subcontractors. The awarded Bidder shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Village, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The awarded Bidder expressly understands and agrees that any insurance protection required by this Contract agreement or otherwise provided by the awarded Bidder shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the Village or its officers, employees, agents, and instrumentalities as herein provided.

**1.24 COLLUSION**

A Bidder recommended for award as the result of a competitive Solicitation for any Village purchases of supplies, materials, and services (including professional services, other than professional architectural, engineering, and other services subject to Sec. 287.055 Florida Stats.), purchase, lease, permit, concession, or management agreement shall, within five (5) business days of the filing of such recommendation, submit an affidavit under the penalty of perjury, on a form provided by the Village, stating either that the Contractor is not related to any of the other parties Bidding in the competitive Solicitation or identifying all related parties, as defined in this Section, which Bid in the Solicitation; and attesting that the Contractor's Bid is genuine and not a sham or collusive or made in the interest or on behalf of any person not therein named, and that the Contractor has not, directly or indirectly, induced or solicited any other Bidder to put in a sham Bid, or any other person, firm, or corporation to refrain from proposing, and that the Bidder has not in any manner sought by collusion to secure to the Bidder an advantage over any other Bidder. In the event a recommended Bidder identifies related parties in the competitive Solicitation its Bid shall be presumed to be collusive and the recommended Bidder shall be ineligible for award unless that presumption is rebutted to the satisfaction of the Village. Any person or entity that fails to submit the required affidavit shall be ineligible for Contract award.

**1.25 MODIFICATION OF CONTRACT**

The Contract may be modified by mutual consent, in writing, through the issuance of a modification to the Contract, a supplemental agreement, purchase order, or change order, as appropriate.

- 1.26 **TERMINATION FOR CONVENIENCE**  
The Village, at its sole discretion, reserves the right to terminate any Contract entered into pursuant to this Invitation to Bid (ITB) with or without cause immediately upon providing written notice to the awarded Bidder. Upon receipt of such notice, the awarded Bidder shall not incur any additional costs under the Contract. The Village shall be liable only for reasonable costs incurred by the awarded Bidder prior to the date of the notice of termination. The Village shall be the sole judge of "reasonable costs."
- 1.27 **TERMINATION FOR DEFAULT**  
The Village reserves the right to terminate this Contract, in part or in whole, or place the vendor on probation in the event the awarded Bidder fails to perform in accordance with the terms and conditions stated herein by providing written notice of such failure or default and by specifying a reasonable time period within which the awarded Bidder must cure any such failure to perform or default. The awarded Bidders' failure to timely cure any default shall serve to automatically terminate any Contract entered into pursuant to this ITB. The Village further reserves the right to suspend or debar the awarded Bidder in accordance with the appropriate Village ordinances, resolutions, and/or policies. The vendor will be notified by letter of the Village's intent to terminate. In the event of termination for default, the Village may procure the required goods and/or services from any source and use any method deemed in its best interest. All re-procurement costs shall be borne by the incumbent Bidder.
- 1.28 **FRAUD AND MISREPRESENTATION**  
Any individual, corporation, or other entity that attempts to meet its Contractual obligations with the Village through fraud, misrepresentation, or material misstatement, may be debarred for up to five (5) years. The Village, as a further sanction, may terminate or cancel any other Contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.
- 1.29 **ACCESS AND AUDIT OF RECORDS**  
The Village reserves the right to require the awarded Bidder to submit to an audit by an auditor of the Village's choosing at the awarded Bidder's expense. The awarded Bidder shall provide access to all of its records, which relate directly or indirectly to this Agreement, at its place of business during regular business hours. The awarded Bidder shall retain all records pertaining to this Agreement, and upon request, make them available to the Village for three (3) years following expiration of the Agreement. The awarded Bidder agrees to provide such assistance as may be necessary to facilitate the review or audit by the Village to ensure compliance with applicable accounting and financial standards.
- 1.30 **OFFICE OF THE INSPECTOR GENERAL**  
Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present, and proposed County programs, Contracts, transactions, accounts and records. The Inspector General (IG) has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. The Inspector General may, on a random basis, perform audits on all Village Contracts.
- 1.31 **PRE-AWARD INSPECTION**  
The Village may conduct a pre-award inspection of the Bidder's site or hold a pre-award qualification hearing to determine if the Bidder is capable of performing the requirements of this Bid Solicitation.
- 1.32 **PROPRIETARY AND/OR CONFIDENTIAL INFORMATION**  
Bidders are hereby notified that all information submitted as part of, or in support of Bid submittals will be available for public inspection after the opening of Bids in compliance with Chapter 119 of the Florida Statutes, popularly known as the "Public Record Law." The Bidder shall not submit any information in response to this Solicitation which the Bidder considers to be a trade secret, proprietary, or confidential. The submission of any information to the Village in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection which would otherwise be available to the Bidder. In the event that the Bidder submits information to the Village in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the Bid as protected or confidential, the Village may, in its sole discretion, either (a) communicate with the Bidder in writing in an effort to obtain the Bidder's withdrawal of the confidentiality restriction, or (b) endeavor to redact and return that information to the Bidder as quickly as possible, and if appropriate, evaluate the balance of the Bid. The redaction or return of information pursuant to this clause may render a Bid non-responsive.
- 1.33 **ADDITIONAL FEES AND SURCHARGES**  
Unless provided for in the Contract/agreement, the Village will not make any additional payments such as fuel surcharges, demurrage fees, or delay-in-delivery charges.
- 1.34 **COMPLIANCE WITH FEDERAL STANDARDS**  
All items to be purchased under this Contract shall be in accordance with all governmental standards, to include, but not be limited to, those issued by the Occupational Safety and Health Administration (OSHA), the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA).
- 1.35 **COMPLIANCE WITH FEDERAL REGULATIONS DUE TO USE OF FEDERAL FUNDING**  
If the goods or services to be acquired under this Solicitation are to be purchased, in part or in whole, with Federal funding, it is hereby agreed and understood that Section 60-250.4, Section 60-250.5, and Section 60-741.4 of Title 41 of the United States Code, which addresses Affirmative Action



requirements for disabled workers, is incorporated into this Solicitation and resultant Contract by reference.

1.36 **BINDING EFFECT**

All of the terms and provisions of this Contract/agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and permitted assigns.

1.37 **SEVERABILITY**

The Village's obligation pursuant to any Contract or agreement entered into in accordance with this Solicitation is specifically contingent upon the lawful appropriation of funds. Failure to lawfully appropriate funds for any Contract or agreement awarded shall result in automatic termination of the Contract or agreement. A non-appropriation event shall not constitute a default or breach of said Contract or agreement by the Village.

1.38 **GOVERNING LAW, VENUE AND REMEDIES.**

This Contract and all transactions contemplated by this agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without regard to any contrary conflicts of law principle. Venue of all proceedings in connection herewith shall lie exclusively in Palm Beach County, Florida, and each party hereby waives whatever its respective rights may have been in the selection of venue. **The Village and Contractor knowingly, voluntarily and intentionally waive any right they may have to trial by jury with respect to any litigation arising out of or in connection with this Contract.**

1.39 **ATTORNEY'S FEES**

It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this Contract or interpret same, or if any administrative proceeding is brought for the same purposes, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs, including appellate fees and costs.

1.40 **EQUAL OPPORTUNITY AND ANTI-DISCRIMINATION**

The Village of North Palm Beach complies with all laws prohibiting discrimination on the basis of age, race, gender, religion, creed, political affiliation, sexual orientation, physical or mental disability, color or national origin, and therefore is committed to assuring equal opportunity in the award of Contracts and encourages small, local, minority, and female-owned businesses to participate.

During the performance of this Contract, the awarded Bidder agrees it will not discriminate or permit discrimination in its hiring practices or in its performance of the Contract. The awarded Bidder shall strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the State of Florida, Palm Beach County and the federal government.

The awarded Bidder further acknowledges and agrees to provide the Village with all information and documentation that may be requested by the Village from time to time regarding the Solicitation, selection, treatment and payment of subcontractors, suppliers, and vendors in connection with this Contract.

1.41 **AVAILABILITY OF CONTRACT TO OTHER VILLAGE DEPARTMENTS**

It is agreed and understood that any Village department or agency may access this Contract and purchase the goods or services awarded herein. Each Village department will issue a separate purchase order to the awarded Bidder for the department's specific purchases.

1.42 **CRIMINAL HISTORY BACKGROUND CHECKS**

Prior to hiring a Contract employee or Contracting with a Bidder, the Village may conduct a comprehensive criminal background check by accessing any Federal, State, or local law enforcement database available. The Contract employee or Bidder will be required to sign an authorization for the Village to access criminal background information. The costs for the background checks shall be borne by the Village.

1.43 **LABOR, MATERIALS, AND EQUIPMENT**

Unless specified elsewhere in the Solicitation or resultant Contract, all labor, materials, and equipment required for the performance of the requirements of the Contract shall be supplied by the awarded Bidder.

1.44 **PURCHASE OF OTHER ITEMS**

The Village reserves the right to purchase other related goods or services, not listed in the Solicitation, during the Contract term. When such requirements are identified, the Village may request price quote(s) from the awarded Bidder(s) on the Contract. The Village, at its sole discretion, will determine if the prices offered are reasonable, and may choose to purchase the goods or services from the awarded Bidder, another Contract vendor, or a non-Contract vendor.

1.45 **CONFLICTS OF INTEREST**

All Bidders must disclose with their Bid the name of any officer, director, or agent who is also an employee of the Village of North Palm Beach. Further, all Bidders must disclose the name of any Village employee who has any interest, financial or otherwise, direct or indirect, of five percent (5%) or more in the Bidders' firm or any of its branches. Failure to disclose any such affiliation will result in disqualification of the Bidder from this Invitation to Bid and may be grounds for further disqualification from participating in any future Bids with the Village.

1.46 **PUBLIC ENTITY CRIMES**

As provided in Section 287.133(2) (a), Florida Statutes, a person or affiliate who has been placed on the convicted vendors 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.*

**1.47 COMPLETION OF WORK AND DELIVERY**

*All work shall be performed and all deliveries made in accordance with good commercial practice. The work schedule and completion dates shall be adhered to by the awarded Bidder(s), except in such cases where the completion date will be delayed due to acts of nature, force majeure, strikes, or other causes beyond the control of the awarded Bidder. In these cases, the awarded Bidder shall notify the Village of the delays in advance of the original completion so that a revised delivery schedule can be appropriately considered by the Village.*

**1.48 FAILURE TO DELIVER OR COMPLETE WORK**

*Should the awarded Bidder(s) fail to deliver or complete the work within the time stated in the Contract, it is hereby agreed and understood that the Village reserves the authority to cancel the Contract with the awarded Bidder and secure the services of another vendor to purchase the items or complete the work. If the Village exercises this authority, the Village shall be responsible for reimbursing the awarded Bidder for work that was completed, and items delivered and accepted by the Village in accordance with the Contract specifications. The Village may, at its option, demand payment from the awarded Bidder, through an invoice or credit memo, for any additional costs over and beyond the original Contract price which were incurred by the Village as a result of having to secure the services of another vendor.*

**1.49 CORRECTING DEFECTS**

*The awarded Bidder shall be responsible for promptly correcting any deficiency, at no cost to the Village, within three (3) calendar days after the Village notifies the awarded Bidder of such deficiency in writing. If the awarded Bidder fails to correct the defect, the Village may (a) place the awarded Bidder in default of its Contract; and/or (b) procure the products or services from another source and charge the awarded Bidder for any additional costs that are incurred by the Village for this work or items, either through a credit memorandum or through invoicing.*

**1.50 ACCIDENT PREVENTION AND BARRICADES**

*Precautions shall be exercised at all times for the protection of persons and property. All awarded Bidders performing services or delivering goods under this Contract shall conform to all relevant OSHA, State, and County regulations during the course of such effort. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by the awarded Bidder. Barricades shall be provided by the awarded Bidder when work is performed in areas traversed by persons, or when deemed necessary by the Village.*

**1.51 OMISSIONS IN SPECIFICATIONS**

*The specifications and/or statement of work contained within this Solicitation describe the various functions and classes of work required as necessary for the completion of the project. Any omissions of inherent technical functions or classes of work within the specifications and/or statement of work shall not relieve the Bidder from furnishing, installing, or performing such work where required to the satisfactory completion of the project.*

**1.52 MATERIALS SHALL BE NEW AND WARRANTED AGAINST DEFECTS**

*The awarded Bidder hereby acknowledges and agrees that all materials, except where recycled content is specifically requested, supplied by the awarded Bidder in conjunction with this Solicitation and resultant Contract shall be new, warranted for their merchantability, and fit for a particular purpose. In the event any of the materials supplied to the Village by the awarded Bidder are found to be defective or do not conform to specifications, (1) the materials may be returned to the awarded Bidder at the Bidder's expense and the Contract cancelled; or (2) the Village may require the awarded Bidder to replace the materials at the Bidder's expense.*

**1.53 TAXES**

*The Village of North Palm Beach is exempt from Federal and State taxes for tangible personal property.*

**1.54 BIDDER'S COSTS**

*The Village shall not be liable for any costs incurred by Bidders in responding to this Invitation to Bid.*

**1.55 SUBSTITUTION OF PERSONNEL**

*It is the intention of the Village that the awarded Bidder's personnel proposed for the Contract shall be available for the initial Contract term. In the event the awarded Bidder wishes to substitute personnel, the awarded Bidder shall propose personnel of equal or higher qualifications, and all replacement personnel are subject to the Village's approval. In the event the substitute personnel are not satisfactory to the Village, and the matter cannot be resolved to the satisfaction of the Village, the Village reserves the right to cancel the Contract for cause.*

**1.56 FORCE MAJEURE**

*The Village and the awarded Bidder are excused from the performance of their respective obligations under the Contract when and to the extent that their performance is delayed or prevented by any circumstances beyond their control, including fire, flood, explosion, strikes or other labor disputes, natural disasters, public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance provided that:*

- a. *The non-performing party gives the other party prompt written notice describing the particulars of the force majeure, including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the force majeure.*
- b. *The excuse of performance is of no greater scope and of no longer duration than is required by the force majeure.*
- c. *No obligations of either party that arose before the force majeure causing the excuse of performance are excused as a result of the force majeure.*
- d. *The non-performing party uses its best efforts to remedy its inability to perform.*

*Notwithstanding the above, performance shall not be excused under this section for a period in excess of two (2) months, provided that in extenuating circumstances, the Village may excuse performance for a longer term. Economic hardship of the awarded Bidder shall not constitute a force majeure. The term of the Contract shall be extended by a period equal to that during which either party's performance is suspended under this section.*

1.57 NOTICES

*Notices shall be effective when received at the addresses specified in the Contract/agreement. Changes in respective addresses to which such notices are to be directed may be*

*made from time to time by either party by written notice to the other party. Facsimile and email transmissions are acceptable notice effective when received; however, facsimile and email transmissions received after 5:00 p.m. or on weekends or holidays will be deemed received on the next business day. The original of the notice must also be mailed to the receiving party.*

*Nothing contained in this section shall be construed to restrict the transmission of routine communications between representatives of the successful Proposer and the Village of North Palm Beach.*

1.58 FISCAL FUNDING OUT

*The Village's obligation pursuant to any Contract or agreement entered into in accordance with this Solicitation is specifically contingent upon the lawful appropriation of funds. Failure to lawfully appropriate funds for any Contract or agreement awarded shall result in automatic termination of the Contract or agreement.*

1.59 SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS

*Pursuant to Section 287.0571, Florida Statutes, the Village may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is responsible. Further, the Village may not give a preference to a vendor based on the vendor's social, political, or ideological interests.*

## **SECTION 2 SPECIAL TERMS AND CONDITIONS**

### **2.1 PURPOSE**

The purpose of this solicitation is to select a contractor to provide canal dredging services for the existing canal located between Atlantic Road and Ebbtide Drive, within the Village of North Palm Beach, in accordance with the terms, conditions, and specifications contained in this Invitation to Bid.

### **2.2 CONTRACT MEASURES AND PREFERENCES**

Intentionally Omitted

### **2.3 PRE-BID CONFERENCE**

Intentionally Omitted

### **2.4 TERM OF CONTRACT**

This Contract shall commence on the date of the duly executed Agreement, and shall remain in effect for three (3) months, contingent upon the completion and submittal of all required bid documents, and permit close-outs. The Contract shall expire three (3) months after the Contract Notice to Proceed (NTP) date.

### **2.5 OPTIONS TO RENEW**

Renewal options are not included with this contract solicitation.

### **2.6 VENDOR REQUIREMENTS**

The Village will award this Contract to the lowest priced responsible Bidder. The responsible Bidder must successfully demonstrate that they:

- are a licensed and bonded General Contractor within Florida.
- have performed similar canal dredging services for the past 5 years within Martin, Palm Beach, Broward, or Miami-Dade County.
- have provided similar canal dredging services within the last 6 months of the date of this Invitation to Bid.
- have successfully completed similar canal dredging projects with United States Army Corp of Engineers and Department of Environmental Protection permits.

The Village reserves the sole right to waive any of the requirements outlined above in selection of a contractor to provide dredging services.

### **2.7 PRICES**

If the Bidder is awarded a contract under this Solicitation, the prices offered by the Bidder shall remain fixed and firm during the Contract Term, except for any price adjustments that may be allowed elsewhere in this Contract.

### **2.8 PRICE ADJUSTMENTS**

Price adjustments will not be applicable to this contract.

2.9 EXAMINATION OF CANAL AND SURROUNDING AREA

The Village will make arrangements for the awarded Bidder to examine the existing canal and surrounding area, if requested by the awarded Bidder.

2.10 EQUAL PRODUCTS

Intentionally Omitted

2.11 TIME IS OF THE ESSENCE/LIQUIDATED DAMAGES

Time is of the essence in all respects under this Contract, and the parties agree that the Village will suffer financial loss if the work contemplated herein is not completed within the time specified, including any authorized extensions. The parties also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the Village if the work is not completed on time. Accordingly, instead of requiring any such proof, the Village and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay to the Village an amount equal to \$1000.00 per day for each calendar day that expires after the time specified for completion. Liquidated damages may be deducted from payments due to the Contractor.

2.12 INSURANCE

The awarded Bidder shall not commence any performance pursuant to the terms of this Bid until certification or proof of insurance has been received and approved by the Village.

The required insurance coverage must be issued by an insurance company authorized, licensed and registered to do business in the State of Florida, with the minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in certificates of insurance which provides that the Village of North Palm Beach shall be notified at least thirty (30) days in advance of cancellation, non-renewal, or adverse change. The receipt of certificates or other documentation of insurance or policies or copies of policies by the Village or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the awarded Bidder's obligation to fulfill the insurance requirements herein. Deductibles must be acceptable to the Village of North Palm Beach.

The awarded Bidder must submit a current Certificate of Insurance, naming the Village of North Palm Beach as an additional insured and listed as such on the insurance certificate. New certificates of insurance are to be provided to the Village upon expiration.

The awarded Bidder shall provide insurance coverage as follows:

i. WORKERS COMPENSATION

Awarded Bidder shall carry Workers Compensation Insurance to apply for all employees in compliance with the "Workers Compensation Law" of the State of Florida and all applicable Federal laws. The Village reserves the right not to accept exemptions to the Workers Compensation requirements of this Solicitation.

ii. COMPREHENSIVE GENERAL LIABILITY

Awarded Bidder shall carry Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00); and include Products/Completion Liability of One Million Dollars (\$1,000,000). Such certificate shall list the Village as additional insured.

NOTE: If Comprehensive General Liability limits are less than One Million Dollars (\$1,000,000.00), the sum of Comprehensive General Liability limits and Excess Liability limits must equal no less than One Million Dollars (\$1,000,000.00).

iii. AUTOMOBILE LIABILITY

Awarded Bidder shall carry Automobile Liability Insurance to include owned, non-owned, and hired, with minimum limits of One Million Dollars (\$1,000,000.00) each occurrence.

The awarded Bidder must submit, no later than ten (10) days after award and prior to commencement of any work, a Certificate of Insurance naming the Village of North Palm Beach as an additional insured.

2.13 BID BOND/GUARANTY  
Intentionally Omitted

2.14 PERFORMANCE BOND  
As required by Section 255.05(1), Florida Statutes, the awarded Bidder shall record in the public records a statutory payment and performance bond prior to commencing work.

2.15 CERTIFICATIONS  
Any Bidder which submits an offer in response to this Solicitation shall, at the time of such offer, hold the applicable certificate or license, issued by the State or County Examining Board qualifying the Bidder to perform the work under this Contract. A copy of the License or Certificate should be submitted with the Bid.

2.16 METHOD OF PAYMENT  
The awarded Bidder shall submit an invoice to the Village department after the work has been completed and accepted by the Village. The date of the invoice shall not exceed thirty (30) calendar days from completion and acceptance of the work. Under no circumstances shall the invoice be submitted to the Village in advance of the completion and acceptance work. The invoice shall contain the following basic information: the awarded Bidder's name and address, invoice number, date of invoice, description of the work performed, the Contract number, purchase order number, and any discounts.

2.17 DELIVERY REQUIREMENTS  
Intentionally Omitted

2.18 WARRANTY REQUIREMENTS  
In addition to all other warranties that may be supplied by the Bidder, the Bidder shall warrant its products and/or services against faulty labor and/or defective material, for a minimum period of one (1) year from the date of acceptance of the labor, materials and/or equipment by the Village. This warranty requirement shall remain in force for the full period, regardless of whether the

Bidder is under Contract with the Village at the time of defect. Any payment by the Village on behalf of the services received from the Bidder does not constitute a waiver of these warranty provisions.

2.19 ADDITIONAL DEPARTMENTS

Although this Solicitation and resultant contract identifies the Public Works Department as the main user department of this Contract, it is hereby agreed and understood that any Village department or agency facility may be added to this contract at the option of the Village, for similar services.

2.20 ADDITIONAL GROUPS

Although this Solicitation and resultant contract identifies specific trades and work classifications (Groups), the Village reserves the right to advertise for and add additional Groups to this Contract at any time during the Contract term, when such is in the best interest of the Village.

2.21 CLEAN UP

The awarded Bidder shall remove all unusable materials and debris from the work areas at the end of each workday, and disposed of in an appropriate manner. Upon final completion, the awarded Bidder shall thoroughly clean up all areas where work has been involved as mutually agreed with the Village's authorized representative.

2.22 DEMONSTRATION OF EQUIPMENT

Intentionally Omitted

2.23 HOURLY RATE

The hourly rate quoted shall be deemed to provide full compensation to the awarded Bidder for labor, equipment use, travel time, and any other element of cost or price. This rate is assumed to be at straight-time for all labor, except as otherwise noted.

The hourly rate shall be paid based on each actual hour worked, or part thereof.

2.24 PATENTS AND ROYALTIES

The awarded Bidder, without exception, shall indemnify and hold harmless the Village and its employees from liability of any nature or kind, including cost and expenses for, or as a result of, any copyrighted, patented, or unpatented invention, process, or article manufactured by the awarded Bidder. The awarded Bidder has no liability when such claim is solely and exclusively due to the combination, operation, or use of any article supplied hereunder with equipment or data not supplied by awarded Bidder, or is based solely and exclusively upon the Village's alteration of the article. The Village will provide prompt written notification of a claim of copyright or patent infringement.

Further, if such a claim is made or is pending, the awarded Bidder may, at its option and expense, procure for the Village the right to continue use of, replace or modify the article to render it non-infringing. (If none of the alternatives are reasonably available, the Village agrees to return the article on request to the awarded Bidder and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.) If the awarded Bidder uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without

exception that the contract prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

2.25 PRE-CONSTRUCTION CONFERENCE

The awarded Bidder shall schedule a Preconstruction Conference, with the Village of North Palm Beach Public Works Department, within ten (10) days of notification of award. The Preconstruction Conference shall be held a minimum of fifteen (15) business days in advance of construction commencement.

2.26 RELEASE OF CLAIM REQUIRED

Pursuant Section 255.05, *Florida Statutes* all payments to the subcontractors shall be made by the awarded Bidder within ten (10) days of receipt of the partial payment from the Village. With the exception of the first partial payment, the awarded Bidder must pay all of its subcontractors and suppliers who have performed any work or supplied any materials for the project within ten (10) days after receipt of the partial payment by the awarded Bidder for monies due such subcontractors and suppliers as a result of a percentage of the work completed. The awarded Bidder must provide the Village's project manager with duly executed affidavits (subcontractor's statement of satisfaction) or releases of claim from all subcontractors and suppliers who have performed any work or supplied any materials for on the project as of that date. The affidavit or releases shall certify that said subcontractors and suppliers have been paid their proportionate share of all previous partial payments to the awarded Bidder. In the event such affidavits cannot be furnished, the awarded Bidder may submit an executed consent of surety to requisition payment, identifying the subcontractors and suppliers with the amounts for which the statement of satisfaction cannot be furnished. If the awarded Bidder fails to provide a consent of surety to requisition payment, the amount in dispute will be withheld until either the statement of satisfaction is furnished, or the consent of surety to requisition payment is furnished.

2.27 SUBCONTRACTORS OF WORK SHALL BE IDENTIFIED

No subcontracting will be allowed for the work projects contemplated in the Contract resultant from this Solicitation. However, for certain projects or emergencies, the Village may allow the awarded Bidder to sub-contract some of the work, if such sub-contracting is deemed necessary, by the Village, for the effective and proper completion of the work.

2.29 OTHER FORMS OR DOCUMENTS

If the Village is required by the awarded Bidder to complete and execute any other forms or documents in relation to this Solicitation, the terms, conditions, and requirements in this Solicitation shall take precedence to any and all conflicting or modifying terms, conditions or requirements of the Bidder's forms or documents.

2.30 CONDITIONS OF WORK; DAMAGES

If property (public or private) is damaged while the awarded Bidder is performing work specified or is removed for the convenience of the work, it shall be repaired or replaced at the expense of the awarded Bidder in a manner acceptable to the Village. The property shall include, but not be limited to: boat docks, boat lifts, pilings, playing field surfaces, irrigation installations, structures, parkways, sidewalks, curbs and gutters, driveways, walls, fences, water features, footings, underground utilities, sod, shrubs, and trees.



The awarded Bidder shall submit to the Village for review, pictures or video of the work site(s) having pre-existing damage to structures, playing field surfaces, irrigation and drainage installations, parkways, sidewalks, approaches, sod, swales, adjacent improvements, etc. before beginning work. Failure to do so shall obligate the awarded Bidder to make repairs as per the terms of this Section.

Notwithstanding the above, the awarded Bidder must take all necessary and reasonable precautions to prevent disruption or damage to Village facilities and properties, and private properties. If the awarded Bidder believes that work assigned may cause unpreventable damage, the awarded Bidder must bring the situation to the attention of the authorized Village representative so that mitigation methods can be developed. Such mitigation efforts by the Village, shall not absolve the awardee Bidder from responsibility to repair and make good any damage to public or private property.

2.31 HOURS OF WORK

The Village's normal hours of work are: Mondays – Fridays, 8:00am – 5:00pm; except for holidays. Any work performed outside these hours shall be properly identified and categorized as after-hours or weekend work.

Since emergencies may occur at any time, emergency work will be compensated based on the specific rates offered by the awarded Bidder for such work, whether the work is performed during normal working hours, weekends, or on holidays.

2.32 APPEARANCE

The awarded Bidder(s) shall be responsible for the appearance of all its employees while assigned on Village projects. The Bidder's employees must wear clean clothing, and attire acceptable to the Village, and must meet all appropriate protective and safety regulations.

### **SECTION 3 SCOPE OF SERVICES**

#### **3.1 GENERAL REQUIREMENTS**

The Village of North Palm Beach is seeking Bids from qualified firms to provide canal dredging services for the existing canal located between Atlantic Road and Ebbtide Drive, within the Village of North Palm Beach, as well as the disposal of dredged material, in accordance with the terms, conditions, and specifications contained in this Invitation to Bid.

The awarded Bidder will provide services in accordance with the approved permits contained in Section 9 – Exhibits.

## BID SUBMITTAL

**THIS PAGE and all following pages comprise your original Bid Submittal package. Please also attach any additional information or documentation requested in this Invitation to Bid. There is no need to include the preceding Sections 1, 2, and 3 in your Bid Submittal package.**

### INSTRUCTIONS

Sealed Bids must be received on or before the due date and time (local time) at the office of the Village Clerk, 501 U.S. Highway One, North Palm Beach, Florida 33408. Normal Village business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. **All Bids will be publicly opened and read aloud** at Village Hall. Each Bid submitted to the Village Clerk **shall have the following information clearly marked on the face of the envelope:** The Bidder's name, return address, "Invitation To Bid – Canal Dredging Services", due date for Bids, and the title of the Bid. Included in the envelope shall **be one (1) original and one (1) electronic version on CD or a thumb drive in a usable PDF format.** If the Solicitation Summary is not included in the envelope as a hard copy, the Village may deem your Bid non-responsive. The original should be marked "ORIGINAL", and the electronic copy must be identical to the original. In the event of any discrepancy between the original bid and the electronic copy, the original bid shall be the governing document. Bids must contain all information required to be included in the submittal, as described in the Solicitation.

Invitation to Bid: Canal Dredging Services

Due Date and Time: Monday, September 18, 2023 @ 3:00PM

---

Name of Bidder

## SECTION 4 COMPANY SUMMARY INFORMATION AND PRICING

### 4.1 SUMMARY INFORMATION

To be considered for evaluation to be added to the Vendor Pool, the Bidder must submit the following Company Summary information.

Name of Firm: \_\_\_\_\_

Owner or Principal: \_\_\_\_\_

Years in Business: \_\_\_\_\_

Number of Employees: \_\_\_\_\_

Name of Primary Contact: \_\_\_\_\_

Telephone of Primary Contact: \_\_\_\_\_

**NOTE: The Bidder shall attach additional information demonstrating they:**

- are a licensed and bonded General Contractor within Florida.
- have performed similar canal dredging services for the past 5 years within Martin, Palm Beach, Broward, or Miami-Dade County.
- have provided similar canal dredging services within the last 6 months of the date of this Invitation to Bid.
- have successfully completed similar canal dredging projects with United States Army Corp of Engineers and Department of Environmental Protection permits.

**SECTION 5**  
**ACKNOWLEDGEMENT OF ADDENDA**

INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES

---

**PART I:**

**List below the dates of issue for each addendum received in connection with this Solicitation:**

Addendum #1, Dated \_\_\_\_\_

Addendum #2, Dated \_\_\_\_\_

Addendum #3, Dated \_\_\_\_\_

Addendum #4, Dated \_\_\_\_\_

Addendum #5, Dated \_\_\_\_\_

Addendum #6, Dated \_\_\_\_\_

Addendum #7, Dated \_\_\_\_\_

Addendum #8, Dated \_\_\_\_\_

Addendum #9, Dated \_\_\_\_\_

Addendum #10, Dated \_\_\_\_\_

---

**PART II:**

☐ NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS SOLICITATION

---

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date

**SECTION 6**  
**BID SUBMITTAL SIGNATURE PAGE**

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

Firm Name:

\_\_\_\_\_

Street Address:

\_\_\_\_\_

Mailing Address (if different than Street Address):

\_\_\_\_\_

Telephone Number(s): \_\_\_\_\_

Fax Number(s): \_\_\_\_\_

Email Address: \_\_\_\_\_

Federal Employer Identification Number: \_\_\_\_\_

Prompt Payment Terms: \_\_\_\_\_ % \_\_\_\_\_ days' net \_\_\_\_\_ days

Signature: \_\_\_\_\_  
(Signature of authorized agent)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

By signing this document, the Bidder agrees to all Terms and Conditions of this Solicitation and the resulting Contract/Agreement.

**THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF BIDDER TO BE BOUND BY THE TERMS OF ITS OFFER, FOR NOT LESS THAN 90 DAYS, AND THE BIDDER'S UNEQUIVOCAL OFFER TO BE BOUND BY THE TERMS AND CONDITIONS SET FORTH IN THIS INVITATION TO BID. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED ABOVE, BY AN AUTHORIZED REPRESENTATIVE, SHALL RENDER THE BID NON-RESPONSIVE. THE VILLAGE MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY BID THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER TO THE TERMS OF ITS OFFER.**

## **SECTION 7**

### **AFFIDAVITS, PERFORMANCE AND PAYMENT BONDS FORMAT, LETTER OF CREDIT FORMAT**

#### **7.1 AFFIDAVITS**

The forms listed below must be completed by an official having legal authorization to contractually bind the company or firm. Each signature represents a binding commitment upon the Bidder to provide the goods and/or services offered to the Village if the Bidder is determined to be the lowest responsive and responsible Bidder.

- a. Conflict of Interest Disclosure Form
- b. Notification of Public Entity Crimes Law
- c. Drug-Free Work Place
- d. Sworn Statement on Discrimination
- e. Scrutinized Vendor Certification
- f. Non-Collusion Affidavit
- g. Trench Safety Affidavit

## CONFLICT OF INTEREST DISCLOSURE FORM

The award of this Contract is subject to the provisions of Chapter 112, *Florida Statutes*. All Bidders must disclose within their Bids: the name of any officer, director, or agent who is also an employee of the Village of North Palm Beach.

Furthermore, all Bidders must disclose the name of any Village employee who owns, directly, or indirectly, an interest of more than five percent (5%) in the Bidder's firm or any of its branches.

The purpose of this disclosure form is to give the Village the information needed to identify potential conflicts of interest for evaluation team members and other key personnel involved in the award of this Contract.

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

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

- \_\_\_\_\_ To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other Cities, Counties, Contracts, or property interest for this Bid.
- \_\_\_\_\_ The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other Cities, Counties, Contracts, or property interest for this Bid.

Acknowledged by:

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date



## NOTIFICATION OF PUBLIC ENTITY CRIMES LAW

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

Acknowledged by:

---

Firm Name

---

Signature

---

Name and Title (Print or Type)

---

Date

## DRUG-FREE WORKPLACE

\_\_\_\_\_ is a drug-free workplace and has  
(Company Name)  
a substance abuse policy in accordance with and pursuant to Section 440.102, *Florida Statutes*.

Acknowledged by:

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date

**SWORN STATEMENT PURSUANT TO SECTION 287.134(3)(a),  
FLORIDA STATUTES, ON DISCRIMINATION**

1. This sworn statement is submitted to the Village of North Palm Beach, Florida

by \_\_\_\_\_  
(print individual's name and title)

for \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the Individual  
signing this sworn statement: \_\_\_\_\_)

2. I understand that "discrimination" as defined in Section 287.134(1)(b), **Florida Statutes**, means a determination of liability by a state circuit court or federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion.

3. I understand that an "affiliate" as defined in Section 287.133(1)(a), **Florida Statutes**, means:

a. A predecessor or successor of an entity that discriminated; or

b. An entity under the control any natural person who is active in the management of the entity that discriminated. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another entity, or the pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one entity controls another entity.

4. I understand that an "entity" as defined in Section 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity.

5. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies)**

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been placed on the discriminatory vendors list.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been placed on the discriminatory vendors list.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been placed on the discriminatory vendors list. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the discriminatory vendors list. **(attach a copy of the final order)**

**I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.**

\_\_\_\_\_  
(Signature)

The foregoing document was sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, who is personally known to me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**SCRUTINIZED VENDOR CERTIFICATION  
PURSUANT TO SECTION 287.135, FLORIDA STATUTES**

This sworn statement is submitted to the Village of North Palm Beach, Florida

by \_\_\_\_\_

**(print individual's name and title)**

for \_\_\_\_\_

**(print name of entity submitting sworn statement)**

whose business address is \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the Individual signing this sworn statement: \_\_\_\_\_)

1. I hereby certify that the above-named entity:
  - A. Does not participate in the boycott of Israel; and
  - B. Is not on the Scrutinized Companies that Boycott Israel List.
2. If the Contract for goods and services is for more than \$1,000,000, I hereby certify that the above-named entity:
  - A. Is not on the Scrutinized Companies with Activities in Sudan List; and
  - B. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
  - C. Has not engaged in business operations in Cuba or Syria.

Section 287.135, Florida Statutes, prohibits the Village from: (1) contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; and (2) contracting with companies, for goods or services over \$1,000,000 that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria.

As the person authorized to sign on behalf of the above-named entity, I hereby certify that the statements set forth above are true and that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney's fees and/or costs. I further understand

that any contract with the Village for goods or services may be terminated at the option of the Village if the company has been found to have submitted a false certification.

\_\_\_\_\_  
(Signature)

The foregoing document was sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, who is personally known to me or produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## NON-COLLUSION AFFIDAVIT

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, personally appeared \_\_\_\_\_, who, after being by me first duly sworn, deposes and says of his/her personal knowledge that:

- a. He/She is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted a Bid to perform work for the following:

ITB No.: \_\_\_\_\_ Title: \_\_\_\_\_

- b. He/She is fully informed respecting the preparation and contents of the attached Request for Bids, and of all pertinent circumstances respecting such Solicitation.

Such Bid is genuine and is not a collusive or sham Bid.

- c. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Solicitation and Contract for which the attached Bid has been submitted or to refrain from proposing in connection with such Solicitation and Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached Bid or any other Bidder, or to fix any overhead, profit, or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the Village or any person interested in the proposed Contract.
- d. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

\_\_\_\_\_  
Signature

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

SEAL

Notary Signature \_\_\_\_\_  
Notary Name: \_\_\_\_\_  
Notary Public (State): \_\_\_\_\_  
My Commission No: \_\_\_\_\_  
Expires on: \_\_\_\_\_

### TRENCH SAFETY AFFIDAVIT (NOT APPLICABLE)

\_\_\_\_\_ (Bidder) hereby provides written assurance that compliance with applicable Trench Safety Standards identified in the Occupational Safety & Health Administration's Excavation Safety Standards, (OSHA) 29 C.F.R.S. 1926.650 Subpart P will be adhered to during trench excavation in accordance with Florida Statutes 553.60 through 553.64 inclusive (1990), "Trench Safety Act".

The undersigned acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida "Trench Safety Act" as summarized below (attach additional sheets as necessary):

Schedule Item	Trench safety Measure (Slope, Trench Shield, etc.)	Cost
		\$
		\$
		\$
		\$
		\$
		\$
	TOTAL	\$

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name). He/She is personally known to me or has

Presented \_\_\_\_\_ (type of identification) as identification.

\_\_\_\_\_  
Notary Public Signature and Seal

\_\_\_\_\_  
Print Notary Name and Commission No.

**FAILURE TO COMPLETE THIS FORM MAY RESULT IN THE BID BEING DECLARED NON-RESPONSIVE**



## SECTION 8 SAMPLE AGREEMENT FORMAT

Below is the standard agreement format for this Invitation to Bid. This is a sample agreement only and is subject to revisions. PLEASE DO NOT COMPLETE.

### AGREEMENT

THIS AGREEMENT is hereby made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "effective date") by and between the Village of North Palm Beach, a Florida municipal corporation ("Village"), whose address is 501 U.S. Highway One, North Palm Beach, Florida 33408, and \_\_\_\_\_, a corporation (hereafter referred to as "Contractor"), whose address is \_\_\_\_\_.

WHEREAS, the Village desires to retain the services of the Contractor to provide the goods and services in accordance with the Village's Invitation to Bid No. \_\_\_\_\_, and the Contractor's response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the Village agree as follows:

#### ARTICLE 1. INCORPORATION OF INVITATION TO BID

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the Village's Invitation to Bid No. \_\_\_\_\_, and the Contractor's response to the Invitation to Bid, including all documentation required thereunder.

#### ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Contractor shall provide the goods and/or perform those services identified in the specifications accompanying the Village's Invitation to Bid, which are incorporated herein by reference ("Work").

#### ARTICLE 3. COMPENSATION

The Village shall pay to the Contractor, in compliance with the Pricing Schedule attached hereto and incorporated herein, according to the terms and specifications of the referenced Invitation to Bid.

#### ARTICLE 4. MISCELLANEOUS PROVISIONS

a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

- i. As to the Village: Village of North Palm Beach  
501 US Highway One  
North Palm Beach, Florida 33408  
Attn: Village Manager  
Email:
- ii. with a copy to: Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, Florida 33408  
Attn: Assistant Director Public Works  
Email:
- iii. As to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn.: \_\_\_\_\_  
Email: \_\_\_\_\_

b. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

c. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

#### ARTICLE 5. CONTRACT TERM

a. This Contract shall remain in effect until such time as the Work is completed, inspected, and accepted by the Village, provided, however, that any obligations of a continuing nature shall survive the expiration or termination of the Contract.

b. The services provided by Contractor shall be commenced subsequent to execution and approval of this Contract by the Village and upon written notice from the Village to Contractor to proceed and shall be completed within **ninety (90) calendar days**.

#### ARTICLE 6. E-VERIFY

Contractor warrants and represents that Contractor and all subcontractors are in compliance with Section 448.095, Florida Statutes, as may be amended. Contractor has registered to use, and shall continue to use, the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of newly hired employees and has received an affidavit from each subcontractor stating that the subcontractor does not employ, contract with or subcontract with unauthorized aliens. If the Village has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, the Village

shall terminate this Contract pursuant to Section 448.095(2), Florida Statutes, as may be amended. If the Village has a good faith belief that a subcontractor has knowingly violated Section 448.09(1), Florida Statutes, but Contractor has otherwise complied, it shall notify Contractor, and Contractor shall immediately terminate its contract with the subcontractor.

#### ARTICLE 7. PUBLIC RECORDS

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: (561) 841-3355; [NPBCLERK@VILLAGE-NPB.ORG](mailto:NPBCLERK@VILLAGE-NPB.ORG); OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.

In performing services pursuant to this Contract, Contractor shall comply with all relevant provisions of Chapter 119, Florida Statutes. As required by Section 119.0701, Florida Statutes, Contractor shall:

- a. Keep and maintain public records required by the Village to perform the service.
- b. Upon request from the Village's custodian of public records, provide the Village with a copy 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 Chapter 119, Florida Statutes, 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 Contract term and following completion of the Contract if the Contractor does not transfer the records to the Village.
- d. Upon completion of the Contract, transfer, at no cost, to the Village all public records in possession of Contractor or keep and maintain public records required by the Village to perform the services. If Contractor transfers all public records to the Village upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Village, upon request from the Village's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

(Remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereinafter written.

[SEAL] VILLAGE OF NORTH PALM BEACH, FLORIDA

By: \_\_\_\_\_  
David Norris, Mayor

ATTEST:

By: \_\_\_\_\_  
Jessica Green, CMC, Village Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
Leonard G. Rubin, Village Attorney

CONTRACTOR

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

**SECTION 9  
EXHIBITS**

**United States Army Corp of Engineers (USACOE) Permit**

**Florida Department of Environmental Protection (FDEP) Permit**



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT  
4400 PGA BOULEVARD, SUITE 500  
PALM BEACH GARDENS, FLORIDA 33410

June 6, 2023

Regulatory Division  
South Branch  
Palm Beach Gardens Section  
SAJ-2022-02800(LP-KMM)

Village of North Palm Beach  
c/o Chuck Huff  
501 US1  
N. Palm Beach, Florida 33408  
Sent via email: [chuff@village-npb.org](mailto:chuff@village-npb.org)

Dear Mr. Huff:

This is in reference to your request for a Department of the Army (DA) permit to perform work in or affecting waters of the United States. If you determine the permit provided is acceptable in its entirety and you have chosen to proceed with the authorized activity, then upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), you are authorized under a Letter of Permission to improve navigation by conducting a mechanical dredge of a 15,000 square feet area at the centerline of the canal to a depth of seven (7) feet below mean low water (MLW), removing 550 cubic yards of material. Spoil material would be disposed of at an approved upland location or Class I Landfill located between Atlantic Road and Ebttide Drive, (Latitude 26.8147° North, Longitude -80.0561° West), in Section 16, Township 42 South, Range 43 East, North Palm Beach, Palm Beach County, Florida.

The project must be completed in accordance with the enclosed construction drawings, and the general and special conditions which are incorporated in, and made a part of, the permit.

Should any other agency require and/or approve changes to the work authorized or obligated by this permit, it is the responsibility of the Permittee to submit a modification request to the Palm Beach Gardens Permits Section. The Corps will evaluate the request and determine whether it is appropriate to modify the terms and conditions of the permit. The Permittee must obtain written approval of the requested modifications from the Corps prior to initiation of those changes.

**General Conditions:**

1. The time limit for completing the work authorized ends on **June 6, 2028**. If the work authorized is not completed on or before that date, authorization, if not previously revoked or specifically extended, shall cease and be null and void. If you find that you

need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

### **Special Conditions:**

1. **Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:
  - a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).
  - b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, Florida 32232-0019.

The Permittee shall reference this permit number, SAJ-2022-02800(LP-KMM), on all submittals.

2. **Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed “Commencement Notification” Form (Attachment 2).
3. **Self-Certification:** Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached “Self-Certification Statement of Compliance” form (Attachment 3) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the “Self-Certification Statement of Compliance” form. The description of any deviations on the “Self-Certification Statement of Compliance” form does not constitute approval of any deviations by the Corps.
4. **Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
5. **Manatee Conditions:** The Permittee shall comply with the “Standard Manatee Conditions for In-Water Work – 2011” (Attachment 4). The most recent version of the Manatee Conditions must be utilized.
6. **Jacksonville District Programmatic Biological Opinion (JAXBO):** Structures and activities authorized under this permit will be constructed and operated in accordance with all applicable PDCs contained in the JAXBO, based on the permitted activity. Johnson’s seagrass and its critical habitat were delisted from the Endangered Species Act on May 16, 2022. Therefore, JAXBO PDCs required to minimize adverse effects to Johnson’s seagrass and its critical habitat are no longer applicable to any project. Failure to comply with applicable PDCs will constitute noncompliance with this permit. In addition, failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take. The NMFS is the appropriate authority to determine compliance with the Endangered Species Act. The most current version of



JAXBO can be accessed at the Jacksonville District Regulatory Division website in the Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

JAXBO may be subject to revision at any time. The most recent version of the JAXBO must be utilized during the design and construction of the permitted work.

7. **Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained daily until the authorized work has been completed and turbidity within the construction area has returned to ambient levels. Turbidity barriers shall be removed upon stabilization of the work area.
8. **Cultural Resources/Historic Properties:**
  - a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.
  - b. If, during permitted activities, items that may have historic or archaeological origin are observed the Permittee shall immediately cease all activities adjacent to the discovery that may result in the destruction of these resources and shall prevent his/her employees from further removing, or otherwise damaging, such resources. The applicant shall notify both the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333 and the Corps, of the observations within the same business day (8 hours). Examples of submerged historical, archaeological or cultural resources include shipwrecks, shipwreck debris fields (such as steam engine parts, or wood planks and beams), anchors, ballast rock, concreted iron objects, concentrations of coal, prehistoric watercraft (such as log "dugouts"), and other evidence of human activity. The materials may be deeply buried in sediment, resting in shallow sediments or above them, or protruding into water. The Corps shall coordinate with the Florida State Historic Preservation Officer (SHPO) to assess the significance of the discovery and devise appropriate actions. Project activities shall not resume without verbal and/or written authorization from the Corps.
  - c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance

with the above Special Condition and, if deemed necessary by the SHPO or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend, or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

- d. In the unlikely event that unmarked human remains are identified on non-federal lands; they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archaeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend, or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the SHPO and from the Corps.
  - e. If prehistoric or historic artifacts such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The applicant shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
9. **Dredged Material Disposal:** The Permittee shall place all dredged material in a self-contained, upland disposal site. The Permittee shall maintain the upland disposal site to prevent the discharge of dredged material and associated effluent into waters of the United States.
10. **IMA Seasonal Dredging Restrictions:** As the project is located within a designated Important Manatee Area (IMA), no night-time clamshell dredging

allowed.

11. **Manatee Observer:** A dedicated manatee observer, whose sole responsibility is to watch for manatees, must be present during in-water work. The observer must be experienced in manatee observation techniques and have prior on-the-job experience as an observer during previous in-water work where the activities were similar in nature to the proposed project. The dedicated observer shall be present and perform no other duties that may interfere with their ability to observe for protected marine species. This person shall be someone other than the dredge and equipment operators/mechanics.
12. **Manatee Condition for Clamshell Dredge:** During clamshell dredging operations, the dredge operator shall gravity-release the clamshell bucket only at the water's surface, and only after confirmation that there are no manatees within the safety distance identified in the standard construction conditions (or a 75-foot buffer if dredging is authorized at night).

**Instructions for Objecting to Permit Terms and Conditions:** This letter is an initial proffered permit for your proposed project/permit application. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part A of the RFA form and submit the completed form to the Palm Beach Gardens Permits Section at the address listed at the bottom of this letter. For an RFA to be accepted by the Corps, the Corps must determine that it is complete and that it has been received within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received by the Palm Beach Gardens Permits Section by **August 5, 2023.**

Should you have any questions regarding this letter, please contact the project manager, Kaitlyn Mallett, in writing at the Palm Beach Gardens Permits Section at the address in the letterhead of this permit, by telephone at 561-545-4885, or by email at Kaitlyn.M.Mallett@usace.army.mil.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit <https://regulatory.ops.usace.army.mil/customer-service-survey/> and complete our

automated Customer Service Survey. Your input is appreciated – favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

*Linda C. Knoeck*

James L. Booth  
Colonel, U.S. Army  
District Commander

Enclosures  
Project Drawings  
Commencement Notification form  
Self-Certification Statement of Compliance form  
Standard Manatee Conditions for In-Water Work—2011  
Water Quality Certification-FDEP Letter

cc:

Charlie Isiminger, Isiminger & Stubbs Engineering [CIsiminger@coastal-engineers.com](mailto:CIsiminger@coastal-engineers.com)  
Matthew Butler, Isiminger & Stubbs Engineering, [mbutler@coastal-engineers.com](mailto:mbutler@coastal-engineers.com)  
CESAJ-RD-PE (w/ enclosures)

REQUEST PERMIT TRANSFER: PERMIT NUMBER: SAJ-2022-02800(LP-KMM)

When the structures or work verified by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, the present permittee and the transferee should sign and date below. This document must then be provided to the U.S. Army Corps of Engineers, Regulatory Division, Post Office Box 4970, Jacksonville, Florida 32232-0019.

\_\_\_\_\_  
(TRANSFEREE SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(Name - Printed)

\_\_\_\_\_  
Lot/Block of site

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, and Zip Code)

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Village of North Palm Beach		File Number: <b>SAJ-2022-02800</b>	Date: 06/06/2023
Attached is:		See Section below	
<b>X</b>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision you may contact:

**Project Manager as noted in letter**

If you have questions regarding the appeal process you may contact:

Phillip A. Shannin  
404-562-5136

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

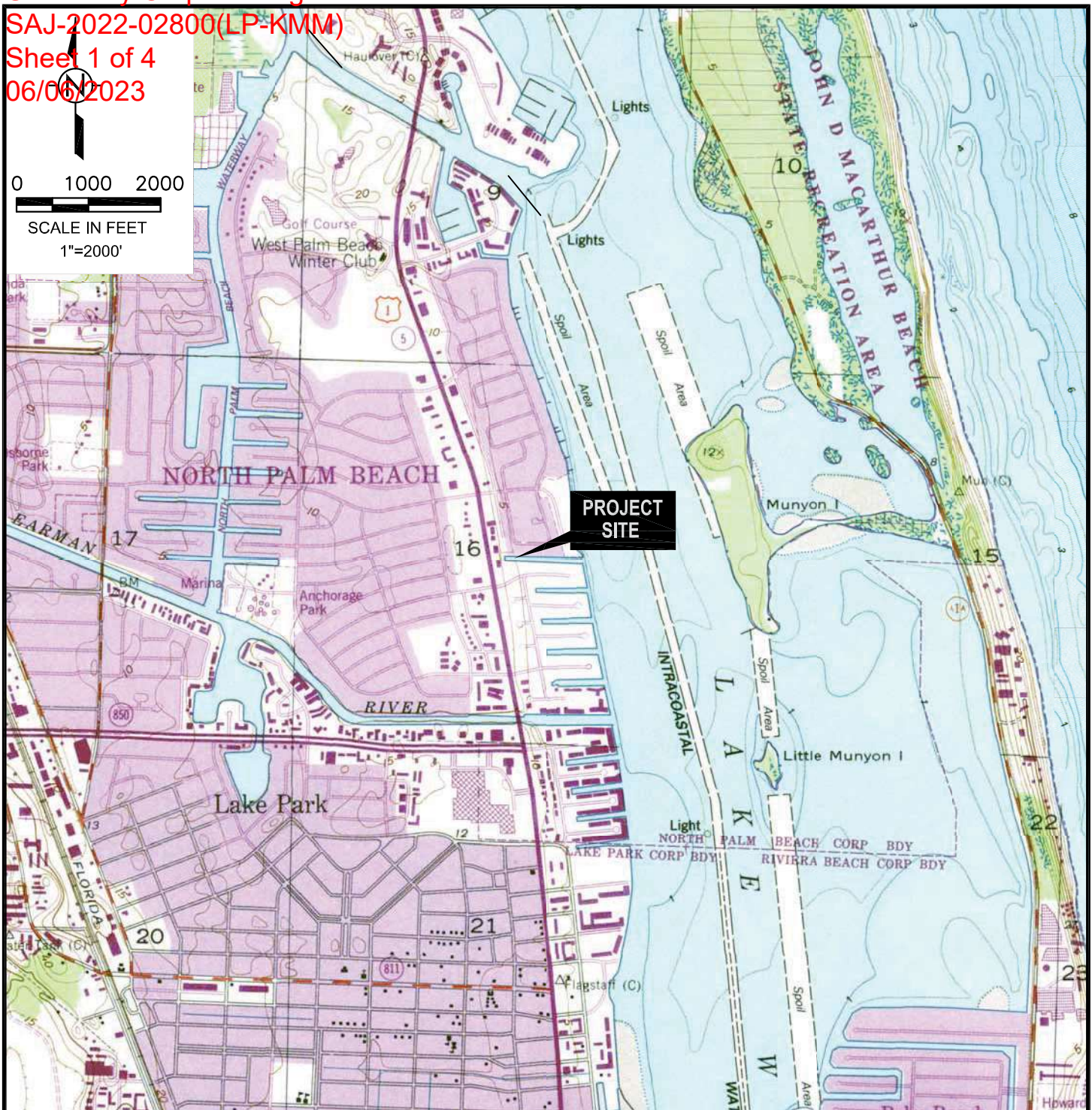
Telephone number:



0 1000 2000

SCALE IN FEET

1"=2000'



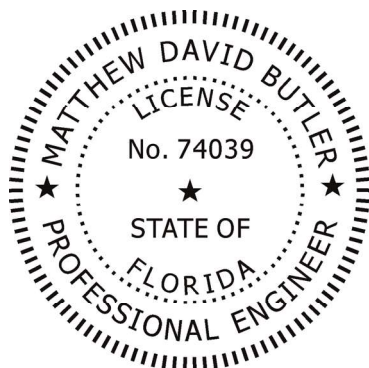
TAKEN FROM U.S.G.S. RIVIERA BEACH, FLORIDA QUADRANGLE

SEC: 16 TWP: 42S RGE: 43E

LAT: 26° 48' 53" N

LONG: 080° 03' 22" W

This item has been digitally signed and sealed by Matthew D. Butler, P.E. on 11/8/2022 using a Digital Signature. Printed copies of this document are not considered signed and sealed, and the signature must be verified on any electronic copies.



## VICINITY MAP



**ISIMINGER & STUBBS  
ENGINEERING, INC.**

COASTAL • ENVIRONMENTAL • MARINE

REGISTRATION NUMBER: 8114  
P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 - 561-681-0003

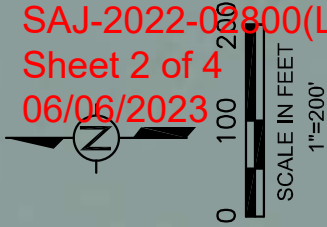
### PROPOSED MAINTENANCE DREDGING MAN-MADE CANAL

BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH

DATE	8/22	DRAWN	CCIJR	CHKD	CCIJR	APPRVD	MDB
DWG NO.	22013B					SHEET	
COMPUTER FILE NO.	22013B					OF 4	

**1**





LAKE WORTH

FLOOD  
EBB

ATLANTIC ROAD

OBSERVED PADDLE GRASS  
AND/OR SHOAL GRASS  
(1-15% COVER) (TYP.)

DETAIL A

MAN-MADE CANAL

EXISTING SEAWALL

EBB TIDE DRIVE

PROPOSED MAINTENANCE  
DREDGING TO -7± MLW  
(-6.8± MLLW), "BOX CUT"  
(SEE SECTIONS),  
(15,000± SF, 550± CY)

NOTES:

- EXISTING LOCATIONS ARE APPROXIMATE BASED ON 2021 PALM BEACH COUNTY AERIAL SURVEY BY ENGENUITY GROUP, INC., DATED 3/9/22, AND ON-SITE OBSERVATIONS.
- RESOURCE OBSERVATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK PERFORMED 6/22/22.
- PROVISIONS RELATED TO INTEGRITY OF EXISTING STRUCTURES TO BE ADDRESSED IN CONSTRUCTION DOCUMENTS. NO EVALUATION HAS BEEN MADE HEREIN.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

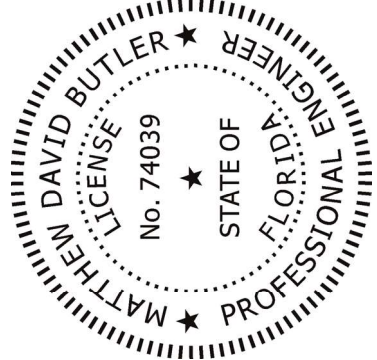
OVERALL PLAN VIEW



ISIMINGER & STUBBS  
ENGINEERING, INC.  
COASTAL • ENVIRONMENTAL • MARINE  
P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 • 561-481-0003

PROPOSED MAINTENANCE DREDGING  
MAN-MADE CANAL  
BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH

DATE	8/22	DRAWN	CCJR	CHKD	CCJR	APPRVD	MDB
DWG NO.	22013B2						
COMPUTER FILE NO.	22013Bt1						
SHEET	OF	4					
							2

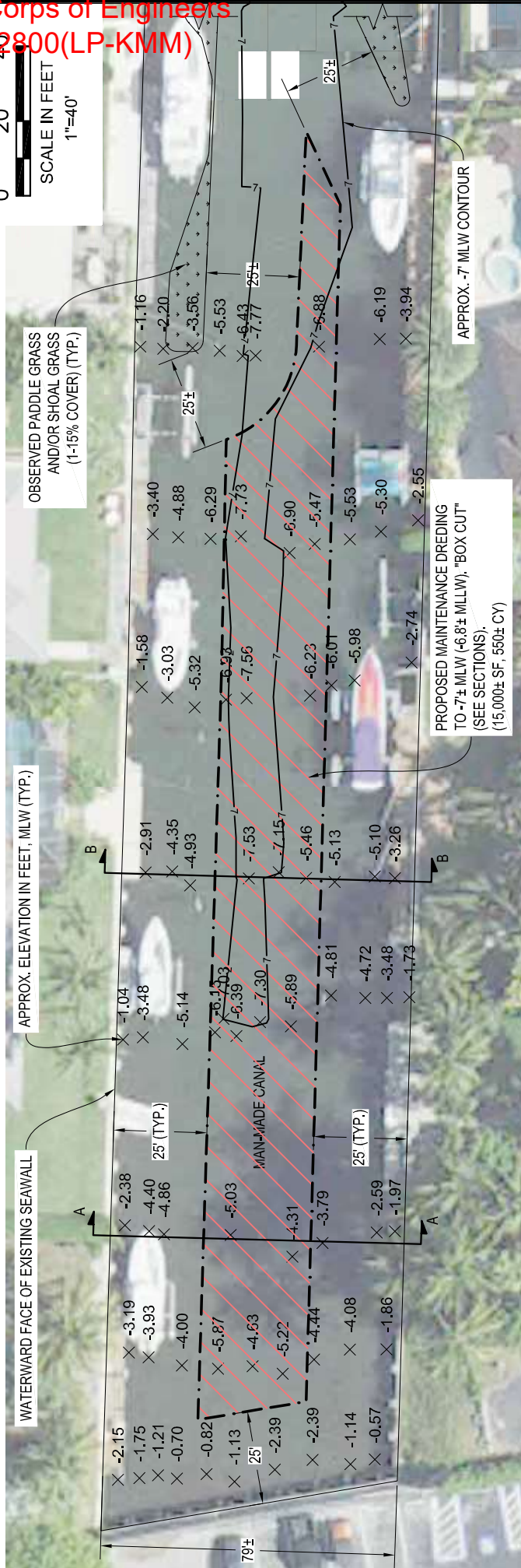


This item has been digitally signed  
and sealed by Matthew D. Butler,  
P.E. on 11/8/2022 using a Digital  
Signature.  
Printed copies of this document are  
not considered signed and sealed, and  
the signature must be verified on any  
electronic copies.

REV 1 11/22 REVISED MAINTENANCE DREDGING NOTE



0 20 40  
SCALE IN FEET  
1"=40'



## DETAIL A



**ISIMINGER & STUBBS  
ENGINEERING, INC.**

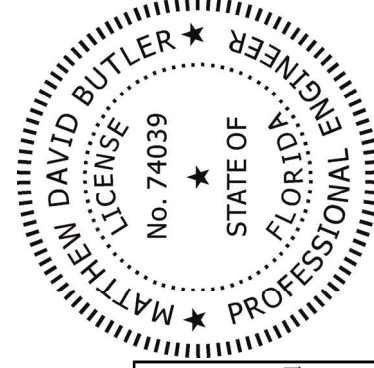
COASTAL • ENVIRONMENTAL • MARINE  
REGISTRATION NUMBER: 8114  
P.O. BOX 14702 • NORTH PALM BEACH, FL 33408 • 561-681-0003

### PROPOSED MAINTENANCE DREDGING

MAN-MADE CANAL

BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH

DATE	8/22	DRAWN	CCUJR	CHKD	CCUJR	APPRVD	MDB
DWG NO.	22013B3						
COMPUTER FILE NO.	22013Bt1						
SHEET	4						
OF	4						



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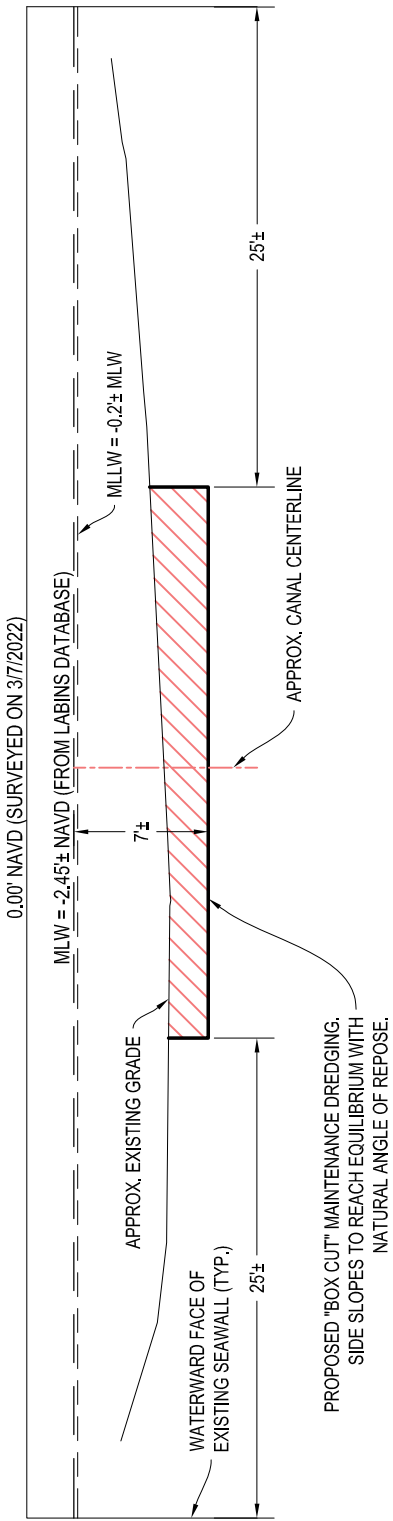
### NOTES:

- DATUM IS MLW UNLESS OTHERWISE SPECIFIED. MLW = -2.45'± NAVD FROM LABINS DATABASE.
- EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE BASED ON 2021 PALM BEACH COUNTY AERIAL SURVEY BY ENGENUITY GROUP, INC., DATED 3/9/22, AND ON-SITE OBSERVATIONS.
- RESOURCE OBSERVATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK PERFORMED 6/22/22.
- PROVISIONS RELATED TO INTEGRITY OF EXISTING STRUCTURES TO BE ADDRESSED IN CONSTRUCTION DOCUMENTS. NO EVALUATION HAS BEEN MADE HEREIN.

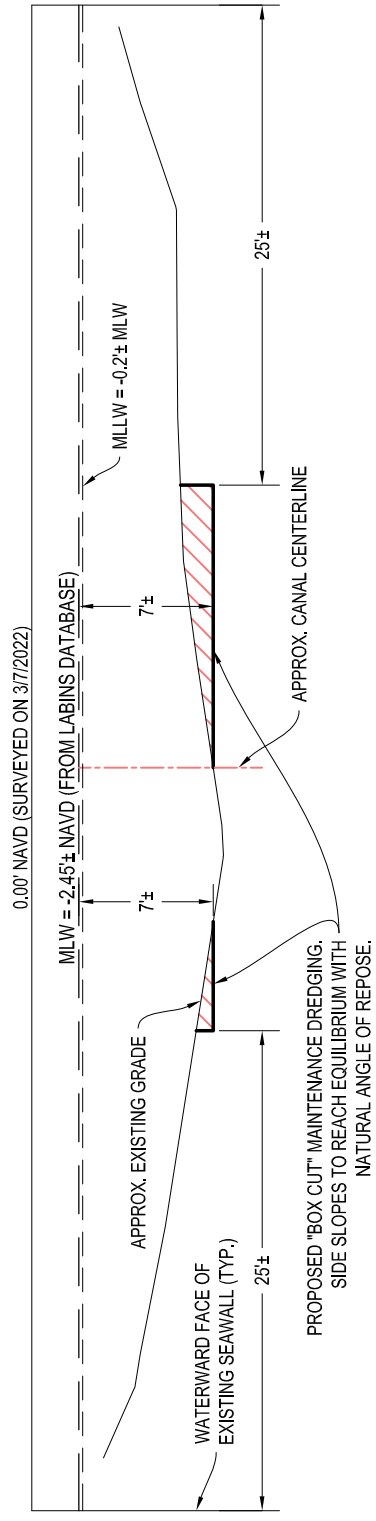
SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

REV	1	11/22	REVISED MAINTENANCE DREDGING NOTE
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SECTION A-A  
0 5 10  
SCALE IN FEET  
1"=10'



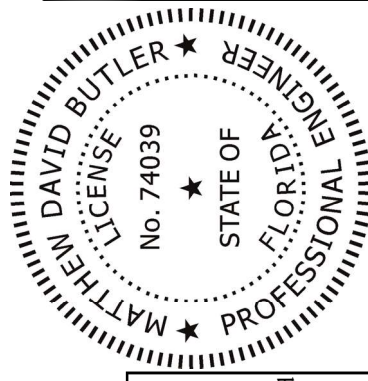
SECTION B-B  
0 5 10  
SCALE IN FEET  
1"=10'

SECTION VIEW



ISIMINGER & STUBBS  
ENGINEERING, INC.  
COASTAL • ENVIRONMENTAL • MARINE  
REGISTRATION NUMBER: 8114  
P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 • 561-481-0003

PROPOSED MAINTENANCE DREDGING MAN-MADE CANAL BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL APPLICANT: VILLAGE OF NORTH PALM BEACH			
DATE	8/22	DRAWN	CCUR
DWG NO.	22013B4	CHKD	CCUR
APPROVD		APPROVD	
MDB		MDB	
SHEET	4	OF	4



This item has been digitally signed  
and sealed by Matthew D. Butler,  
P.E. on 11/8/2022 using a Digital  
Signature.  
Printed copies of this document are  
not considered signed and sealed, and  
the signature must be verified on any  
electronic copies.

- NOTES:
- EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE BASED  
ON SURVEY BY ENGENUITY GROUP, INC., DATED 3/9/22.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

REV	1	11/22	REVISED MAINTENANCE DREDGING
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## **COMMENCEMENT NOTIFICATION**

*Within ten (10) days of initiating the authorized work, submit this form to via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-       -       (       -       )

2. **Permittee Information:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

3. **Construction Start Date:** \_\_\_\_\_

4. **Contact to Schedule Inspection:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date

## **SELF-CERTIFICATION STATEMENT OF COMPLIANCE**

*Within sixty (60) days of completion of the authorized work, submit this form via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred) or by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-       -       (       -       )
2. **Permittee Information:** Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_
3. **Date Authorized Work Started:** \_\_\_\_\_ **Completed:** \_\_\_\_\_
4. **Contact to Schedule Inspection:** Name: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_
5. **Description of Authorized Work (e.g. bank stabilization, fill placed within wetlands, docks, dredging, etc.):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. **Acreage or Square Feet of Impacts to Waters of the United States:** \_\_\_\_\_
7. **Describe Mitigation completed (if applicable):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. **Describe any Deviations from Permit (attach drawing(s) depicting the deviations):**  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date

## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com)
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [MyFWC.com/manatee](http://MyFWC.com/manatee). Questions concerning these signs can be sent to the email address listed above.

# CAUTION: MANATEE HABITAT

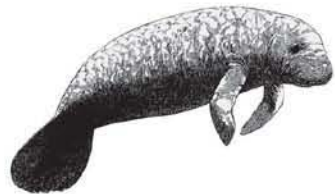
**All project vessels**

**IDLE SPEED / NO WAKE**

When a manatee is within 50 feet of work  
all in-water activities must

**SHUT DOWN**

Report any collision with or injury to a manatee:



**Wildlife Alert:**

**1-888-404-FWCC(3922)**

cell \*FWC or #FWC



# FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office  
3301 Gun Club Road, MSC 7210-1  
West Palm Beach, FL 33406  
561-681-6600

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

September 22, 2022

Village of North Palm Beach  
c/o Chuck Huff  
501 US1  
North Palm Beach, FL 33408  
Sent via e-mail: [chuff@village-npb.com](mailto:chuff@village-npb.com)

Re: File No.: 50-0425539-001-EE  
File Name: NPB Canal Dredging

Dear Chuck Huff:

On August 23, 2022, we received your request for verification of exemption to perform the following activities: To maintenance dredge an approximate  $\pm 15,000$  sq. ft. area to a maximum depth of 7 ft. below mean low water, removing  $\pm 550$  cy. of material. The project is located in a residential canal, Class III Waters, between Atlantic Road and Ebb Tide Drive, North Palm Beach, FL 33408 (Section 16, Township 42 South, Range 43 East), in Palm Beach County (Latitude N 26°48'53.16", Longitude W 80°3'22.86").

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the federal authorization of this verification request. **Additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

If you have any questions regarding this matter, please contact Jacob Landfield at the letterhead address or at 561-681-6625, [Jacob.Landfield@FloridaDEP.gov](mailto:Jacob.Landfield@FloridaDEP.gov).

[www.floridadep.gov](http://www.floridadep.gov)



### **1. Regulatory Review – VERIFIED**

Based on the information submitted, the Department has verified that the activity as proposed is under Chapter 62-330.051(7)(a), Florida Administrative Code, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

### **2. Proprietary Review- NOT REQUIRED**

The activity does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

### **3. Federal Review - NOT APPROVED**

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **shall be required** from the Corps. You must apply separately to the Corps using the Application for Department of the Army Permit (ENG 4345) or alternative as allowed by Corps regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Sourcebook: <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>.

Authority for review - an agreement with the USACOE entitled “Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection (or Duly Authorized Designee), State Programmatic General Permit”, Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

### **Additional Information**

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the

administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant Rule 62-110.106(10)(a).

The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and

120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

#### Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

## EXECUTION AND CLERKING

Executed in West Palm Beach, Florida.

## STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



---

Jeffrey L. Meyer  
Environmental Administrator  
Southeast District

### Enclosures:

Attachment A: Specific Exemption Rule(s)  
Project drawings, 4 pages

## CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

FDEP –Jeffrey L. Meyer, Jacob Landfield  
Curry Isiminger, E.I., Isiminger & Stubbs Engineering, Inc., [curryisiminger@coastal-engineers.com](mailto:curryisiminger@coastal-engineers.com)

### Additional mailings:

Matt Mitchell, Palm Beach County, Environmental Resources, [mmitchell@pbcgov.org](mailto:mmitchell@pbcgov.org)

## FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.



---

Clerk

September 22, 2022  
Date

## **Attachment A**

### **62-330.051 Exempt Activities.**

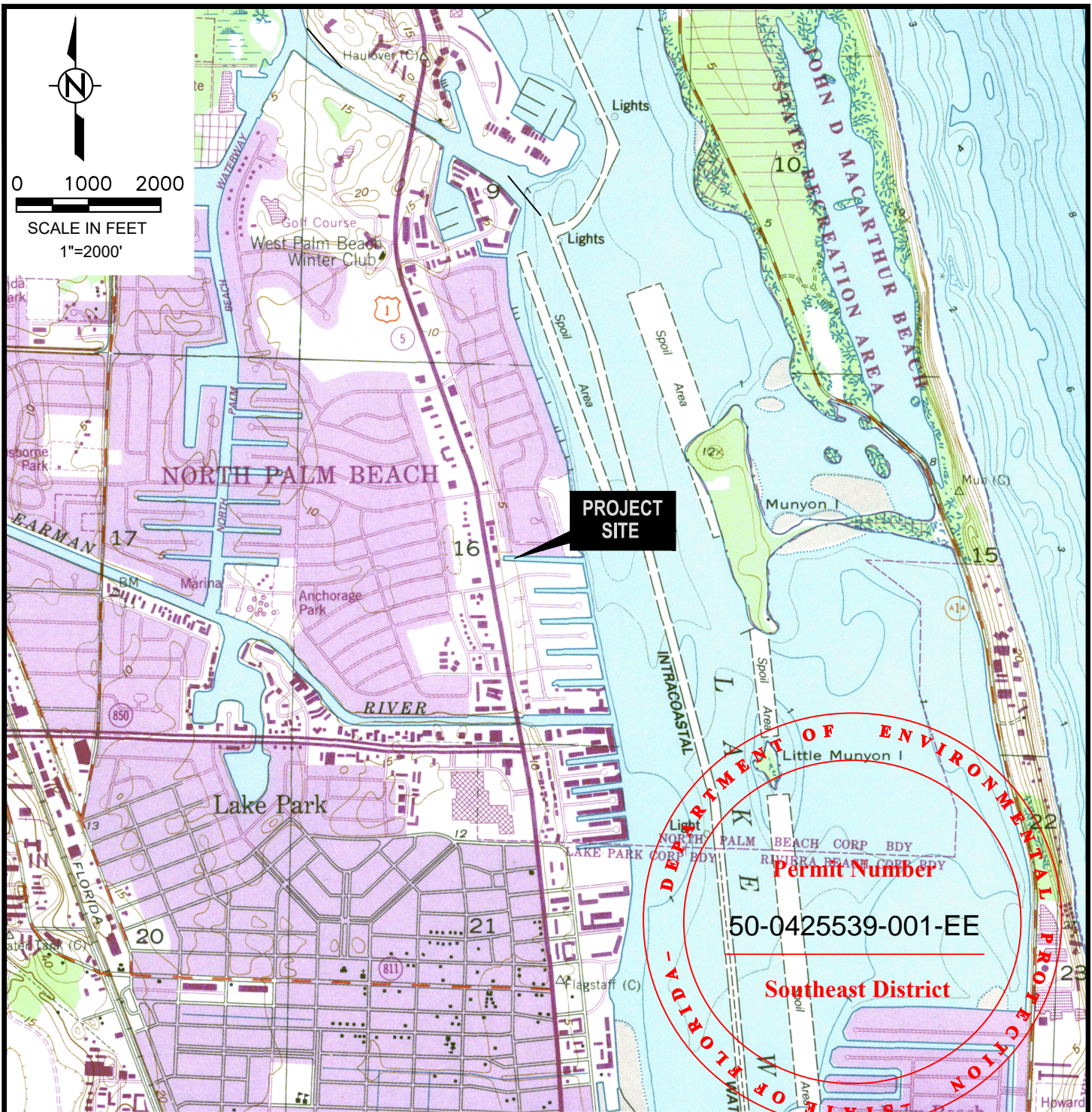
The activities meeting the limitations and restrictions below are exempt from permitting. However, if located in, on, or over state-owned submerged lands, they are subject to a separate authorization under chapters 253 and 258, F.S., as applicable.

(7) Maintenance and Restoration –

(a) Maintenance dredging under section 403.813(1)(f), F.S.

*Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4131, 373.4145, 373.415, 403.813(1) FS. History—New 10-1-13, Amended 6-1-18*





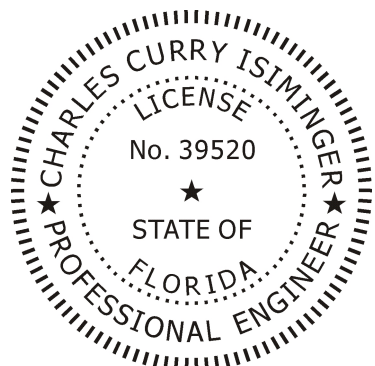
TAKEN FROM U.S.G.S. RIVIERA BEACH, FLORIDA QUADRANGLE

SEC: 16 TWP: 42S RGE: 43E

LAT: 26° 48' 53" N

LONG: 080° 03' 22" W

This item has been electronically signed and sealed by Charles Curry Isiminger, P.E. on 8/19/2022 using a Digital Signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.



## VICINITY MAP



**ISIMINGER & STUBBS  
ENGINEERING, INC.**

COASTAL • ENVIRONMENTAL • MARINE

REGISTRATION NUMBER: 8114

P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 - 561-881-0003

### PROPOSED MAINTENANCE DREDGING

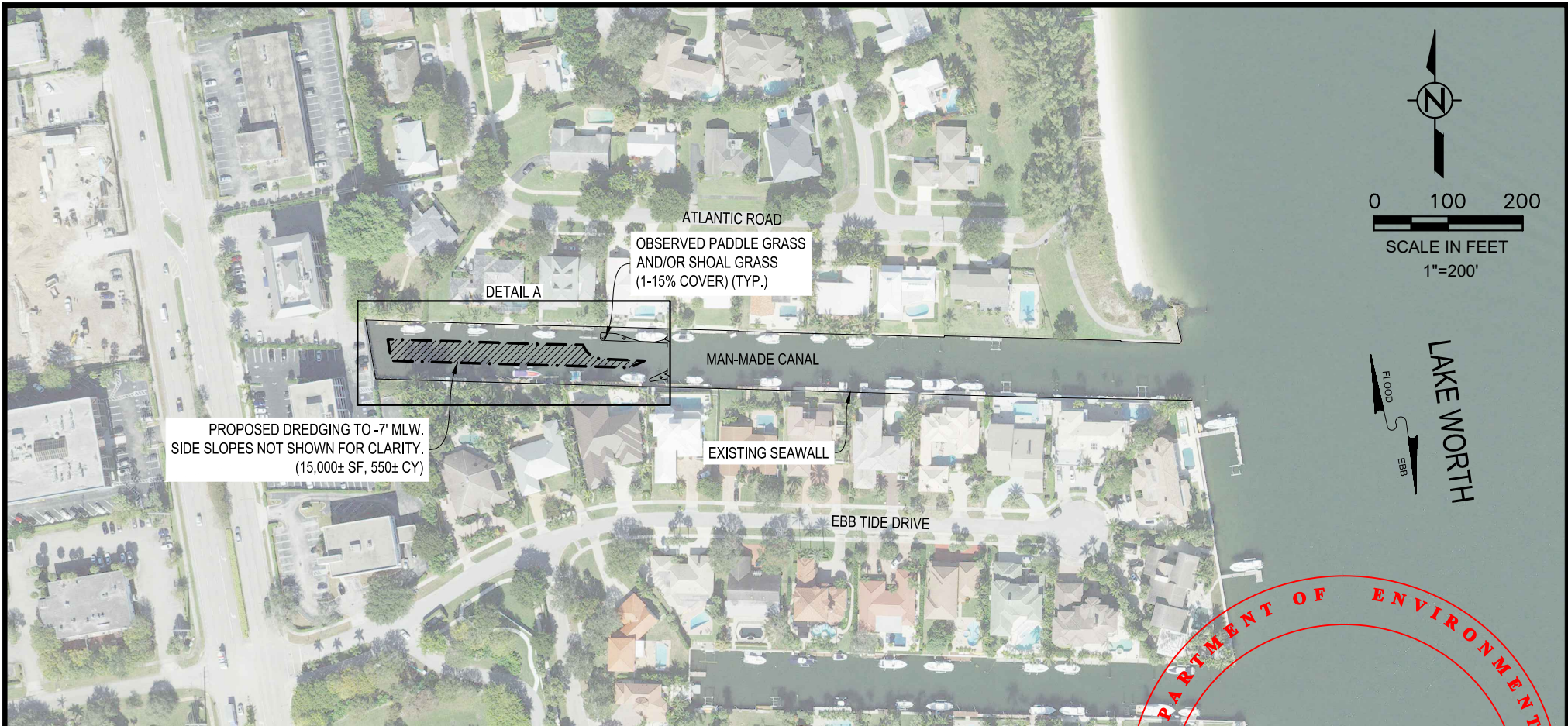
#### MAN-MADE CANAL

BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH

DATE	8/22	DRAWN	CCIJR	CHKD	CCIJR	APPRVD	CCI
DWG NO.	22013B1					SHEET	
COMPUTER FILE NO.	22013B					OF 4	

**1**





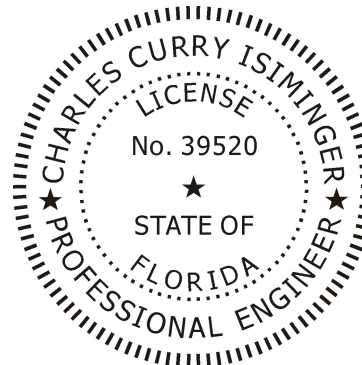
PROPOSED DREDGING TO -7' MLW.  
SIDE SLOPES NOT SHOWN FOR CLARITY.  
(15,000± SF, 550± CY)

This item has been electronically signed and sealed by Charles Curry Isiminger, P.E. on 8/19/2022 using a Digital Signature.  
Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

**NOTES:**

- EXISTING LOCATIONS ARE APPROXIMATE BASED ON 2021 PALM BEACH COUNTY AERIAL, SURVEY BY ENGENUITY GROUP INC., DATED 2022.03.09, AND ON-SITE OBSERVATIONS.
- RESOURCE OBSERVATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK PERFORMED 06/22/22.
- PROVISIONS RELATED TO INTEGRITY OF EXISTING STRUCTURES TO BE ADDRESSED IN CONSTRUCTION DOCUMENTS. NO EVALUATION HAS BEEN MADE HEREIN.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.



**Permit Number**

**50-0425539-001-EE**

**Southeast District**

**OVERALL PLAN VIEW**

**ISIMINGER & STUBBS  
ENGINEERING, INC.**

REGISTRATION NUMBER: 8114  
P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 - 561-881-0003

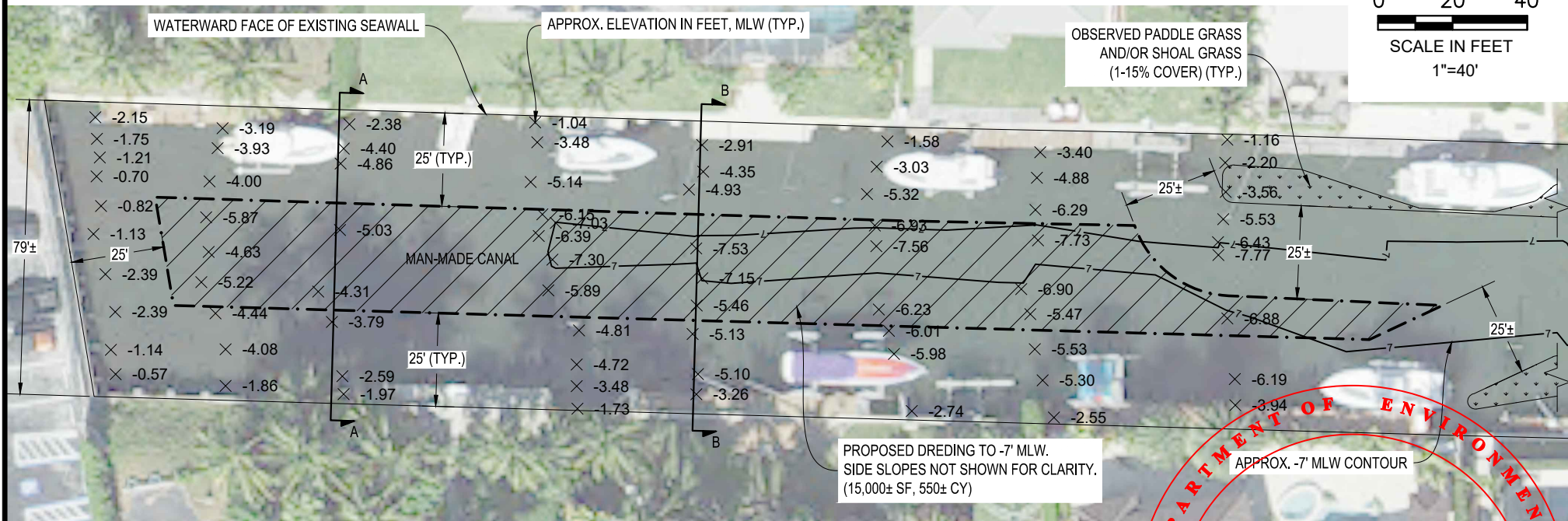
**PROPOSED MAINTENANCE DREDGING  
MAN-MADE CANAL  
BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH**

DATE	8/22	DRAWN	CCIJR	CHKD	CCIJR	APPRVD	CCI
DWG NO.	22013B2					SHEET	2
COMPUTER FILE NO.	22013B					OF 4	





0 20 40  
SCALE IN FEET  
1"=40'

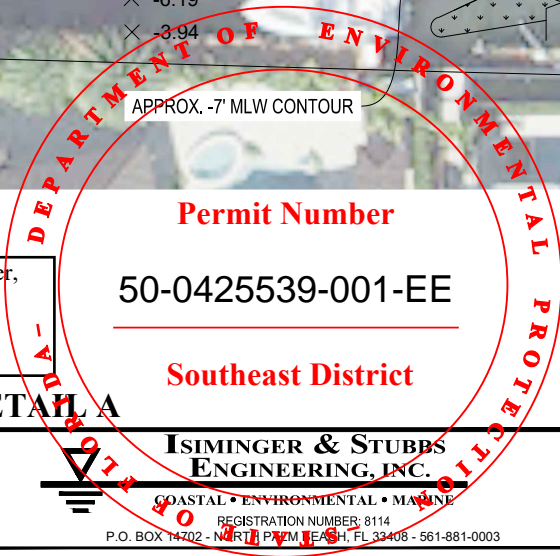
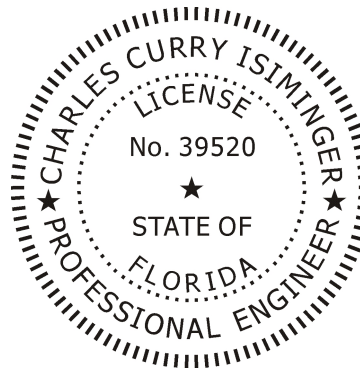


**NOTES:**

1. DATUM IS MLW UNLESS OTHERWISE SPECIFIED. MLW = -2.45± NAVD FROM LABINS DATABASE.
2. EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE BASED ON 2021 PALM BEACH COUNTY AERIAL, SURVEY BY ENGENUITY GROUP INC., DATED 2022.03.09, AND ON-SITE OBSERVATIONS.
3. RESOURCE OBSERVATION BY ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK PERFORMED 06/22/22.
3. PROVISIONS RELATED TO INTEGRITY OF EXISTING STRUCTURES TO BE ADDRESSED IN CONSTRUCTION DOCUMENTS. NO EVALUATION HAS BEEN MADE HEREIN.

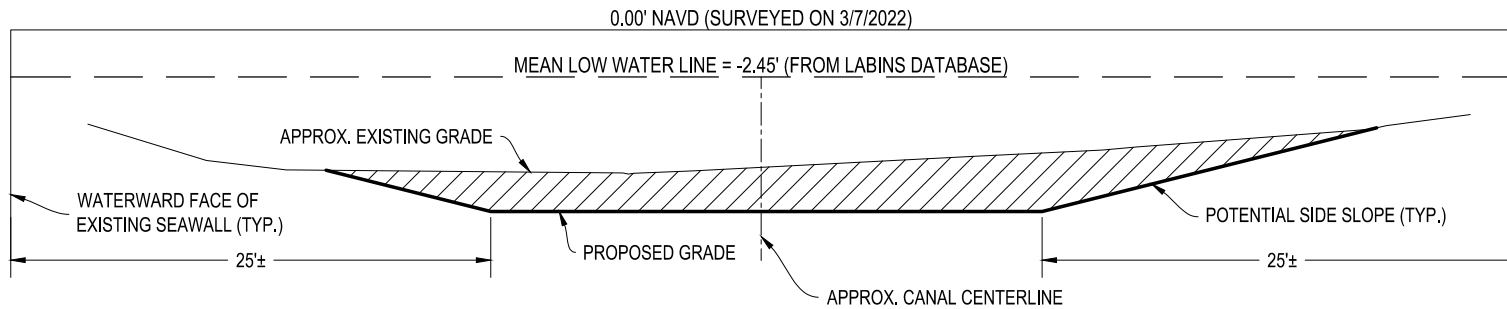
SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

This item has been electronically signed and sealed by Charles Curry Isiminger, P.E. on 8/19/2022 using a Digital Signature.  
Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

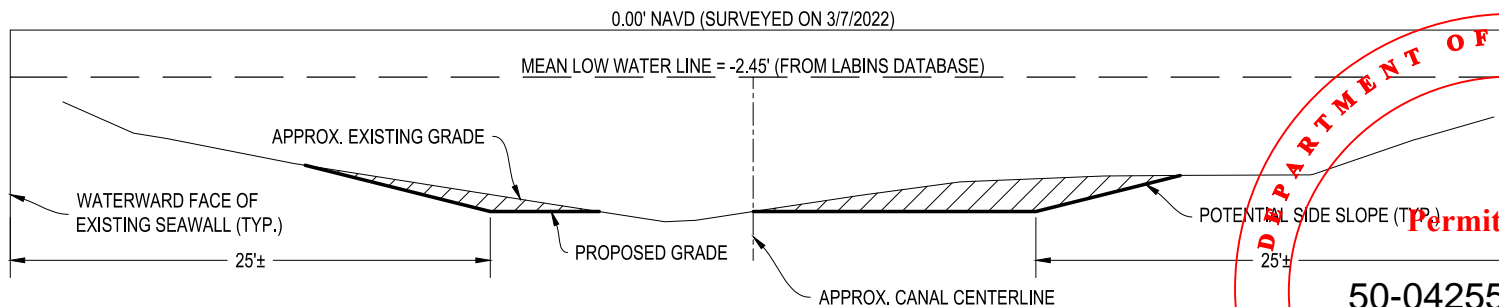


<b>ISIMINGER &amp; STUBBS ENGINEERING, INC.</b> COASTAL • ENVIRONMENTAL • MARINE REGISTRATION NUMBER: 8114 P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 - 561-881-0003							
<b>PROPOSED MAINTENANCE DREDGING MAN-MADE CANAL BETWEEN ATLANTIC ROAD &amp; EBB TIDE DRIVE VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL APPLICANT: VILLAGE OF NORTH PALM BEACH</b>							
DATE	8/22	DRAWN	CCIJR	CHKD	CCIJR	APPRVD	CCI
DWG NO.	22013B3					SHEET	
COMPUTER FILE NO.	22013B					OF 4	
						<b>3</b>	

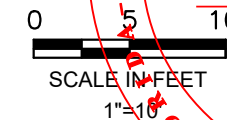




SECTION A-A



SECTION B-B



Permit Number  
50-0425539-001-EE

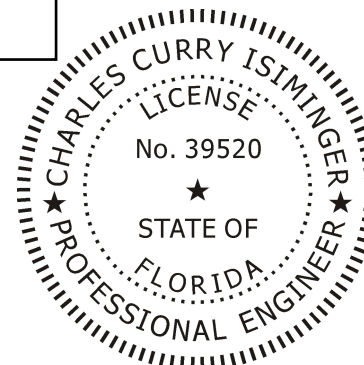
Southeast District

This item has been electronically signed and sealed by Charles Curry Isiminger, P.E. on 8/19/2022 using a Digital Signature.  
Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

NOTES:

- EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE BASED ON SURVEY BY ENGENUITY GROUP INC., DATED 2022.03.09.

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.  
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.



SECTION VIEW



ISIMINGER & STUBBS  
ENGINEERING, INC.

COASTAL • ENVIRONMENTAL • MARINE

REGISTRATION NUMBER: 8114

P.O. BOX 14702 - NORTH PALM BEACH, FL 33408 - 561-881-0003

PROPOSED MAINTENANCE DREDGING  
MAN-MADE CANAL  
BETWEEN ATLANTIC ROAD & EBB TIDE DRIVE  
VILLAGE OF NORTH PALM BEACH, PALM BEACH COUNTY, FL  
APPLICANT: VILLAGE OF NORTH PALM BEACH

DATE	8/22	DRAWN	CCIJR	CHKD	CCIJR	APPRVD	CCI
DWG NO.	22013B4					SHEET	4
COMPUTER FILE NO.	22013B					OF	4

### PDCs for In-Water Activities

For an activity to be covered under this Opinion, the USACE authorization must include the following conditions. Failure to comply with these conditions could result in enforcement action by the USACE and/or NMFS.

**AP.7. Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:  
[http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html)

**AP.8. Reporting** of interactions with protected species:

- a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to [takeareport.nmfs@noaa.gov](mailto:takeareport.nmfs@noaa.gov) and [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil).
- b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email [Sawfish@MyFWC.com](mailto:Sawfish@MyFWC.com)
- c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email [nmfs.ser.sturgeonnetwork@noaa.gov](mailto:nmfs.ser.sturgeonnetwork@noaa.gov)
- d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
- e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.

**AP.9. Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:

- a) *Construction Equipment:*
  - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
  - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
  - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.
- b) *All Vessels:*
  - i) Sea turtles: Maintain a minimum distance of 150 ft.
  - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
  - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
  - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
  - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
  - vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
  - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

**AP.10. Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):
  - Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
  - The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cable



line). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.

**AP.11. Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.

- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
- b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

#### **PDCs for Mangroves, Seagrasses, Corals and Hard Bottom for All Projects**

Note: **For projects authorized in reliance on this Opinion only**, the PDCs below supercede any other guidance documents otherwise applicable to reduce or avoid impacts to mangroves, seagrasses, and corals. This includes the NMFS's *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation, Marsh, or Mangrove Habitat* dated August 2001, and NMFS's *Key for Construction Conditions for Docks or Other Minor Structures Constructed in or over Johnson's Seagrass (Halophila johnsonii)*, dated October 2002. NMFS may still apply these guidance documents in other consultations, including consultations on Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

#### **AP.12. Mangroves**

- To qualify for coverage under this Opinion, all projects must be sited and designed to avoid or minimize impacts to mangroves.
- Mangrove removal must be conducted in a manner that avoids any unnecessary removal and is limited to the following instances:
  - Removal to install up to a 4-ft-wide walkway for a dock.
  - Removal to install up to an 8-ft-wide walkway for public docks, where the walkway is necessary to address compliance with the Americans with Disability Act (ADA).
  - Removal to install culverts necessary to improve water quality or restore hydrology between 2 water bodies. Such mangrove removal is limited to a maximum of 20 linear feet (lin ft) of shoreline per culvert opening.
  - Removal of mangroves above mean high water (MHW) provided that the tree does not have any prop roots that extend into the water below the MHWL.

**SECTION 10  
SOLICITATION SUMMARY**

The Village of North Palm Beach  
645 Prosperity Farms Road  
North Palm Beach, FL 33408

PUBLIC WORKS DEPARTMENT

**SOLICITATION SUMMARY**

**IMPORTANT NOTICE**

The information you provide on this page will be read aloud at the PUBLIC OPENING for this Solicitation. It is VERY IMPORTANT that the summary information you provide below is exactly the same information contained in your Bid. If subsequent to the opening of Bids, the Village determines that the information contained in the electronic version of your Bid is different from the information on this Solicitation Summary, the Village reserves the right to deem your Bid NON-RESPONSIVE, and remove your Bid from further evaluation and consideration for Contract award.

**BID INFORMATION**

Invitation To Bid: Canal Dredging Services

Due Date and Time: Monday, September 18, 2023 @ 3:00PM

Name of Proposer: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Bid Amount(s): \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

By signing and submitting this Solicitation Summary, the Bidder affirms that the information provided above is an exact and correct summary of the information contained in the electronic version of the Bidder's Bid to the Village of North Palm Beach.

**NOTE: This Solicitation Summary must be signed and included as an ORIGINAL HARDCOPY in the envelope containing your Bid.**

**VILLAGE OF NORTH PALM BEACH  
VILLAGE ATTORNEY'S OFFICE**

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TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Leonard G. Rubin, Village Attorney

DATE: September 28, 2023

SUBJECT: **RESOLUTION** – Amending the Fee Contract with Goren, Cherof, Doody & Ezrol for Lien Foreclosures and authorizing Foreclosure of Code Enforcement/Special Assessment Liens

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Through the adoption of Resolution No. 2020-85 on December 10, 2020, the Village Council approved an Attorney-Client Fee Contract with the law firm of Goren, Cherof, Doody & Ezrol to perform code enforcement lien foreclosure services on behalf of the Village. The Contract provided for a rate of \$215.00 per hour. This office recently contacted Michael Cirullo, Esquire at the Goren, Cherof law firm about two lien foreclosure cases. During such discussions, Mr. Cirullo advised this office that it had raised its hourly rate in such cases to \$250.00 per hour. This is the same rate that the Village Council authorized for the law firm to provide labor services through the adoption of Resolution No. 2023-23.

Village Staff is requesting Council approval of an Amendment to the Fee Contract with the Goren, Cherof firm to increase the hourly rate to \$250.00 per hour. Additionally, Staff is seeking Council authorization to initiate foreclosure proceedings for liens recorded against the property located at 713 Westwind Drive, owned by Timothy Hickey (now deceased). The Village has both code enforcement liens totaling well over \$200,000 and a nuisance abatement lien in the amount of \$5,666.00. Staff is also seeking Council authorization to initiate foreclosure proceeds against the property located at 1000 U.S. Highway One (the former Camelot motel site), owned by Vasilopoulos, Inc. While legal counsel for the property owner has indicated that the property owner is willing to pay the outstanding lien in the amount of \$68,475.00, the Village is seeking foreclosure authorization in the event payment is not received in a timely fashion.

While the cost of the foreclosure proceedings is unknown at this time, if the Village is successful in foreclosing on the liens, it is entitled to recover all costs, including reasonable attorney's fees, incurred in the action.

The attached Resolution has been prepared by this office and reviewed for legal sufficiency.

**Recommendation:**

**Village Staff requests Council consideration and approval of the attached Resolution approving an Amendment to the Fee Contract with Goren, Cherof, Doody & Ezrol to increase the hourly rate and authorizing the initiation of foreclosure procedures in accordance with Village policies and procedures.**

## RESOLUTION NO. 2023-\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE EXISTING FEE CONTRACT WITH THE LAW FIRM OF GOREN, CHEROF, DOODY & EZROL, P.A. FOR LIEN FORECLOSURE SERVICES AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE AMENDMENT; AUTHORIZING THE FORECLOSURE OF EXISTING LIENS; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, through the adoption of Resolution No. 2020-85 on December 10, 2020, the Village Council approved an Attorney-Client Fee Contract ("Contract") with the law firm of Goren, Cherof, Doody & Ezrol, P.A. to perform code enforcement lien services on behalf of the Village; and

WHEREAS, the Village received a request from the law firm to increase the hourly rate to \$250.00 per hour, the same rate charged for labor counsel services, and the Village Council wishes to approve an Amendment to the Contract; and

WHEREAS, the Village Council further wishes to authorize the filing of lien foreclosure actions against certain properties within the Village, and the Village Council determines that the adoption of this Resolution is in the best interests of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, as follows:

Section 1. The foregoing recitals are ratified and incorporated herein.

Section 2. The Village Council hereby approves an Amendment to the Attorney-Client Fee Contract for lien foreclosure services with the law firm of Goren, Cherof, Doody & Ezrol, P.A., a copy of which is attached hereto and incorporated herein, and authorizes the Mayor and Village Clerk to execute the Amendment on behalf of the Village.

Section 3. The Village Council hereby authorizes the foreclosure of existing liens against parcels of real property located at 713 Westwind Drive and 1000 U.S. Highway One.

Section 4. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

(Village Seal)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
VILLAGE CLERK

**AMENDMENT TO  
ATTORNEY- CLIENT FEE CONTRACT**

This document ("Amendment") is an amendment to the Attorney-Client Fee Contract ("Contract") between Goren, Cherof, Doody & Ezrol, P.A. ("Law Firm") and the Village of North Palm Beach ("Client").

WHEREAS, on December 10, 2020, the Law Firm and Client executed the Contract whereby the Law Firm agreed to provide legal services to Client relating to code enforcement lien foreclosures; and

WHEREAS, the parties wish to amend Contract to provide for an increase in the hourly rate.

NOW, THEREFORE, in consideration of the mutual promises set forth in the Contract, as amended, the receipt and sufficiency of which is hereby acknowledged by both parties, the Law Firm and Client agree as follows:

1. Section 4, "Professional Fees," is hereby amended to increase the billing rate for the Law Firm's attorneys providing legal services to the Village to \$250.00 per hour or fraction thereof. Additionally, Michael D. Cirullo, Jr. will be the responsible attorney for this matter.

2. A new Section 14 is hereby added to read as follows:

14. E-VERIFY. Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, Law Firm shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Law Firm shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

14.1 All persons employed by Law Firm to perform employment duties within Florida during the term of the contract; and

14.2 All persons (including subconsultants/subcontractors) assigned by Law Firm to perform work pursuant to the contract with the Village. Law Firm acknowledges and agrees that registration and 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 Village; and

14.3 Law Firm shall 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 registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Law Firm shall also require all subcontractors to provide an



affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Law Firm 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 twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such.

3. All other provisions of the Contract, to the extent not expressly modified herein, shall remain in full force and effect.

4. This Amendment shall take effect upon execution by both parties.

GOREN, CHEROF, DOODY & EZROL, P.A.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Shareholder

VILLAGE OF NORTH PALM BEACH, FLORIDA

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
David Norris, Mayor

Attest:

\_\_\_\_\_  
Village Clerk

Approved as to form and Legal  
Sufficiency:

\_\_\_\_\_  
Village Attorney

## RESOLUTION NO. 2020-85

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING A FEE CONTRACT WITH THE LAW FIRM OF GOREN, CHEROF, DOODY & EZROL, P.A. FOR CODE ENFORCEMENT LIEN FORECLOSURES AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE CONTRACT ON BEHALF OF THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village has in excess of \$3,000,000 in outstanding code enforcement liens and wishes to initiate code enforcement lien foreclosure proceedings against commercial and non-homestead properties within the Village; and

WHEREAS, Village Staff is recommending retaining the law firm of Goren, Cherof, Doody & Ezrol, P.A. to perform such legal services on behalf of the Village; and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the residents and citizens of the Village of North Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, as follows:

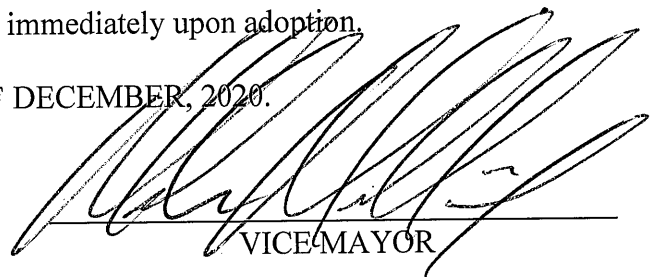
Section 1. The foregoing recitals are ratified and incorporated herein.

Section 2. The Village Council hereby approves an Attorney-Client Fee Contract with the law firm of Goren, Cherof, Doody & Ezrol, P.A., a copy of which is attached hereto and incorporated herein, to perform code enforcement lien foreclosure services and authorizes the Mayor and Village Clerk to execute the Contract on behalf of the Village.

Section 3. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS 10<sup>TH</sup> DAY OF DECEMBER, 2020.

(Village Seal)

  
VICE MAYOR

ATTEST:

  
VILLAGE CLERK

Michael D. Cirullo, Jr.  
MCirullo@GorenCherof.com



**GOREN CHEROF  
DOODY & EZROL P.A.**  
ATTORNEYS AT LAW

November 10, 2020

len@lgrubinpa.com  
Leonard G. Rubin, P.A.  
Village Attorney  
Village of North Palm Beach  
701 Northpoint Parkway, Suite 209  
West Palm Beach, Florida, 33407

### **ATTORNEY-CLIENT FEE CONTRACT**

This document (the "Agreement") is the written fee contract between Goren, Cherof, Doody & Ezrol, P.A. ("Law Firm" or "Counsel") and the Village of North Palm Beach ("Client").

1. CONDITIONS. This Agreement will not take effect, and the Law Firm will have no obligation to provide legal services, until a signed copy of this Agreement and the initial retainer/cost deposit called for under Paragraphs 5 and 6, if any, is returned to the offices of Goren, Cherof, Doody & Ezrol, P.A.

2. SCOPE OF SERVICES. The Client is hiring Goren, Cherof, Doody & Ezrol, P.A., for legal services with regard to code enforcement lien foreclosures as directed by the Village.

3. CLIENT DUTIES. The Client agrees and acknowledges that it has a duty to cooperate with its undersigned Counsel, to keep Counsel informed of developments, to keep in contact with undersigned counsel, to abide by this Agreement, to pay all invoices on time and to keep Counsel advised of the Client's current address, and telephone number. The Client acknowledges this understanding by signing below. The Client specifically authorizes Counsel to confer with his trial counsel on matters related to appeals on which Counsel is representing Client.

4. PROFESSIONAL FEES. The Client understands and agrees that charges for professional services rendered will be by the hour, or fraction thereof, at the prevailing rates for time spent on the Client's matters by the Law Firm's legal personnel. The Client will be charged for the time spent on telephone calls relating to this matter, including telephone conferences with the Client or opposing counsel.

{00411864.2 1032-8702190}

Please reply to Fort Lauderdale Office

**Fort Lauderdale Office**  
3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308. T 954-771-4500 | F 954-771-4923

**Delray Beach Office**  
76 N.E. Fifth Avenue, Delray Beach, FL 33483. T 561-276-9400

[www.cityatty.com](http://www.cityatty.com)

The legal personnel assigned to the Client's matter will confer among themselves about the matter, as required. When they do confer, each person will charge for the time expended. Likewise, if more than one of Law Firm's legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent, provided, however, the Law Firm agrees that more than one person will attend such meetings, court hearings or other proceedings only when necessary to effectively represent Client. It is understood that JAMES A. CHEROF and MICHAEL D. CIRULLO, JR., are the responsible attorneys for this matter. Other attorneys in the Law Firm may work on the matter. The billing rate for attorneys is \$215.00 an hour. Other billing rates are set forth in the attached Rate Schedule. In the event Client has any questions regarding the activity or the charges as reflected on the invoices, please contact the Law Firm immediately upon receipt of the invoice.

5. FEE RETAINER. No fee retainer is required.

6. COSTS AND OTHER CHARGES. The Law Firm may incur various costs and expenses on Client's behalf in performing legal services under this Agreement. The Client agrees to pay for those costs and expenses in addition to the hourly fees. The costs and expenses commonly include filing fees and other fees fixed by law or assessed by courts and other agencies, costs of transcripts and court reporters' fees, costs of the record on appeal, long distance telephone calls, messenger and other delivery fees, excessive postage, retrieval of closed files from off-site storage, if requested, photocopying and other reproduction costs, and other similar items. The Law Firm's standard costs are set forth in the attached Rate Schedule. Any costs incurred with third parties shall be billed at actual cost with no mark-up by the Law Firm.

7. BILLING STATEMENTS. Periodic statements will be sent for fees and costs incurred. Each statement will be due within 30 days of its date. The fee retainer required by paragraph 5, if any, is not intended to be used to pay interim billing statements, but can be applied to the final payment upon direction and consent of the Client.

8. DISCHARGE AND WITHDRAWAL. The Client may discharge the Law Firm at any time. The law firm may withdraw with the Client's consent or for good cause. Good cause includes a breach of this Agreement, the Client's refusal to cooperate with the Law Firm or to follow advice on a material matter or any fact or circumstance that would render the Law Firm's continuing representation unlawful or unethical. At the conclusion of all services, all unpaid charges will immediately become due and payable. After the services conclude, the Law Firm will, upon your request, deliver a file to Client, along with any funds or property of Client's in the law firm's possession.

9. DISCLAIMER OF GUARANTEE. Nothing in this Agreement and nothing in statements to the Client will be construed as a promise or guarantee about the outcome of this matter or any possible litigation. Neither Goren, Cherof, Doody & Ezrol, P.A. nor JAMES A. CHEROF or MICHAEL D. CIRULLO, JR., make any such promises or guarantees. All comments about the outcome of the matter are expressions of opinion only.

10. PUBLIC RECORDS. The law firm shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the Village as

provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the Village to perform the service.
- (b) Upon request from the Village's custodian of public records or designee, provide the Village 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 Chapter 119, Florida Statutes, 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 this Agreement and following completion of this Agreement if the Firm does not transfer the records to the Village.
- (d) Upon completion of this Agreement, transfer, at no cost, to the Village all public records in possession of the Firm or keep and maintain public records required by the Village to perform the service. If the Firm transfers all public records to the Village upon completion of the Agreement, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion of the Agreement, the Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Village, upon request from the Village's custodian of public records or designee, in a format that is compatible with the information technology systems of the Village.

**IF THE LAW FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT: (561) 841-3355 OR NPBCLERK@VILLAGE-NPB.ORG.**

11. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL. In accordance with Palm Beach County ordinance number 2011-009, this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Law Firm should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

12. **SCRUTINIZED COMPANIES.** Law firm, its 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 with Syria. In accordance with Section 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 any agency or local governmental entity for goods or services if:

12.1 Any amount of, at the time 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 Section 215.4725, Florida Statutes, or is engaged in a boycott of

Israel; or

12.2 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:

12.2.1 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 Section 215.473, Florida Statutes; or

12.2.2 Is engaged in business operations in Syria.

13. EFFECTIVE DATE. This Agreement will take effect once the Client has performed the conditions stated in Paragraph 1, but its effective date will be retroactive to the date the Law Firm first performed services. The dates at the end of this Agreement are for reference only. Even if this Agreement does not take effect, the Client will be obligated to pay the reasonable value of any services the Law Firm may have performed for the Client.

Client has read and understands the foregoing terms and those set forth on the attached Rate Schedule and agree to them as of the date Goren, Cherof, Doody & Ezrol, P.A. first provided services.

Date: 12/10/2020

GOREN, CHEROF, DOODY & EZROL, P.A.

By: 

MICHAEL D. CIRULLO, JR., ESQ.  
3099 East Commercial Boulevard  
Suite 200  
Fort Lauderdale, Florida 33308

Date: 12/10/2020

VILLAGE OF NORTH PALM BEACH

By: 

VICE MAYOR

ATTEST:

  
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

  
VILLAGE ATTORNEY

RATE SCHEDULE

**A. IDENTIFICATION**

Client: VILLAGE OF NORTH PALM BEACH

Matter: Code Enforcement Lien Foreclosures

**B. HOURLY RATES FOR LEGAL PERSONNEL**

Attorneys	\$215.00
Law Clerks	\$125.00/hour
Paralegals	\$125.00/hour

**C. STANDARD CHARGES**

We charge for our time in minimum units of .10 hours.

**D. COSTS AND EXPENSES**

In-office photocopying	.35/page
Telefacsimile transmittal	10.00

Credit card payments will be subject to a 3% service charge.