

**INVITATION TO BID**

City of Fort Walton Beach, Florida
C/O AVCON, Inc.
320 Bayshore Drive, Suite A
Niceville, Florida 32578
Telephone: (850) 678-0050

ISSUE DATE: October 24, 2022

BID NO: ITB 23-002

OPENING DATE: December 1, 2022

OPENING TIME: 2:30 PM CST

Website: <http://www.fwb.org/rfps>

BID REQUESTED:**FORT WALTON LANDING IMPROVEMENTS – PHASE 1**

The City of Fort Walton Beach, FL (OWNER or CITY) invites bids for ITB#23-002: FORT WALTON LANDING - BOARDWALK IMPROVEMENTS - PHASE 1. Bids will be opened and publicly read aloud at the AVCON, INC offices at 320 Bayshore Drive, Suite A, Niceville, Florida 32578 at 2:30 PM (local Central time) on December 1, 2022.

A PRE-BID MEETING will be held on November 3, 2022, at 2:30 PM Central local time, located at the City of Fort Walton Beach City Hall Annex Building – 105 Miracle Strip Parkway SW, Fort Walton Beach, Florida, 32548.

Bids must be SUBMITTED ON THE FORMS FURNISHED BY THE CITY and in accordance with specifications and the list of quantities desired.

Respondents are advised that from the date of release of this solicitation until award of the contract, **no contact with City personnel related to this solicitation is permitted. All communications are to be directed to the Purchasing Representative and sole contact listed below. See also Section 2.12.**

It is the intent and purpose of the City of Fort Walton Beach that this Invitation to Bid promotes competitive bidding. It shall be the Bidder's responsibility to advise AVCON, Inc. at the address noted in the Special Conditions, if any language, requirements, etc. or any combination thereof, inadvertently restricts or limits the requirements stated in this Invitation to Bid to a single source. Such notification must be submitted in writing and must be received by AVCON, Inc. no later than ten (10) days prior to the bid opening date.

Sincerely,

Calvin Palmer, P.E.
Civil Engineer
AVCON, Inc.

TABLE OF CONTENTS

BID REQUESTED: 1

TABLE OF CONTENTS 2 - 3

SECTION 1: FORMS (INSTRUCTIONS) 4 - 17

1.7.1 COVER SHEET 5

1.7.2 BIDDER’S CERTIFICATION FORM..... 6

1.7.3 ADDENDUM PAGE..... 7

1.7.4 REFERENCES 8

1.7.5 DRUG FREE WORKPLACE FORM9

1.7.6 PUBLIC ENTITIES CRIME FORM 10 - 11

1.7.7 LOBBYING CERTIFICATION FORM12

1.7.8 ANTI-COLLUSION FORM.....13

1.7.9 FEDERAL E-VERIFY FORM.....14

1.7.10 SCRUTINIZED COMPANIES15

1.7.11 BID BOND16

1.7.12 OTHER FORMS/MATERIALS..... 16 - 17

SECTION 2: GENERAL CONDITIONS..... 18 - 25

2.12 Questions / Bid Point of Contact 20 - 21

2.13 Copies for Submission21

2.14 Receipt of Bids; Submittal Deadline;21

2.15 Withdrawal of Bids22

2.16 Bid Opening22

2.17 Bid Award.....22

2.22 Piggyback Provisions.....23

SECTION 3: SPECIAL CONDITIONS 26 - 32

3.1 Pre-Bid Conference.....26

3.2 Performance Time..... 26, 42-43

3.3 Familiarity With Site Conditions26-28; 43-44

3.10 Contract Required29

3.14 Liquidated Damages30

3.15 Bonds 30 - 31

3.16 Insurance..... 31 - 32

SECTION 4: ADDITIONAL CONTRACT TERMS (including Federal terms)..... 33 - 39

SECTION 5: SCOPE OF WORK 40 - 45

5.0 Intent40

5.1 Summary of Work.....40

5.2 Scope of Work40

5.3 Specifications for Project (document list).....40

5.4 Coordination & Progress Meetings.....41

5.5 Material and Equipment - Overview; Substitute and 'Or Equal' Items..... 41 - 42

5.6 Performance / Project Schedule42

5.7 Hours of Operation43

5.8 Personnel.....43

5.9 Site Visit.....43

5.10 Defective Work43

5.11 Final Inspection.....44

5.12 As Builts/Record Drawings44

5.13 Other Considerations 44 - 45

SECTION 6: BID SUBMISSIONS..... 46 - 47

6.1 Qualifications of Bidders46

6.2 Copies Required.....46

6.3 General Requirements..... 46 - 47

6.4 Incurred Expenses47

6.5 ITB Schedule47

SECTION 7: BID SCHEDULE48

SECTION 8: NOTICE TO BIDDERS.....49

EXHIBITS LIST (A - H)50

SECTION 1 – INSTRUCTIONS FOR SUBMITTING BID RESPONSE FOR ITB 23-002:

1.1 Bidders are expected to examine this bid form and all instructions. Failure to do so will be at the bidder's risk.

1.2 All prices and notations must be in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrections typed adjacent and must be initialed and dated in ink by person signing bid. All bids must be signed with the firm name and by a responsible officer or employee.

1.3 Each bidder shall furnish all the information required on the bid form and each accompanying sheet on which he/she makes an entry.

1.4 Unit price for each unit bid shall be shown. A total shall be entered in the amount column for each item bid. In case of discrepancy between a unit price and extended price, the unit prices will be presumed to be correct. Failure to show unit prices may render bid as non-responsive.

1.5 Although the City generally awards bids based on a “lump sum” basis to the bidder submitting the lowest responsive and responsible total bid as shown on the Invitation to bid cover sheet, the City may choose to award on a “per group” or “per item” basis. Therefore, bidders must submit with their bids, all pricing pages on the forms provided, clearly indicating which items are bid and which are not. Failure to submit these pages will render such bid non-responsive.

1.6 The City of Fort Walton Beach adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to this meeting by a physically handicapped person upon notice 48 hours prior to the meeting. Please contact AVCON, Inc. to make this request. For Hearing Impaired the TDD line that is honored throughout the United States is the Telecommunications Relay Service (TRS) and can be reached by dialing 711. Below is a link with the details: https://www.fcc.gov/sites/default/files/telecommunications_relay_service.pdf

1.7 – FORMS – DO NOT SUBSTITUTE FOR OTHER FORMATS; USE BID FORMS ONLY.
Call AVCON, Inc. for link to the additional electronic documents.

NOTE: PLEASE ENSURE THAT ALL DOCUMENTS ARE COMPLETED AND SUBMITTED WITH YOUR BID IN ACCORDANCE WITH THIS INSTRUCTION SHEET. FAILURE TO DO SO MAY RESULT IN YOUR BID NOT BEING CONSIDERED FOR AWARD.

1.7.1

COVER SHEET

ITB TITLE: FORT WALTON LANDING - BOARDWALK IMPROVEMENTS - PHASE 1

ISSUE DATE: October 24, 2022

BID NO: ITB 23-002

This completed form must appear as the top sheet for all bids submitted.

**BID BOND REQUIRED FOR THIS BID.
See Exhibit A1**

Total Amount of bid or Base bid \$ _____

BID BOND DETAILS FURNISHED BELOW

Amount of bid Bond \$ _____

Surety Co: _____

All Items bid? Yes ___ No ___

Exceptions included on Company letterhead with technical literature? Yes ___ No ___

Submitted by:

NAME OF BUSINESS

BY: _____
SIGNATURE

MAILING ADDRESS

NAME & TITLE (type or print)

CITY, STATE, ZIP CODE

EMAIL ADDRESS

(____) _____
TELEPHONE NUMBER

(____) _____
FAX NUMBER

1.7.2 BIDDER’S CERTIFICATION – ITB 23-002

I have carefully examined the Invitation to Bid (ITB), Addenda (if any), Instructions to bidders, General and Special Conditions, Vendor’s Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this ITB.

I hereby propose to furnish the goods or services specified in the Invitation at the prices or rates quoted in my bid. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City adequate time to evaluate the bids.

I certify that all information contained in this bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this bid on behalf of the vendor/contractor as its act and deed and that the vendor/contractor is ready, willing and able to perform if awarded the bid.

I further certify that this bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a bid for the same product or service; no officer, employee or agent of the City of Fort Walton Beach or of any other bidder interested in said bid; and that the undersigned executed this Bidder’s Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

NAME OF BUSINESS

BY: _____
Signature

NAME & TITLE (type or print)

MAILING ADDRESS

CITY, STATE, ZIP CODE

(_____) _____
TELEPHONE NUMBER

(_____) _____
FAX NUMBER

EMAIL ADDRESS

DATE

1.7.3

ADDENDUM PAGE – ITB 23-002

The undersigned acknowledges receipt of the following addenda to the Documents (Give number and date of each):

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

FAILURE TO SUBMIT ACKNOWLEDGMENT OF ANY ADDENDUM THAT AFFECTS THE BID PRICES IS CONSIDERED A MAJOR IRREGULARITY AND WILL BE CAUSE FOR REJECTION OF THE BID.

NAME OF BUSINESS

BY: _____
Signature

NAME & TITLE (type or print)

MAILING ADDRESS

CITY, STATE, ZIP CODE

() _____
TELEPHONE NUMBER

() _____
FAX NUMBER

DATE

1.7.4

REFERENCES – ITB 23-002

See Exhibit B – Contractor’s Qualification Questionnaire. **All references shall be for similar work that has been performed in Florida within the last five (5) years.**

REGARDING BIDDER: _____

1.7.5 DRUG-FREE WORKPLACE FORM

The undersigned vendor, on _____, 2022, in accordance with Section 287.087, Florida Statutes, certifies that [business] _____ does:

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, 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 Paragraph 1.
4. In the statement specified in Paragraph 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 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 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 Paragraphs 1 through 5.

Check one:

_____ As the person authorized to sign this statement, I certify that this firm complies fully with above requirements.

_____ As the person authorized to sign this statement, this firm does not comply fully with the above requirements.

NAME OF BUSINESS: _____

BY: _____
SIGNATURE

NAME & TITLE, TYPED OR PRINTED: _____

1.7.6 PUBLIC ENTITY CRIME FORM – ITB 23-002

SWORN STATEMENT UNDER SECTION 287.133 (3) (A) FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted with Proposal, Proposal or Contract # 23-002

This sworn statement is submitted by _____ whose business address is _____ and (if applicable) Federal Employer Identification Number (FEIN) is _____ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement).

My name is _____ and my relationship to the entity named above is _____.

I understand that a "public entity crime" as defined in Paragraph 287.133(a)(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 with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

I understand that "convicted" or "conviction" as defined in paragraph 287.133(a)(b), Florida Statutes, means 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 records relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

- A predecessor or successor of a person convicted of a public entity crime (or)
- An entity under the control of 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 of shares constituting a controlling income among persons when not for fair interest in another person, or a pooling of equipment or income among persons when not for fair market value under a length agreement, shall be a prima facie case that one person controls another person. A person who was knowingly convicted of a public entity crime, in Florida during the preceding 36 months shall be considered an affiliate.

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 the state or of the United States with the

legal power to enter into a binding contract for 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.

Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor affiliate of the entity have 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 the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in 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. (Please attach a copy of the final order.)

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in public interest to remove the person or affiliate from the convicted vendor list. (please attach a copy of the final order)

_____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by, or pending with, the Department of General Services.)

(Signature)

(Date)

STATE OF: _____ COUNTY OF: _____

The foregoing instrument was acknowledged before me on the _____ day of _____, 2022 by means of ___ physical presence or ___ online notarization

by _____ and _____ in their representative
(Name of Person Acknowledging) (Name of Person Acknowledging)

capacity as _____ and _____ of the Operator, who
(TITLE) (TITLE)

_____ is personally known to me, or _____ has produced _____ as ID.
(TYPE OF IDENTIFICATION)

My Commission expires

Public Notary

1.7.7 LOBBYING CERTIFICATION FORM

LOBBYING - 31 U.S.C. 1352, 49 CFR Part 19, 49 CFR Part 20

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1) -(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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

_____ Signature of Bidder’s Authorized Official

_____ Name and Title of Bidder’s Authorized Official

_____ Date

1.7.8 ANTI-COLLUSION STATEMENT

ANTI-COLLUSION STATEMENT: The below signed bidder has not divulged to, discussed or compared his or her bid with other bidders and has not colluded with any other bidder or parties to bid whatever. (Note: No premiums, rebates, or gratuities permitted either with, prior to, or after any delivery of materials. Any such violation will result in the cancellation and/or return of material (as applicable) and the removal from bid list(s).

Bidder's Company Name

Authorized Signature – Manual

Authorized Signature – Typed

Address

Title

Phone #

Fax #

Federal ID # or SS #

1.7.9 FEDERAL E-VERIFY COMPLIANCE CERTIFICATION

In accordance with Executive Order Number 11-116 from the Office of the Governor of the State of Florida, Bidder hereby certifies that the U.S. Department of Homeland Security’s E-Verify system will be used to verify the employment eligibility of all new employees hired by the respondent during the contract term, and shall expressly require any subcontractors performing work or providing services pursuant to the contact to likewise utilize the U.S. Department of Homeland Securities E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and shall provide documentation such verification to the CITY upon request.

As the person authorized to sign this statement, I certify that this company complies/will comply fully with the above requirements.

DATE: _____

SIGNATURE: _____

COMPANY: _____

NAME: _____

ADDRESS: _____

TITLE: _____

E-MAIL: _____

PHONE NO.: _____

FAX NO.: _____

1.7.10 SCRUTINIZED COMPANIES PURSUANT TO FS SECTIONS 287.135 & 215.473:

By signing and submitting this proposal, the undersigned proposer hereby certifies that:

- (1) it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes,
- (2) engaged in a boycott of Israel
- (3) listed 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
- (4) engaged in business operations in Cuba or Syria.

Pursuant to section 287.135(5), Florida Statutes, the City may disqualify the proposal immediately or immediately terminate any agreement entered into for cause if the proposer is found to have submitted a false certification as to the above or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the City determines that the proposer has submitted a false certification, the City will provide written notice to the proposer. Unless the proposer demonstrates in writing, within 90 calendar days of receipt of the notice, that the City’s determination of false certification was made in error, the City shall bring a civil action against the proposer. If the City’s determination is upheld, a civil penalty shall apply, and the proposer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of City’s determination of false certification by proposer.

Any contract with the City of Fort Walton Beach for goods and/or services of any amount, entered into on or after July 1, 2019, may be terminated at the sole option of the City, at no cost to the City, if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, or if the company is found to have submitted a false certification as provided under subsection (5) of F.S.287-135.

As the person authorized to sign this statement, I certify that this company complies fully with the above requirements.

DATE: _____ SIGNATURE: _____

NAME: _____

TITLE: _____

COMPANY: _____ E-MAIL: _____

ADDRESS: _____

1.7.11 BID BOND – Include with bid submission:

See Exhibit A1.

See Section 3.15 of this document for further details.

1.7.12 OTHER FORMS/MATERIALS TO INCLUDE WITH BID SUBMISSION:

1.7.12.1 ITEMIZED BID SCHEDULE (PRICE SHEETS) –
SEE EXHIBIT C (PDF)

1.7.12.2 CONTRACTOR’S QUALIFICATION QUESTIONNAIRE –
SEE EXHIBIT B (PDF)

Bid must contain evidence of Bidder’s licensure, and attach such certification to the Bid. Bidder’s state contractor license number, if any, must also be shown on the Exhibit B (Contractor’s Qualification Questionnaire).

1.7.12.3 CURRENT PROJECT LIST –
SEE EXHIBIT B (PDF)

1.7.12.4 KEY RESUMES/PROFILES –
SEE EXHIBIT B (PDF)

1.7.12.5 EVIDENCE OF AUTHORITY TO DO BUSINESS IN FLORIDA - The Bid must contain evidence of Bidder’s authority to do business in Florida, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

1.7.12.6 PROPOSED SUBCONTRACTORS/SUPPLIERS LIST -
SEE EXHIBIT B (PDF)

Bidders must submit to the City a list of the Subcontractors and Suppliers proposed for the Work. Examples of Items for which this is required is as follows:

- Subcontractors: All
- All Equipment: Pipe, fittings, air release valves, manhole lining system, etc.

1.7.12.6.1 The City may request such lists be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier.

1.7.12.6.2 If City or its Consultant Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual or entity, City may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, without an increase in Bid price.

1.7.12.6.3 If apparent Successful Bidder declines to make any such substitution, City may award the Contract to the next lowest Bidder

that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 6.8 of Exhibit D - General Conditions.

This Area Left Intentionally Blank.

SECTION 2 - GENERAL CONDITIONS

2.1 **EXECUTION OF BID:** Bid must contain a manual signature of an authorized representative in the space provided. Florida law requires that when a municipality enters into a contractual agreement with a corporation licensed to do business in the State of Florida, such agreement shall be signed by two (2) Corporate Officials (i.e., President, Vice President, Secretary, Treasurer) with the corporate seal affixed. It also requires that such execution be acknowledged before a Notary Public with Notary Seal affixed. If neither the aforementioned corporate officers nor the corporate seal are readily available, a letter of authorization can be submitted in lieu of these requirements. Such letter of authorization must be on the corporate stationery, must clearly state that the person who signed the referenced agreement is duly authorized to enter into such agreement on behalf of the corporation and must be signed by the corporate officials designated above. Failure to submit letter of authorization within two (2) weeks after notification of award may result in award to the next apparent low bidder.

2.1.1 In the case of a partnership or LLC, the agreement must be signed by a general or managing partner and notarized as outlined above. The official address of the partnership must be shown.

2.1.2 For bids submitted by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Forms. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.

2.1.3 In the case of a sole proprietorship, the owner must sign the agreement and have such execution notarized.

2.1.4 If you have any questions regarding the execution of the Bidder Certification signature page, please feel free to contact the Purchasing Division at (850) 833-9523 for further clarification.

2.2 **SUBMITTAL OF BIDS:** Bids shall be submitted utilizing the bid form(s) provided in the bid documents. All bids shall be properly executed with all blank spaces filled in. The signatures of all persons signing shall be in longhand. Erasures, interlineations, or other corrections shall be authenticated by affixing in the margin immediately opposite the correction the initials of a person signing the bid.

2.2.1 If the unit price and the total amount named by a bidder for any item are not in agreement the unit price alone shall be considered as representing the bidder's intention, and the totals shall be corrected.

2.2.2 If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”

2.3 **AMENDMENT OF THE INVITATION TO BID:** City, on its own initiative, may issue Addenda to clarify, correct, supplement, or change the Bidding Documents. It is the Bidder's responsibility to contact AVCON, Inc. prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and return executed addenda with the bid (or complete and sign addenda acknowledgement form.) The failure of a bidder to submit acknowledgment of any addenda that affects the bid price(s), is considered a major irregularity and will be cause for rejection of the bid.

2.4 **BIDDER'S CERTIFICATION FORM:** Each bidder shall complete the "Bidder's Certification" form included with this Invitation to Bid, and submit the form with the bid. The failure of a bidder to submit this document will be cause for rejection of the bid.

2.5 **DRUG FREE WORKPLACE PREFERENCE FORM:** Pursuant to § 287.087, Fla. Stat., the City must give preference to businesses that have implemented a drug-free workplace programs whenever two or more bids, proposals, or replies are equal in price, quality, and service. If your business has implemented a drug free workplace program, you must provide a copy of all documents, rules, policies and procedures adopted by your business that satisfy the requirements of § 287.087.

2.6 **PUBLIC ENTITY CRIMES FORM:** A person or affiliate, as defined in § 287.133, Fla. Stat., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, 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 § 287.01, Fla. Stat., for Category Two, for a period of 36 months from the date of being placed on the convicted vendor list. By submitting a bid, you are certifying your company is in compliance with § 287.133, Fla. Stat.

2.7 **SPECIFICATIONS REQUIRED:** All items quoted must be in compliance with the specifications (**APPENDICES E2, F2, G2**). If you are taking exception, indicate those exceptions on company letterhead and attach to this Invitation to Bid.

2.8 **ALTERNATIVES/SUBSTITUTIONS TO SPECIFICATIONS:** Any alternatives or substitutions to the attached specifications must be clearly delineated, set out and submitted with the bid (use separate sheets of paper and make them part of the bid).

2.9 **PRICES, TERMS, and PAYMENT:** All prices must be firm for the delivery schedule quoted in the specifications. Bids stipulating "Price in effect at time of shipment" or other similar conditions will be considered not responsive to the bid invitation and will not be accepted. All prices shall be quoted F.O.B. delivered to any City of Fort Walton Beach Department unless otherwise stipulated in the bid invitation. Bidder is requested to offer cash discount for prompt invoice payment. It is the policy of the City of Fort Walton Beach to make payments of invoices in time to earn any offered cash discounts. Discount time will be computed from the date of satisfactory delivery at place of acceptance or from receipt of correct invoice at the Finance Department office, whichever is later.

2.10 **DISCOUNTS:** 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. Discount will be computed from the date of satisfactory delivery at place of acceptance or from receipt of correct invoice at the office specified, whichever is later.

2.11 **EFFECTIVE PERIOD:** Prices quoted in the bid must remain open for a period of ninety (90) days from the date of bid opening.

2.12 **QUESTIONS REGARDING SPECIFICATIONS OR BIDDING PROCESS:**

2.12.1 To ensure fair consideration for all bidders, the City prohibits communication to, or with any department, division or employee, including Engineer/Consultant during the submission process, except as indicated in 2.12.4. Additionally, the City prohibits communication initiated by a bidder to City officials or employees evaluating or considering the bids prior to the time a bid decision has been made.

Such communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration or award of the bid then in evaluation and/or any future bid. **All communications are to be directed to the Purchasing Representative and sole contact listed below in Section 2.12.4.**

2.12.2 Any questions related to interpretation of specifications or the bid process shall be addressed to the Project Engineer, in writing, in ample time before the period set for the receipt and opening of bids. Questions received within ten (10) calendar days of the date set for the receipt of bids, may not be answered. Any interpretation made to prospective bidders will be expressed in the form of an addendum to the specifications which, if issued, will be conveyed to all prospective bidders no later than five (5) days before the date set for receipt of bids. Oral answers will not be authoritative.

2.12.3 It will be the responsibility of the bidder to contact the AVCON, Inc. or go to their electronic file-sharing portal prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and return executed addenda with the bid.

2.12.3.1 Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf). It is the intent of the Engineer and the City that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the City and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Bidder's means of reproduction of such documents, the City and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.



2.12.4 Direct all inquiries to:

Calvin Palmer, P.E. – Civil Engineer
AVCON, Inc.
320 Bayshore Drive, Suite A
Niceville, Florida 32578

Telephone: (850) 678-0050 Ext. 111

Email: cpalmer@avconinc.com

2.13 **SEALED BIDS:** All bids must be submitted in a sealed envelope. The face of the envelope shall contain the date and time of the bid opening and the bid number. Bids not submitted on the City's bid forms may be rejected. All bids are subject to the conditions specified and on any attached sheets, specifications, special conditions or vendor notes.

2.13.1 Sealed bids must include:

- One (1) unbound original, and one (1) complete paper copy,
- One (1) electronic copy on a compact disk or USB drive containing the above-listed information.
 - **ELECTRONIC COPIES MUST BE IDENTICAL IN ALL RESPECTS TO THE PAPER COPY SUBMITTED.**

2.14 **RECEIPT OF BIDS, DUE DATE**

2.14.1 **Sealed bids shall be submitted to AVCON, Inc. at 320 Bayshore Drive, Niceville, FL, 32578, no later than 2:30PM (CST), on December 1, 2022.** Bids shall not be accepted after this time and date. Each bid shall be submitted in a sealed envelope marked with the bid number, title of the bid, and bid opening date.

2.14.2 Neither faxed nor electronically submitted bids will be accepted. Be sure to include the name of the company submitting the bid, where requested.

2.14.3 Sealed bids are to be addressed as follows for either mail or hand delivery. Bids submitted by mail must be received by AVCON, Inc. before the bid opening time.

2.14.4 Sealed bids are to be addressed as follows for either mail or hand delivery. Bids submitted by mail must be received by AVCON, Inc. no later than the bid opening time.

2.14.5 **Cut out & use the label printed on the next page, and affix to your OUTER sealed bid envelope to identify it as a “Sealed Bid”.** If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a **separate package plainly marked on the outside with the notation “BID ENCLOSED.”**



Deliver to: AVCON, Inc.
Attn:
Calvin Palmer, P.E. – Civil Engineer
320 Bayshore Drive, Suite A
Niceville, FL 32578

SEALED BID DO NOT OPEN

SEALED ITB#: 23-002

ITB TITLE: FORT WALTON LANDING IMPROVEMENTS
DUE DATE/TIME: 12/01/2022 2:30 PM – Central Time

2.15 WITHDRAWAL OF BIDS: Bidders may withdraw a bid after it has been deposited with AVCON, Inc. any time before the scheduled time for opening the bids.

2.15.1 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid and submit a new Bid prior to the date and time for the opening of Bids.

2.16 BID OPENING: The Bid Opening shall be public, on the date and at the time specified on the bid form. It is the bidder's responsibility to assure that the bid is delivered at the proper time and place of the bid opening. Bids which for any reason are not so delivered will not be returned but will be retained in the "BID FILE" unopened. Offers by telephone or email for a sealed bid cannot be accepted.

2.17 AWARD OR REJECTION OF BIDS: The contract will be awarded to the lowest responsive and responsible bidder complying with all the provisions of the Invitation to Bid, provided the bid price is reasonable and it is in the interest of the City to accept it.

2.17.1 The City of Fort Walton Beach reserves the right to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the interest of the City. The City of Fort Walton Beach also reserves the right to reject the bid of a bidder who has previously failed to perform properly or complete, on time, contracts of a similar nature, or a bid of a bidder who investigation shows is not in a position to perform the contract.

2.17.2 Award will be made in approximately ninety (90) days. It is incumbent on bidders to contact the Purchasing Division at (850) 833-9523 to determine the successful bidder(s). Bidders or respondents who do not agree with the City Council's award are afforded the opportunity to protest the recommendation by submitting a written vendor protest to the Purchasing Division within three (3) business days after City Council has awarded the purchase. Failure to file a written vendor protest within three (3) business days shall constitute a waiver of protest under this policy.

2.17.3 In the best interest of the City, the right is reserved to make award(s) by individual items, group of items, all or none, or a combination thereof, with one or more suppliers; to reject any and all bids, or to waive any informality or technicality in bids received.

2.18 **SELECTION / REJECTION OF OPTIONS/ALTERNATIVES:** If an Invitation to Bid permits options or alternatives, the City reserves the right to select or reject any or all options or alternatives that are bid and as deemed to be in the best interests of the City.

2.19 **BID TABULATION & EVALUATION:** Bidders may request copies of the bid tabulation documents via email, in person or by sending a stamped, self-addressed envelope with the bid. Bid Tabulations will not be provided by telephone.

2.20 **TAX EXEMPT:** The City does not pay federal excise and state sales taxes. Our tax exemption number is 85-8012740106C-0 and is on all purchase orders.

2.21 **POLITICAL SUBDIVISIONS CONTRACTS:** Under Florida Law, prices contained in State Contracts shall be available to the City of Fort Walton Beach, who might wish to purchase under a State Purchase Contract. The City reserves the right to purchase from a State Purchase Contract if in the best interest of the City.

2.22 **PIGGYBACK PROVISIONS:** Under the Florida Inter-local Cooperation Act of 1969, public agencies may engage in cooperative purchasing agreements and intergovernmental agreements and contracts. Winning Bidder agrees to provide same terms and conditions to other qualified government agencies within the State of Florida.

2.22.1 The submission of any bid in response to this Invitation to Bid constitutes a bid made under the same terms and conditions, for the same contract price, to other governmental agencies within the State of Florida, unless otherwise stipulated by the proposing bidder on the bid sheet.

2.22.2 Each governmental agency desiring to accept these bids, and make an award thereof, shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for materials ordered and received by it, and no agency assumes any liability by virtue of this bid.

2.23 **MISTAKES:** Bidders are expected to examine the specifications, delivery schedules, bid prices, and all instructions pertaining to supplies and services. Failure to do so will be at the bidder's risk.

2.24 **CONDITION and PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this bid shall be new and the current production model at the time of this bid, unless otherwise specified. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.

2.25 **SAFETY STANDARDS:** Unless otherwise specified in the bid, all manufactured items and fabricated assemblies shall comply with applicable requirements and standards of the Occupational Safety and Health Act.

2.26 **MARKING:** Each individual container shall be marked with the brand name of the product, quantity and the name and address of the manufacturer. Each shipping container shall include the name of the vendor and must also clearly indicate the City of Fort Walton Beach Purchase Order Number.

2.27 **INVOICING and PAYMENT:** The supplier shall be paid upon submission of invoices to: Accounts Payable, City of Fort Walton Beach, 107 Miracle Strip Pkwy SW, Fort Walton Beach, Florida 32548. Invoices are to be billed at the prices stipulated on the purchase order and as outlined in this bid. All invoices must show the City of Fort Walton Beach Purchase Order Number.

2.28 **CONFLICT OF INTEREST:** Any award of contract for this Invitation to Bid is subject to Chapter 112, Florida Statutes. All bidders must disclose with their bid the name of any officer, director, or agent who is also an employee of the City of Fort Walton Beach. Further, all bidders must disclose the name of any City of Fort Walton Beach officer, director, or employee who owns, directly or indirectly, an interest of ten percent (10%) or more of the bidder's firm or any of its branches or who has any contractual relationship or agreement of any kind with the bidder. The bidder warrants that no one was paid a fee, commission, gift, or other consideration contingent upon receipt of an award for the services and/or supplies specified herein.

2.29 **INSPECTION, ACCEPTANCE, and TITLE:** Inspection and acceptance will be at destination unless otherwise stipulated by the City. Title and risk of loss or damage to all items shall be the responsibility of the shipper (vendor) until accepted by the using department of the City of Fort Walton Beach, unless loss of damage results from negligence by the City of Fort Walton Beach or its Departments.

2.30 **DISPUTES:** In case of any doubt or differences of opinion as to the items to be furnished pursuant to the specifications of this Invitation to Bid, the decision of the City of Fort Walton Beach City Manager shall be final and binding on both parties.

2.31 **LEGAL REQUIREMENTS:** Federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the item(s) covered in the specifications of this Invitation to Bid shall apply. Lack of knowledge by the bidder will in no way be cause for relief from such responsibility.

2.32 **INDEPENDENT CONTRACTOR STATUS; INDEMNITY:** At all times the contractor will be an independent contractor and shall, therefore, agree to indemnify and save harmless the City, its officers, agents, and employees, from and against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and costs of action, including attorney's fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with the performance of the Contract whether by act or omission of the Bidder, its agents, servants, employees or others, or because of or due to the mere existence of the Contract between the parties.

2.33 **TIME IS OF THE ESSENCE:** **A condition that time is of the essence for the proper provision of services of the Contract and that the successful Bidder will conduct all required work diligently and as specified by the City.**

2.34 **ASSIGNMENT:** The successful Bidder may not assign, transfer, or otherwise dispose any rights or obligations of the Contract without prior written consent of the City.

2.35 **TERMINATION FOR CONVENIENCE:** The City may terminate for its convenience at any time, in whole, or in part, any proposal award. In the event of termination for convenience, the City's sole obligations will be to reimburse Bidder for (1) those goods and/or services actually shipped /performed and accepted up to the date of termination, and (2) costs incurred by the Bidder for unfinished goods, which are specifically manufactured for the City and which are not standard

products of the Bidder, as of the date of termination, and a reasonable profit thereon. In no event is the City responsible for loss of anticipated profit nor will reimbursement exceed the proposal value.

2.36 TERMINATION FOR DEFAULT: The City may terminate all or any part of an award resulting from this proposal, by giving notice of default to the Bidder, if the Bidder: (1) refuses or fails to deliver the goods or services within the time specified, (2) fails to comply with any of the provisions of this Proposal or so fails to make progress as to endanger performance hereunder, or, (3) becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of termination for default, the City's liability will be limited to the payment for goods and/or services delivered and accepted as of the date of termination.

2.37 LIABILITY: The vendor shall hold and save the City of Fort Walton Beach, its officers, agents and employees harmless from liability of any kind in the performance of or fulfilling the requirements of any purchase order which may result from this bid.

2.38 LOCAL MERCHANT PREFERENCE: Per terms of FL DEP Grant Agreement #DH001, Sec 13 – local preference criteria is prohibited.

This Area Left Intentionally Blank.

SECTION 3 - SPECIAL CONDITIONS

If marked, the following Special Conditions apply to this invitation to bid:

XX 3.1 **PRE-BID CONFERENCE:** **November 3, 2022, at 2:30 PM Central time; To be held at the City of Fort Walton Beach City Hall Annex, 105 Miracle Strip Pkwy SW, FWB, FL 32548.** Representatives of the City and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference; however, attendance at this conference is not required to submit a Bid.

- 3.1.1 Information presented at the pre-Bid conference does not alter the Contract Documents. AVCON, Inc. will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

XX 3.2 **PERFORMANCE TIME:** The winning bidder shall achieve substantial completion within ONE HUNDRED FIFTY (180) calendar days, and final completion THIRTY (30) calendar days after Substantial Completion. **See Section 5.6 for details.**

XX 3.3 **FAMILIARITY WITH SITE CONDITIONS:** The responsibility for the determination of accurate measurements, the extent of work to be performed, and the conditions surrounding the performance thereof shall be the Bidder's. Submission of a bid shall constitute acknowledgement by the Bidder that he/she is familiar with all such conditions. The failure or neglect of a Bidder to familiarize himself/herself with the site of the proposed work shall in no way relieve him from any obligations with respect to his/her bid.

- 3.3.1 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.

- 3.3.2 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.

- 3.3.3 Existing Site Conditions - Subsurface and Physical Conditions; Hazardous Environmental Conditions

- 3.3.3.1 The following conditions (included in Exhibit D) identify the following regarding existing conditions at or adjacent to the Site:

- Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
- Those drawings known to the City of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.
- Reports and drawings known to the City relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
- Technical Data contained in such reports and drawings.

3.3.3.2 The City will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in Exhibit D - General Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

3.3.3.3 If Exhibit D does not identify Technical Data, the default definition of Technical Data set forth in Article 1 of Exhibit D will apply.

3.3.3.4 *Geotechnical Baseline Report/Geotechnical Data Report*: The Bidding Documents may contain a Geotechnical Report.

(Note: If no Geotechnical Report(s) are contained in the bidding documents, none were generated for this project)

- The geotechnical report describes certain select subsurface conditions that are anticipated to be encountered by Bidder during construction in specified locations (“Baseline Conditions”). The geotechnical report is a Contract Document.
- The Baseline Conditions in the geotechnical report are intended to reduce uncertainty and the degree of contingency in submitted Bids. However, Bidders cannot rely solely on the Baseline Conditions. Bids should be based on a comprehensive approach that includes an independent review and analysis of the geotechnical report, all other Contract Documents, Technical Data, other available information, and observable surface conditions. Not all potential subsurface conditions are baselined.
- Nothing in the geotechnical report is intended to relieve Bidders of the responsibility to make their own determinations regarding construction costs, bidding strategies, and Bid prices, nor of the responsibility to select and be responsible for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.

- The Geotechnical Report is a Contract Document containing data prepared by or for the City in support of the geotechnical report.
- 3.3.4 Underground Facilities: Underground Facilities are shown or indicated on the Drawings, pursuant to Section 4.3 of Exhibit D. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- 3.3.5 Other Site-related Documents: No other Site-related documents are available.

XX 3.4 **RIGHT TO AUDIT RECORDS**: The City shall be entitled to audit the books and records of the Bidder or any sub-contractor to the extent that such books and records relate to the performance of the Agreement or any sub-contract to the Agreement. Such books and records shall be maintained by the Bidder for a period of three (3) years from the date of final payment under the Agreement and by the sub-contractor for a period of three (3) years from the date of final payment under the sub-contract unless a shorter period is otherwise authorized in writing.

XX 3.5 **VALUE ENGINEERING**: It is the intent of the City to award a contract to the lowest responsible bidder provided the bid has been submitted in accordance with the requirements of the bidding documents and does not exceed the funds available. In the event the lowest responsible bid exceeds the City's established fixed construction cost, the City shall have the right to engage the lowest responsible bidder in value engineering in order to comply with the fixed construction cost. In no instance shall such value engineering exceed ten percent of the base bid or reduce the base bid to an amount less than the fixed construction cost in place at the time of bidding.

XX 3.6 **BIDDER QUALIFICATION**: Bids will be considered from firms who have adequate personnel and equipment and who are so situated as to perform prompt service, Monday through Friday, except for City holidays. Bids will be considered only from firms which are regularly engaged in the business as described in this bid package; with a record of performance for a reasonable period of time, which have sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the service if awarded a Contract under the terms and conditions herein stated. The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well established company in line with the best business practice in the industry and as determined by the City.

XX 3.7 **INSPECTION**: The City reserves the right to conduct an inspection of the Bidder's facility and equipment prior to the award of the contract.

XX 3.8 **FISCAL YEAR FUNDING APPROPRIATION**: Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contract. Payment and performance obligations for succeeding fiscal periods shall be subject to appropriation of adequate funds by City Council.

XX 3.9 CANCELLATION DUE TO UNAVAILABILITY OF FUNDS: When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled, and the Bidder shall be entitled to reimbursement for the reasonable value of any nonrecurring cost incurred but not advertised in the price of the supplies or services delivered under the contract or otherwise recoverable.

XX 3.10 EXECUTION OF CONTRACT: The successful bidder shall, within fifteen (15) calendar days after Notice to Proceed is issued by the Purchasing Manager, enter into a contract with the City for the performance of work awarded and shall simultaneously provide any required bonds, indemnities and insurance certificates. Failure to comply with the established deadline for submittal of required documents may be grounds for cancellation of the award.

XX 3.11 FAILURE TO EXECUTE CONTRACT: Failure of the successful bidder to enter into a contract in the proscribed time may be cause for cancellation of the award to that bidder. In the event that the award is cancelled, the award may then be made to the second lowest responsive and responsible bidder, or the City may reject all of the bids. Contractors who default are subject to suspension and/or removal from the Bidder's List.

XX 3.12 FLORIDA PROMPT PAYMENT ACT: For purposes of billing submission and payment procedures, a "proper invoice" by a contractor, vendor or other invoicing party shall consist of at least all of the following:

- 3.12.1 A description (including quantity) of the goods and/or services provided to the City (or a party on behalf of the City) reasonably sufficient to identify it (or them);
- 3.12.2 The amount due, applicable discount(s), and the terms thereof;
- 3.12.3 The full name of the vendor, contractor or other party who is supplying the goods and/or services including a mailing address in case of a dispute and a mailing address for payment purposes (if they are different) and a telephone number;
- 3.12.4 The Purchase Order or Contract number as supplied by the City; and
- 3.12.5 Identification by office or department where and to whom the goods were delivered or services provided.
- 3.12.6 All invoices shall be delivered to the Accounts Payable Dept., City of Fort Walton Beach, 107 Miracle Strip Parkway SW, Fort Walton Beach, Florida, 32548.
- 3.12.7 The invoice must be based on a proper delivery, installation, or provision of the goods and/or services to and acceptance by the City; the vendor, contractor or other party who is supplying the goods and/or services has otherwise complied with all of the contract's terms and conditions and is not in default of any of them; and if the contract requires any subcontractors or other parties to be bound by similar other "flow-down" requirements are in compliance with those requirements.

XX 3.13 DISPUTE RESOLUTION: In the event a dispute occurs between a contractor, vendor or other invoicing party ("invoicing party") and the City concerning payment of an invoice, the City department or office which has the dispute along with a representative of the City's Purchasing Division and the invoicing party shall meet to consider the disputed issues. The

invoicing party shall provide to the City such material and information as the City may reasonably require. Any such procedure shall be initiated by either party notifying the other in writing of a dispute and stating with specificity its nature. This procedure shall commence not later than 45 days and be resolved not later than 60 days after the date on which the proper invoice was received by the City. If the issue cannot be resolved, then it will be submitted to the City Manager. Any decision by the City Manager shall constitute the final decision of the City regarding these matters and shall be communicated in writing to the invoicing party within three business days after such decision.

XX 3.14 LIQUIDATED DAMAGES: Work shall begin within five (5) calendar days after Purchase Order or Notice to Proceed has been issued and all work shall be completed within the job order's designated performance time, but in no case, later than 30 days.

3.14.1 It is hereby understood and agreed by the bidder that time is of the essence in the delivery of supplies, services, materials, or equipment of the character and quality specified in the bid document.

3.14.2 In the event these specified services (based on milestones established by the City), supplies, materials, or equipment are not delivered by the date specified, there will be deducted from the total contract price, not as a penalty but as liquidated damages, the sum of \$500 per day for each and every calendar day of delay beyond the time specified; except that if the delivery be delayed by any act, negligence, or default on the part of the City, public enemy, war, embargo, fire, or explosion not caused by the negligence or intentional act of the contractor or its supplier(s), or by riot, sabotage, or labor trouble that results from a cause or causes entirely beyond the control or fault of the contractor or its supplier(s), a reasonable extension of time as the City deems appropriate may be granted.

3.14.3 Upon receipt of a written request and justification for an extension from the contractor, the Purchasing Office may extend the time for performance of the contract or delivery of goods herein specified at the Purchasing Office's sole discretion for good cause shown.

XX 3.15 BOND REQUIREMENTS – SEE EXHIBITS A1 thru A4

XX 3.15.1 Bid Bond equal to five percent (5%) of the Contract price will be required.

- A Bid must be accompanied by Bid bond made payable to the City in an amount of five (5) percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 5.1 of Exhibit D. Such Bid bond will be issued in the form included in the Bidding Documents **See Exhibit A1 for form & details.**

XX 3.15.2 Performance Bond equal to one hundred percent (100%) of the Contract price will be required. **See Exhibit A3 & Paragraph 5.1 of Exhibit D.**

XX 3.15.3 Labor & Material Payment Bond equal to one hundred percent (100%) of the Contract price will be required. **See Exhibit A2.**

XX 3.15.4 Performance and Labor & Materials Payment Bonds shall accompany the contract, be signed, sealed and dated no earlier than the contract effective date and specifically refer to the contract, by date.

XX 3.15.5 Warranty Bond. **See Exhibit A4 for details.**

XX 3.15.6 Surety companies providing any bond must be listed in the latest Federal Register of the U.S. Department of Treasury, Circular 570 entitled “Surety Companies Acceptable on Federal Bonds” or otherwise acceptable to the City.

3.15.2 The Bid security of the apparent Successful Bidder will be retained until the City awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released.

- If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, the City may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of the City’s damages in the case of a damages-form bond. Such forfeiture will be The City’s exclusive remedy if Bidder defaults.

3.15.3 The Bid bond of other Bidders that the City believes to have a reasonable chance of receiving the award may be retained by the City until the earlier of seven calendar days after the Effective Date of the Contract or 61 calendar days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.

3.15.4 Bid bond of other Bidders that the City believes do not have a reasonable chance of receiving the award will be released within seven calendar days after the Bid opening.

XX 3.16 INSURANCE: Bidders must be eligible for and provide evidence of insurance coverage showing Bidder as Named Insured, with coverages that equal or exceed the City’s minimum standards for the project. All insurance required must be provided by a company licensed to do business in the State of Florida and with an A.M. best rating of at least A-. Certificate of Insurance showing the City as a Certificate holder must accompany signed contract.

XX 1. Commercial General Liability

- Each occurrence for Bodily Injury/Property Damage \$1,000,000
- Products/Completed Operations \$1,000,000
- Annual Aggregate for Bodily Injury/Property Damage \$2,000,000
- Products Liability/Completed Operations \$1,000,000
- Fire Legal Liability Coverage \$ 100,000

This coverage shall include the following provisions:

- The City of Fort Walton Beach shall be an additional insured.
- The policy shall not be cancelled unless the City is given at least 30 days notice.
- Contractual Liability
- Any coverages which are eliminated, restricted or reduced to less than what is commonly provided by standard I.S.O. forms must be indicated.

XX 2. Commercial Automobile Liability

Combined single limit for bodily injury and/or property damage \$1,000,000

This coverage shall include the following provisions:

- The City of Fort Walton Beach shall be an additional insured
- The policy shall not be cancelled unless the City is given at least 30 days notice.
- Contractual Liability
- Any coverages which are eliminated, restricted or reduced to less than what is commonly provided by standard I.S.O. forms must be indicated
- Symbol "2" (Any Auto) or equivalent, shall be used to designate insured vehicles.

XX 3. Workers Compensation – to include coverage for any applicable Federal Acts **including but not limited to Jones Act and/or United States Longshoreman & Harbor Workers Compensation Act (USLH).**

- Coverage A In conformity with Florida Statutes
- Coverage B \$500,000/\$500,000/\$500,000

XX 3.17 SUBCONTRACTOR(S): Unless otherwise stated in the contract documents or the bidding requirements, the contractor, as soon as practicable after award of the contract, shall furnish in writing to the City the names of persons or entities, including those who are to furnish materials or equipment fabricated to a special design, proposed for each principal portion of the Work. The City will promptly inform the bidder in writing whether it has reasonable objection to any such proposed person or entity. The City may consider the use of any particular subcontractor when evaluating whether a bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference. **SEE ALSO - EXHIBIT B.**

XX 3.18 CONSTRUCTION OF SPECIAL CONDITIONS: If any specification or general condition of this Invitation to Bid conflicts with any special condition, the special condition shall have precedence over the general condition.

4.0 ADDITIONAL CONTRACT TERMS (including Federal terms):

- 4.1 Independent Contractor:** An Agreement resulting from this solicitation does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Bidder is an independent contractor under this Agreement and not the City's employee for any purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Worker's Compensation Act, and the State Unemployment Insurance law. The Bidder shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Bidder's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under any potential Agreement shall be those of Bidder, which policies of Bidder shall not conflict with City, State, or United States policies, rules or regulations relating to the use of Bidder's funds provided for herein. The Bidder agrees that it is a separate and independent enterprise from the City, that it had full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. Any potential Agreement shall not be construed as creating any joint employment relationship between the Bidder and the City and the City will not be liable for any obligation incurred by Bidder, including but not limited to unpaid minimum wages and/or overtime premiums.
- 4.1.1 The City reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of the Bidder under the indemnification agreement. Nothing contained herein is intended nor shall it be construed to waive the City's rights and immunities under the common law or Florida Status 768.28 as amended from time to time.
- 4.2 Notice to Proceed:** The City shall issue an a signed Purchase order and official Notice to Proceed for the services referenced in this ITB and resulting contract. The Notice to Proceed shall be sent via facsimile or email. Under no circumstances shall the City be liable for any services rendered unless the written Notice to Proceed has been sent and received by the winning Bidder(s). The winning Bidder(s) must acknowledge receipt of the written Notice to Proceed.
- 4.3 Changes in Scope of Work:**
- 4.3.1 "Additional work" shall be defined as work that results from a change or alteration in plans concerning the scope of work of the task order or added work necessary to meet the performance goals of the scope of work.
- 4.3.2 "Extra work" shall be defined as work not required under the scope of work of the task order, is something done or furnished beyond the requirements of the task order and is entirely outside and independent of the scope of work and not contemplated by it.

- 4.3.3 “Change Order” shall be defined as a written instrument prepared by and signed by the City and Bidder, stating the specific agreement upon all of the following: the change in the scope of work, the amount of the adjustment, if any, to the task order price, and the adjustment, if any, to the task order completion time.
- 4.3.4 No claim for additional or extra work will be considered or paid by the City unless a request for a Change Order is first submitted in writing by the Bidder and authorized by the City as a Change Order.
- 4.3.5 The City Manager may request and approve change orders to the task order consisting of additions, deletions, extra work, or other revisions so long as each change order does not exceed \$20,000 and all change orders, in the aggregate, do not exceed ten percent (10%) of the total Purchase Order price.
- 4.3.6 The City Council must approve any single change order that exceeds \$20,000 or if the aggregate amount of change orders will exceed ten percent (10%) of the total Purchase Order price.
- 4.3.7 All change orders shall be considered a written addendum to the Contract.
- 4.3.8 Winning Bidder is not authorized to approve any additional or extra work, grant authority for any work, issue a notice to proceed, recommend progress payments, or otherwise act as an agent of the City unless specifically authorized in writing by the appropriate City officials.
- 4.4 Time of Completion: The services shall commence upon written Notice to Proceed from the City, and the project shall be completed in accordance with the project schedule.

4.5 FEDERAL GENERAL GRANT FUNDING CONDITIONS

PLEASE NOTE THAT THIS SOLICITATION MAY BE EITHER PARTIALLY OR FULLY GRANT-FUNDED. BIDDERS AGREE TO COMPLY FULLY WITH THE CLAUSES AS ENUMERATED BELOW, AND SHALL CONTINUE TO COMPLY WITH ANY FEDERAL REGULATORY OR LEGISLATIVE CHANGES, UPDATES OR MODIFICATIONS THAT OCCUR IN THE FUTURE RELATING TO THESE CLAUSES.

- 4.5.1 Drug Free Workplace Requirements: Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub l 100-690, Title V, Subtitle D) All contractors entering into Federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.
- 4.5.2 Contractor Compliance: The contractor shall comply with all uniform administrative requirements, cost principles, and audit requirements for federal awards.

- 4.5.3 **Conflict of Interest:** The contractor must disclose in writing any potential conflict of interest to the City of Fort Walton Beach or pass-through entity in accordance with applicable Federal policy.
- 4.5.4 **Mandatory Disclosures:** The contractor must disclose in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.
- 4.5.5 **Utilization of Minority, Women’s / Labor Surplus Firms Participation:** The City of Fort Walton Beach, in accordance with the requirements as stated in C.F.R. 200.321 encourages the active participation of minority businesses, women-owned businesses and labor surplus area firms as a part of any subsequent agreement whenever possible. The contractor must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible, using the steps (1) through (5) here:
- (1) Placing qualified small & minority businesses and women’s business enterprises on solicitation lists;
 - (2) Assuring that small & minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as:
 - Small Business Administration
 - Minority Development Agency of the US Dept. of Commerce
 - Florida Department of Management Services (Office of Supplier Diversity)
 - Florida Department of Transportation
 - Minority Business Development Center in most large cities and
 - Local Government M/DBE programs in many large counties and cities

Prior to contract award, the contractor shall document efforts to utilize M/WBE firms including what firms were solicited as suppliers and/or subcontractors as applicable and submit this information with their bid submittal.

4.5.6 **Equal Employment Opportunity:**

- 4.5.6.1 As per Executive Order 11246, the contractor may not discriminate against any employee or applicant for employment because of age, race, color, creed, sex, disability or national origin. The contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, race,

color, creed, sex, disability or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship.

4.5.6.2 During the performance of the Contract, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity and expression, or disability if qualified. The Contractor will take affirmative action to ensure that employees and those of its subcontractors are treated during employment, without regard to their race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity or expression, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor and its subcontractors shall agree to post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor further agrees that he/she will ensure that all subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

4.5.7 **Davis-Bacon Act:** If applicable to this contract, the contractor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-3148). Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. If the grant award contains Davis Bacon provisions, the City of Fort Walton Beach will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation document. The decision to award a contract shall be conditioned upon the acceptance of the wage determination.

4.5.8 **Copeland Anti-Kick Back Act:** Contractors shall comply with all the requirements of the Copeland Anti-Kickback Act (18 U.S.C. 874 as supplemented by Department of Labor Regulations (29 CFR Part 3) which are incorporated by reference to this contract. Contractors are prohibited from inducing by any means any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.

4.5.9 **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708):** Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of

40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4.5.10 **Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387)**: The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the 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 the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

4.5.11 **Debarment and Suspension (Executive Orders 12549 and 12689)**: A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The contractor shall certify compliance.

4.5.11.1 Any resulting contract of this ITB will be a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Bidder is required to verify that none of the Bidder(s), its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

4.5.11.2 The Bidder must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

4.5.11.3 This certification is a material representation of fact relied upon by the City of Fort Walton Beach. If it is later determined that the Bidder did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Fort Walton Beach, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4.5.11.4 The Bidder agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

4.5.12 **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**: Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds

to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. The contractor shall certify compliance.

- 4.5.13 **Rights to Inventions Made Under a Contract or Agreement:** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 4.5.14 **Procurement of Recovered Materials:** Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4.5.15 **Access to Records and Reports:** Contractor will make available to the City of Fort Walton Beach’s granting agency, the granting agency’s Office of Inspector General, the Government Accountability Office, the Comptroller General of the United States, the City of Fort Walton Beach, Okaloosa County Clerk of Court’s Inspector General, or any of their duly authorized representatives any books, documents, papers or other records, including electronic records, of the contractor that are pertinent to the City of Fort Walton Beach’s grant award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. The right also includes timely and reasonable access to the contractor’s personnel during normal business hours for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are retained.
- 4.5.16 **Record Retention:** Contractor will retain all required records pertinent to this contract for a period of three years, beginning on a date as described in 2 C.F.R. §200.333 and retained in compliance with 2 C.F.R. §200.334.
- 4.5.17 **Federal Changes:** Contractor shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of the contract.

- 4.5.18 **Termination for Default (Breach or Cause)**: Contracts in excess of \$10,000 – If Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City of Fort Walton Beach may terminate the contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.
- 4.5.19 **Safeguarding Personal Identifiable Information**: Contractor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, state and/or local laws regarding privacy and obligations of confidentiality.
- 4.5.20 **Prohibition on utilization of Cost Plus a Percentage of Cost Contracts**: The City of Fort Walton Beach will not award contracts containing Federal funding on a cost plus percentage of cost basis.
- 4.5.21 **Prohibition on utilization of Time and Material type contracts**: The City of Fort Walton Beach will not award contracts based on a time and material basis if the contract contains Federal funding.
- 4.5.22 **Disputes**: Any dispute arising under this Agreement which is not settled by Agreement of the parties may be settled by mediation or other appropriate legal proceedings. Pending any decision, appeal or judgment in such proceedings or the settlement of any dispute arising under this Agreement, shall proceed diligently with the performance of this Agreement in accordance with the decision of the City of Fort Walton Beach. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Okaloosa County, Florida.
- 4.5.23 **Attorney Fees and Costs**: In any action, except mediation, brought regarding this agreement, the prevailing party, shall be awarded its reasonable attorneys' fees and costs, including any applicable fees and costs on appeal.

SECTION 5 – SCOPE OF WORK / SPECIFICATIONS

5.0 INTENT - It is the intent of this solicitation to secure a licensed and bonded contractor to perform specified construction related to the Fort Walton Landing Improvements - PHASE 1. The scope of services for this contract will be for all labor, equipment and materials needed to complete the work specified on the plan set the identified site. The extent of work is shown on the attached construction drawings.

5.1 SUMMARY OF WORK – Work will consist of construction of the Fort Walton Landing Improvements, including a new boardwalk, parking lots, grading, drainage, curbs, sanitary, potable water, amphitheater, entry canopy, and other ancillary improvements necessary to the completion of this project.

5.1.1 The work will be divided into a base bid and bid alternates as shown in the construction plans. See **EXHIBITS E1, F1 and G1** for plans and **EXHIBITS E2, F2, G2** for technical specifications.

5.2 SCOPE OF WORK

5.2.1 The Bidder shall be responsible for obtaining and paying for all necessary local and state licenses and permits. A City Business Tax Receipt is required.

5.2.2 The Bidder will be required to deliver all equipment, piping, fittings, and other materials to the location of installation. Care shall be exercised in handling all materials and equipment, and the Bidder will be held responsible for all breakage or damage to same. Material and equipment may be delivered to places that will not interfere with other construction operations and unloaded or yarded and distributed as required, at the Bidder's discretion.

5.2.3 Schedule - Prior to commencement of any work activity, the Bidder shall submit to the City an estimated construction schedule promptly after execution and delivery of the contract and before the first partial payment is made. The schedule shall show the anticipated dates of construction commencement and completion of each of the various types of work required. As a part of the construction schedule, the Bidder shall also furnish a detailed estimate giving a complete breakdown of lump sum items in the contract, and periodic itemized estimates of work for the purpose of making partial payments thereon.

5.3 SPECIFICATIONS FOR PROJECT

5.3.1 SEE EXHIBIT E1 – Civil Design Drawings (15 pgs)

5.3.2 SEE EXHIBIT E2 – Civil Technical Specifications (52 pgs)

5.3.3 SEE EXHIBIT F1 – Waterside Design Drawings (11 pgs)

5.3.4 SEE EXHIBIT F2 – Waterside Technical Specifications (11 pgs)

5.3.5 SEE EXHIBIT G1 –Electrical Design Drawings (5 pgs)

5.3.6 SEE EXHIBIT G2 – Electrical Technical Specifications (26 pgs)

5.4 COORDINATION & PROGRESS MEETINGS

- 5.4.1 During the course of work under this contract, the Bidder shall be responsible for keeping any affected property owner(s), their representatives, and the City informed of the proposed work schedule. This includes coordinating material deliveries, access to businesses, and any other scheduled work that could impede operations.
- 5.4.2 The Bidder shall not put workers on the job or perform any work without prior knowledge that such work is to be done, the place of work, and the scheduled starting time. **A minimum 48-hour notification to the effected property owner(s), and City is required.** The City reserves the right to deny the request without penalty.
- 5.4.3 The Bidder shall schedule a preconstruction meeting with City staff prior to any work being performed. The date, time, and location shall be mutually agreed upon by the City and the Bidder.
- 5.4.4 The Bidder shall schedule and administer periodic progress meetings for each phase of the scheduled work. Periods of progress meetings will be mutually agreed upon by the City and the Bidder.

5.5 MATERIAL AND EQUIPMENT

- 5.5.1 The Bidder shall assume full responsibility for the coordination of the installation of all equipment, materials, and products furnished under these Contract Documents. The Bidder shall be completely responsible for verification that all materials and equipment components furnished by their subcontractors and suppliers are compatible.
- 5.5.2 The Bidder shall guarantee all equipment against faulty or improper assembly or erection, defective workmanship, defective materials, breakage or other failure. The guarantee period shall be defined in the General Conditions of these Contract Documents.
- 5.5.3 Equipment and materials shall be new and shall not have been in service at any time prior to delivery, except as required by tests.
- 5.5.4 The City reserves the right to utilize owner direct purchasing (ODPs) and/or owner supplied for materials in order to save on sales tax.
- 5.5.5 The Bidder shall promptly and routinely notify the City of any delays in receiving supplies/materials which affect performance schedules of this project.
- 5.5.5.1 Notifications & updates shall be in writing and forwarded to both the City Public Works/Utilities Director, and to the consultant project manager/Engineer (AVCON, INC.). Any requests for contract deadline extensions must be supported by these requests.
- 5.5.6 Substitute and “Or Equal” Items: The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding

Documents, and those “or-equal” or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum.

5.5.6.1 No item of material or equipment will be considered by Engineer as an “or-equal” or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer within 15 days of the issuance of the Invitation to Bid.

5.5.6.2 Each such request must comply with the requirements of Paragraph 6.7 of Exhibit D - General Conditions, and the review of the request will be governed by the principles in those paragraphs.

5.5.6.3 The burden of proof of the merit of the proposed item is upon Bidder. Engineer’s decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all registered Bidders. Bidders cannot rely upon approvals made in any other manner.

5.6 PERFORMANCE/PROJECT SCHEDULE

5.6.1 The Bidder shall commence performance within fourteen (14) days of receipt of Notice to Proceed.

5.6.2 The City understands excessive lead times in manufacturing and material availability. All work performed shall be substantially completed within three-hundred sixty five (365) calendar days of Notice to Proceed. The proposed project must be able to be open to the public for public use, according to the City, for the project to be considered substantially complete.

5.6.2.1 If this timeline is not considered reasonable, Bidder will clearly identify those areas which they are experiencing longer than usual delays, and will include with their bid submission an alternative performance schedule.

5.6.3 If Bidder receives notification of delayed shipment(s) of materials required for project, Bidder shall begin and maintain tracking of all supplier delays on a format acceptable to City staff, identifying at a minimum, original orders made by Bidder with delivery dates projected by the supplier, as well as actual dates of postponed deliveries received.

5.6.3.1 Supplier delays of materials must be supported by written documentation from supplier.

5.6.3.2 Project tracking of supplier delays must be routinely communicated via email every two weeks to designated City staff.

5.6.3.3 Deviations to Schedule – Any change to the proposed schedule shall be mutually agreed upon by the City and Bidder. The City reserves the right to alter the projected schedule based on need.

5.7 HOURS OF OPERATION: All activity shall be performed during visible daylight hours only. (8 hours per day, Monday thru Friday, excluding holidays). If any after-hour or weekend work is proposed, written request must be provided to the City. Requests are subject to approval from the Public Works and Utility Services Director.

5.8 PERSONNEL: Bidder Personnel / Staff must be clearly identified, either with uniform or ID badge while working within the City limits.

5.9 SITE VISIT – Site can be accessed by road. No scheduled visit needed. It is the responsibility of the Bidder to visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work. (Scheduled site visit directly after Pre-bid Conference meeting.)

5.9.1 Location - The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by the City for the use of the Bidder. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by the Bidder. See **Exhibit H1** for overview / map.

5.9.2 Site Access for Testing - On request, and to the extent the City has control over the Site, and schedule permitting, the City will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. The City will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, impending meteorological threat, or restraints on The City's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

5.9.3 Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by the City or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.

5.9.4 Site restoration after testing - Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

5.10 DEFECTIVE WORK

5.10.1 All work completed by the Bidder at any time during the progress of the work shall be subject to the inspection by the City, who shall have full power to accept or reject any part thereof.

5.10.2 The Bidder shall remedy any defective or unsatisfactory work at no additional cost to the City. See additional terms in **EXHIBIT D – General Conditions**.

5.11 FINAL INSPECTION

5.11.1 Upon notice from the Bidder that work is completed in accordance with the specifications, the City shall make a final inspection of the work. The Bidder will be notified of all instances where his work fails to comply with the specifications. The Bidder shall immediately make those alterations which will make the work fully comply with the specifications.

5.11.2 The Bidder shall immediately correct or complete all issues as well as defects that were identified by the City or his/her representative.

5.11.3 Upon completion of the repair work the Bidder shall notify the City when it is ready for inspection. The City shall make a final inspection of the work and notify the Bidder of any necessary repair work that is not completed. The Bidder shall immediately complete all incomplete work and arrange for re-inspection.

5.12 AS-BUILTS/RECORD DRAWINGS - The Bidder shall submit as-builts prior to closeout for each individual project completed. As-builts shall conform to the requirements set forth in section 4.02 of the City of Fort Walton Beach Engineering Standards Manual.

5.13 OTHER CONSIDERATIONS FOR SCOPE OF WORK:

5.13.1 The Bidder shall supervise and direct the work, using skillful labor and proper equipment for all tasks. Safety of the Bidder's personnel and equipment shall be responsibility of the Bidder. Additionally, the Bidder shall pay for all materials, personnel, taxes and fees necessary to perform under the terms of this contract.

5.13.2 Protection of Resident Workers - The City actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination.

5.13.2.1 Under the INA, employers may hire only persons who may legally work in the United States, (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S.

5.13.2.2 The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification. The Bidder shall establish appropriate procedures and controls so no services or products under the contract documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment.

5.13.2.3 The City reserves the right to request documentation showing compliance with this requirement.

5.13.3 OSHA – Precautions shall be exercised at all times for the protection of persons and property. Bidder shall conform to all OSHA, State and County regulations while performing under the terms and conditions of this contract. Any fines levied by the above mentioned authorities because of inadequacies to comply with these requirements shall be borne solely by the Bidder responsible for the same.

- 5.13.4 Licenses - The Bidder must be duly licensed in accordance with the State's statutory requirements to perform the work identified herein. Proof of licensure shall be submitted with the proposals. Required licenses shall be maintained and valid throughout the term of this contract.
- 5.13.5 Permits - The City is responsible for obtaining all applicable environmental and regulatory permits prior to the Bidder commencing operations. The Bidder is responsible for obtaining any necessary state contractor's licenses and local business tax receipts (BTR).
- 5.13.6 Damage to Property – The Bidder shall use every method at their disposal to protect all properties they are working on/ around. If the City project manager finds unnecessary damage to properties (public or private), the City shall invoke its authority to immediately terminate the contract and pay the Bidder for work completed to date. The termination shall be effective **immediately** upon written notice by the City to the Bidder.
- The Bidder will take care, and assume responsibility for any damage caused:
- 5.13.6.1 The Bidder shall assume full responsibility for any damage to any work areas or to the City, homeowner, or occupant thereof, or of any adjacent land or areas, resulting from the performance of the work on City property/easements. The Bidder shall be responsible for repairing or replacing property to the satisfaction of the City which is damaged by the Bidder.
- 5.13.6.2 Should any claim be made by any such owner or occupant because of accident, intentional act, the performance of the work, or for any other such reason the cause of which is the Bidder or its subcontractors, Agents or Employees the Bidder shall promptly settle with such party by negotiation or otherwise resolve the claim by arbitration or other dispute resolutions proceeding or at law.
- 5.13.7 Storage of Bidder's Equipment – The Bidder shall be responsible for locating areas in which to store their equipment. Such areas shall not be located within right-of-ways or in areas which create a traffic or safety hazard.
- 5.13.8 Violations - The Bidder shall be responsible for taking corrective action in response to any notices of violations issued as a result of the Bidder's or any Subcontractor's actions or operations during the performance of this contract. Corrections for any such violation shall be at no additional cost to the City.
- 5.13.9 Additional Work – The City shall retain the option to add work areas if it deems necessary.

SECTION 6 – BID SUBMISSIONS

6.1 QUALIFICATIONS OF BIDDERS - To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit with its Bid the following information:

- 6.1.1 Written evidence establishing its qualifications such as financial data, previous experience, and present commitments. **See Exhibit B**
- 6.1.2 A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that the Bidder will obtain such authority prior to the Effective Date of the Contract. **See Section 1.7.2.**
- 6.1.3 Bidder's state or other contractor license number, if applicable. **See Exhibit B.**
- 6.1.4 Subcontractor and Supplier qualification information. **See 1.7.12.**
- 6.1.5 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 6.1.6 No requirement to submit information will prejudice the right of the City to seek additional pertinent information regarding Bidder's qualifications or may conduct such investigations it deems necessary to establish the responsibility, qualifications, and financial ability of any proposed Subcontractors or Suppliers.

6.2 COPIES REQUIRED: See Page 21 for details.

- 6.2.1 The printed copy of the Bid Forms must be clearly legible, printed on 8½ inch by 11-inch paper, and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practicable. The City reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

6.3 GENERAL CONDITIONS OF SUBMISSIONS: It is the responsibility of the Bidder before submitting a bid to:

- 6.3.1 become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- 6.3.2 carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the General Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;
- 6.3.3 consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding

Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder’s safety precautions and programs;

- 6.3.4 agree, based on the information and observations referenced in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- 6.3.5 become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- 6.3.6 promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- 6.3.7 determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- 6.3.8 agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.4 INCURRED EXPENSES: The City is not responsible for any expenses, which proposers may incur in preparing and submitting bids called for in this Invitation to Bid.

6.5 ITB SCHEDULE - Dates are scheduled as of posting of this bid document. Please check addenda for any change in dates due to extensions.

Event	Date
Post Invitation to Bid	October 24, 2022
Pre-Bid Meeting (currently scheduled)	November 3, 2022, 2:30 pm CST
Bid Due/Bid Opening Date (currently scheduled)	December 1, 2022, 2:30 pm CST
Staff Recommendation & City Council Award (tentative date)	January, 2023
Contract & NTP signed; Purchase Order (PO) issued (tentative date)	TBD

SECTION 7 – BID SCHEDULE (Price Sheets)**VENDOR NAME:** _____

7.1 Unit Pricing all Inclusive - The cost of work and all costs incidental thereto shall be included in the price bid for the item to which the work pertains.

THE BID SCHEDULE MUST BE RETURNED WITH BID PACKAGE. SEE APPENDIX C (4 pgs).

1. FOB Point: **Delivered**
2. Terms of Payment: (e.g. Net 45) _____
3. The City shall receive shipment or project completion notice within _____ days from the date Vendor receives official Purchase Order or Notice to Proceed.

**Re-check your quotations prior to submission -
Bids may not be changed after being opened.**

7.2 Unit Price

7.2.1 Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.

7.2.2 The “Total Amount per Item” (sometimes referred to as the extended price) for each unit price Bid item will be the product of the “Estimated Quantity,” which the City or its representative has set forth in the Bid Form, for the item and the corresponding “Unit Price” offered by the Bidder. The total of all unit price Bid items will be the sum of these “Total Amount per Item”; such total will be used by the City for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 11.9.1 of Exhibit D - General Conditions.

7.2.3 Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

7.3 Substitute and “Or Equal” Items - All prices that Bidder sets forth in its Bid will be based on the presumption that the Bidder will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. **Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder’s sole risk.**

SECTION 8**CITY OF FORT WALTON BEACH, FLORIDA
NOTICE TO BIDDERS****BID NUMBER: ITB# 23-002****Date: October 24, 2022**

AVCON, Inc., acting as General Consultant and Project Manager of the City, will accept sealed bids at the **AVCON, INC. offices at 320 Bayshore Drive, Suite A, Niceville, Florida 32578** until December 1, 2022, 2:30 PM CST, at which time all bids received will be opened and read aloud for the following:

ITB 23-002 – FORT WALTON LANDING - BOARDWALK IMPROVEMENTS - PHASE 1

Copies of Bid Document may be found at the Florida Bid System website at www.BidNetDirect.com (registration required) or at the City of Fort Walton Beach website at www.FWB.org/rfps. **Contact AVCON, INC. for access to supporting Exhibits.**

A PRE-BID MEETING will be held on November 3, 2022, at 2:30 PM Central local time, located at the **City of Fort Walton Beach City Hall Annex, 105 Miracle Strip Pkwy SW, FWB, FL 32548.**

Additional technical information relative to this bid may be obtained from Calvin Palmer, P.E., Civil Engineer, at (850) 678-0050 Ext. 111 or cpalmer@avconinc.com during normal business hours.

The City of Fort Walton Beach reserves the right to waive informalities in any bid; to make award(s) by individual item, group of items, all or none, or a combination thereof; to reject any and all bids or waive any minor irregularity or technicality in bids received, that in its judgment will be in the best interest of the City of Fort Walton Beach.

Mark outside of envelope: **ITB 23-002 – FORT WALTON LANDING - BOARDWALK IMPROVEMENTS – PHASE 1**

Note: Any bidder failing to mark the outside of the envelope, as set forth herein may not be entitled to have their bid considered. (Use pre-printed label on page 22.)

Address responses and deliver to: **AVCON, INC.**
Attn: Calvin Palmer, P.E.
320 Bayshore Drive, Suite A
Niceville, FL 32578

The City of Fort Walton Beach adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to this meeting by a physically handicapped person upon notice 48 hours prior to the meeting. Please call AVCON, Inc at 850-678-0050 or e-mail at cpalmer@avconinc.com to make a request. For Hearing Impaired the TDD line that is honored throughout the United States is the Telecommunications Relay Service (TRS) and can be reached by dialing 711. Below is a link with the details:

https://www.fcc.gov/sites/default/files/telecommunications_relay_service.pdf

Exhibits A - H

Exhibits are available upon request by contacting AVCON, Inc. directly (Sole contact – pg 21 of this document -Section 2.12.4).

Exhibit A1 – Bid Bond (3 pgs)

Exhibit A2 – Labor & Materials Payment Bond (2 pgs)

Exhibit A3 – Performance Bond (2 pgs)

Exhibit A4 – Warranty Bond (2 pgs)

Exhibit B – Bidder Qualifications Questionnaire (PDF or Word formats) (3 pgs)

Exhibit C – Bid Schedule (4 pgs)

Exhibit D – General Conditions (60 pgs)

Exhibit E1 – Civil Design Drawings (15 pgs)

Exhibit E2 – Civil Technical Specifications (52 pgs)

Exhibit F1 – Waterside Design Drawings (11 pgs)

Exhibit F2 – Waterside Technical Specifications (11 pgs)

Exhibit G1 – Electrical Design Drawings (5 pgs)

Exhibit G2 – Electrical Technical Specifications (26 pgs)

Exhibit H1 – Survey (1 pg)

Exhibit H2 – Geotechnical Report (43 pgs)