

BID & CONTRACT TERMS AND CONDITIONS

1.0 EVALUATION PROCESS - It is intended that one company shall be selected to perform these services for the City of Fort Walton Beach. Your proposal will be evaluated by the information you submit, and scored based on the criteria and weighting identified below. Submittals will not be returned to the companies submitting an RFP.

1.1 EVALUATION CRITERIA (OVER 100%....)

- 1.1.1 **20%** - Firm Experience
- 1.1.2 **25%** - Individual's experience -
- 1.1.3 **15%** - Location & Responsiveness –
- 1.1.4 **15%** - Cost of services
- 1.1.5 **15%** - references
- 1.1.6 **5%** - Local Merchant Preference as defined in City's Purchasing Policies (See Page 18-19)
- 1.1.7 **5%** - MBE Certification - as defined in City's Purchasing Policies (See Page 18-19)

1.2 RATING SYSTEM - The Selection Committee will rank all proposals utilizing the Weighted Rating System (see below). The sum of the Total Weighted Ratings assigned by the committee members will be used to rank the proposals.

1.2.1 Criteria Weighting:

Proposal Evaluation Form				
Evaluator:		Date:		
Respondent:				
Criteria	Rating*	x	Weight	Score:
1. Firm Experience (20%)	0 to 5	x	0.20	
Subtotal of Points				
2. Individual's Experience (25%)	0 to 5	x	0.25	
Subtotal of Points				
3. Location & Responsiveness (15%)	0 to 5	xx	0.15	
Subtotal of Points				
4. Cost of Services (15%)	0 to 5	xx	0.15	
Subtotal of Points				
5. References (15%)	0 to 5	x	0.15	
Subtotal of Points				

6. Local Vendor Preference (5%)	0 or 5	x	0.05	
Subtotal of Points				
7. Minority Business Enterprise (5%)	0 or 5	x	0.05	
Subtotal of Points				
			100%	
Total Weighted Score:				

* **Ratings: 1-Poor; Not Responsive, 2-Fair, 3-Average, 4-Good, 5-Excellent/Superior**

1.3 EVALUATION COMMITTEE -

- 1.3.1 Evaluation Committee – An evaluation committee consisting of at least three staff members will be formed to review, score, and rank all proposals. The committee members shall review each proposal individually and score each proposal based on the evaluation criteria listed above. The committee will compile individual rankings for each proposal to determine committee recommendations. Submissions will be evaluated to determine those that best meet the needs of the City.
- 1.3.2 Evaluation Committee Meeting - The Evaluation Committee will meet at 10:00 a.m. on Tuesday, March 29, 2022 (tentative date) in the City Hall Annex Building - Training Room located at 105 Miracle Strip Parkway SW, Fort Walton Beach FL 32548.
- 1.3.3 Requests For Additional Information: During the proposal evaluation process, the City reserves the right to request additional written information to assist in the evaluation of these qualifications.
- 1.3.4 Presentations/Interviews - The City, at its sole discretion, may schedule presentations from the top ranked firm(s) either in person, or by phone. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way provide an opportunity to change any items in the original proposal. The final recommendation will be decided based on review of scores and consensus of committee.
 - If presentations are elected, the Purchasing Manager shall schedule the time and location of these presentations and notify the selected firms. Presentation shall be limited to 30 minutes, including the question and answer period. The presentations shall assist the Evaluation Committee in selecting the most qualified firm(s) for this project. Additional information and/or cost information may be requested for clarification purposes, but in no way will change the original proposal submitted.

- A new scoring sheet shall be prepared, based on the identical criteria and weighing below, for each presenter. The scores from the submittal and from the presentation shall be averaged to determine the final ranking. Based on the final scoring of the Evaluation Committee after the last presentation, a recommendation shall be made by the Evaluation Committee to the City Council to begin negotiations with the highest ranked firm.
- 1.3.5 After evaluation and ranking of submittals, the City may at its sole discretion, elect to forego further consideration of firms and recommend the highest ranked firm to the City Council for award.
 - 1.3.6 The City reserves the right to reject all proposals. In the event the City does so, it shall provide in writing to all proposers the reasons for its rejection.
 - 1.3.7 The Purchasing Manager, or a designee, will initiate any necessary communication with a proposer to obtain information or clarification to allow the Evaluation Committee to properly and accurately rate the submissions.
 - 1.3.8 The Purchasing Manager, or a designee, may discuss a proposal directly with the responsible proposer to get clarification and assure a full understanding of, and responsiveness to, the solicitation requirements.
 - 1.3.9 All proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission prior to the “short-list” for the purpose of obtaining best and final offers.
 - 1.3.10 In conducting such discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers except as may be required by the FL Public Records Law, Chapter 119, Florida Statutes.

2.0 GENERAL CONDITIONS OF PROPOSALS

- 2.1 **LATE PROPOSALS.** Proposals received by the City after the time specified for receipt will not be considered. Proposers shall assume full responsibility for timely delivery of the proposals to the location designated for receipt of proposals.
- 2.2 **COMPLETENESS.** All information required by the Request for Proposals must be supplied to constitute a legitimate proposal.
- 2.3 **ALTERNATE PROPOSALS:** Proposer may offer an Alternate proposal. An alternate proposal is viewed by the City as a proposal describing an approach to accomplishing the requirements of the RFP, which differs from the approach set forth in the solicitation. An alternate proposal may also be a second proposal

submitted by the same proposer, which differs in some degree from its basic or prime proposal. Alternate proposals may address the technical approach, or other provision or requirements set forth in the solicitation. The City will, during the initial evaluation process, consider all alternate proposals submitted.

- 2.4 **RESPONSIBILITY FOR KNOWLEDGE OF ADDENDA:** All proposers must contact the Purchasing Division prior to submitting a Proposal to determine if any addenda have been issued, to obtain all such addenda, and to return, if necessary, any executed addenda with the RFP.
- 2.5 **CONFLICT OF INTEREST/PROPOSER'S WARRANTY:** The proposer acknowledges and 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 in this request for proposal.
- 2.6 **PROPOSER'S CERTIFICATION FORM:** Each proposer shall complete the "Proposer's Certification" form included with this request for proposal, and submit the form with the proposal. The form must be acknowledged before a notary public and have the notary seal affixed. Proposals will be rejected if the proposer's certification is not submitted with the proposal.
- 2.7 **DRUG-FREE WORKPLACE CERTIFICATION:** By submitting the Drug Free Workplace Form as part of this request for proposal, you are certifying that your company is a drug-free workplace in accordance with § 287.087 of the Florida Statutes.
- 2.8 **PUBLIC ENTITY CRIMES FORM:** A person or affiliate, as defined in § 287.133 of the Florida Statutes, 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 of the Florida Statutes for category Two, for a period of 36 months from the date of being placed on the convicted vendor list.
- 2.9 **PUBLIC OPENING.** All proposals will be publicly opened and the list of proposers read aloud in the City Hall Annex Bldg. Training Room, 105 Miracle Strip Parkway SW, Fort Walton Beach, FL at the time specified and will be made available for public inspection within thirty (30) days after the proposal opening or when an award decision is made, whichever is earlier.
- 2.10 **VENDOR PROTESTS:** Proposers who do not agree with the City Council's recommendation for award are afforded the opportunity to protest the

recommendation by submitting written notice to the Purchasing Division within three (3) business days after City Council award.

- 2.3 PROPRIETARY INFORMATION: In accordance with Chapter 119 of the Florida Statutes (Public Records Law), and except as may be provided by other applicable State and Federal Law, all proposers should be aware that RFP's and the responses thereto are public records and subject to public inspection. **If a proposer believes that any information contained in a proposal is confidential or proprietary and exempt from public disclosure, the proposer shall identify specifically any such information contained in their proposals and cite specifically the applicable exempting law.**
- 2.9 PROPERTY OF THE CITY: All proposals received from proposers in response to this RFP will become the property of the City of Fort Walton Beach and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.
- 2.10 INCURRED EXPENSES: The City is not responsible for any expenses that proposers may incur in preparing and submitting proposals called for in this RFP.
- 2.11 PROPOSALS BINDING: All proposals submitted shall be binding for ninety (90) calendar days following the proposal opening.
- 2.10 NEGOTIATIONS
- 2.10.1 The City may award a contract on the basis of initial offers received, without further negotiations, or may negotiate a final contract. Therefore, each initial offer should contain the Proposer's best terms from a cost or price and technical standpoint.
- 2.10.2 The City reserves the right to enter into contract negotiations with the selected Proposer. If the City and the selected Proposer cannot negotiate a successful contract, the City may terminate said negotiations and begin negotiations with the next selected Proposer. This process will continue until a contract has been executed or all Proposers have been rejected. No Proposer shall have any rights against the City arising from such negotiations.
- 2.10.3 The company retained serves at the discretion, direction and the pleasure of the City of Fort Walton Beach.
- 2.11 ACCEPTANCE/REJECTION/MODIFICATION TO PROPOSALS: The City reserves the right to negotiate modifications to proposals it deems acceptable, reject any and all proposals, and to waive minor irregularities in the procedures.

- 2.12 CONTRACT AWARD: The Proposer's proposal must be complete to be considered for award.
- 2.12.1 The City reserves the right to qualify, accept, or reject any or all vendors as deemed to be in the best interest of the City. The City reserves the right to accept or reject any or all proposals and to waive irregularities or technicalities in any proposal when in the best interest of the City. The City reserves the right to accept or reject any exception taken by the vendor to the terms and conditions of the Request for Proposal.
- 2.12.2 The City of Fort Walton Beach reserves the right to accept any submittal, or any part or parts thereof, or to reject any and all submittals.
- 2.12.3 It is the City's intent to make an award within ninety (90) working days of the proposal due date.
- 2.12.4 Award, if made, will be in accordance with the terms and conditions herein and shall be in the form of a Contract. Awarded vendor will be given the City's contract compliance document to complete and return within thirty (30) calendar days of contract award.
- 2.13 EXECUTION OF AGREEMENT. Within fifteen (15) calendar days after issuance of the Notice of Award, the successful proposer will execute the Contract for Services and simultaneously provide any required bonds, indemnities and insurance certificates, not previously submitted.
- 2.14 FAILURE TO EXECUTE CONTRACT: Failure by the successful proposer to comply with the established deadline for submittal of required documents may be grounds for cancellation of the award. In the event the award is cancelled, the award may then be made to the second lowest responsive and responsible proposer, or the City may reject all of the proposals. Contractors who default are subject to suspension and/or removal from the City's Proposers List.
- 2.15 PIGGYBACK TERMS; USE OF CONTRACT BY OTHER AGENCIES: Under the Florida Interlocal Cooperation Act of 1969, public agencies may engage in cooperative purchasing agreements and intergovernmental agreements and contracts.
- 2.15.1 The use of the contract resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, other counties, and cities.
- 2.15.2 The submission of any proposal in response to this Request for Proposals 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.

- 2.15.3 Each governmental agency desiring to accept these proposals, and make an award thereof, shall do so independently of any other governmental agency. Each agency shall be responsible for its own agreements, purchases & services, and each shall be liable only for services ordered and received by it, and no agency assumes any liability by virtue of this bid.
- 2.16 LOCAL MERCHANT PREFERENCE: In accordance with Section 4.01.02 of the City of Fort Walton Beach Code of Ordinances, in operating within the policy of purchasing quality to suit the intended purpose at the least expense, every effort will be made to purchase from merchants located within the City.
- 2.2.1 If all bids/proposals received in response to a competitive procurement are for the same total amount or unit price, quality and service being equal, the procurement shall be awarded to the local merchant.
- 2.2.2 Local Merchant will be an evaluation criteria in all RFP competitive solicitations and will be assigned a weight of 5%. If the proposer meets the definition of a local merchant, as defined in Section 2.18 of the City's Purchasing Policies and Procedures, the proposal will be awarded 5 points by each evaluation committee member.
- 2.2.2 Exception to this Local Merchant Preference policy shall apply to:
- Purchases or contracts made under an emergency situation, as defined by Section 2.14 of the City's Purchasing Policies and Procedures.
 - Purchases funded in whole or part by a governmental agency (grant purchases).
- 2.2.3 The City Council may waive application of the local merchant preference.
- 2.17 MINORITY-OWNED / WOMAN-OWNED / SERVICE DISABLED VETERAN-OWNED / VETERAN-OWNED BUSINESS ENTERPRISE: Certification as a MBE/ WOB/SDVOB/VOB will be an evaluation criteria in all RFP competitive solicitations and will be assigned a weight of 5%. If the proposer meets the definition of a Minority Business Enterprise, as defined in Section 2.20 of the City's Purchasing Policies and Procedures, the proposal will be awarded 5 points by each evaluation committee member.

3.0 TERMS AND CONDITIONS OF CONTRACT

CONTRACT REQUIRED. The City and the successful proposer(s) shall enter into a Contract for Services that will include, but not be limited to and may be superseded by such Contract, the following terms and conditions.

- 3.1 **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 proposer, its agents, servants, employees or others, or because of or due to the mere existence of the Contract between the parties.
 - 3.1.1 Nothing in this indemnification is intended to constitute a waiver of the City's limitation on liability as set forth in Section 768.28, Florida Statutes. This covenant shall survive the expiration or termination of this Request for Qualifications. This provision shall not be construed to require Proposer to indemnify the City in situations wherein their rulings are appealed in the ordinary course as provided by law.
- 3.2 **COPYRIGHTED, CONFIDENTIAL INFORMATION.** If applicable, the proposer shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. Proposer shall, at its own expense, hold harmless and defend the City against any claim, suit or proceeding brought against the City which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under the contract, constitute an infringement or any patent or copyright of the United States. The Proposer shall pay all damages and costs awarded against the City.
- 3.3 **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 proposer(s) will conduct all required work diligently and as specified by the City.
- 3.4 **ASSIGNMENT.** The successful proposer(s) may not assign, transfer, or otherwise dispose any rights or obligations of the Contract without prior written consent of the City.
- 3.5 **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 Proposer for (1) those goods and/or services actually shipped /performed and accepted up to the date of termination, and (2) costs incurred by the Proposer for

unfinished goods, which are specifically manufactured for the City and which are not standard products of the Proposer, 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.

- 3.6 **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 Proposer, if the Proposer: (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.
- 3.7 **RIGHT TO AUDIT RECORDS:** The City shall be entitled to audit the books and records of a contractor or any sub-contractor to the extent that such books and records relate to the performance of such contract or sub-contract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract 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.

3.8 PUBLIC RECORDS

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

**CITY CLERK – CITY OF FORT WALTON BEACH
107 MIRACLE STRIP PARKWAY SW
FORT WALTON BEACH, FLORIDA 32548
850-833-9509
clerk@fwb.org**

- 3.8.1 Winning Proposer shall keep and maintain public records required by the City to perform the services contained in this Contract. Upon request from the City's custodian of public records, Winning Proposer shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes or as otherwise

provided by law.

- 3.8.2 Winning Proposer shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term, and following completion of the contract if the Winning Proposer does not transfer the records to the City.
- 3.8.3 Upon completion of the contract, Winning Proposer shall transfer, at no cost, to the City all public records in possession of the Winning Proposer or keep and maintain public records required by the City to perform the service. If Winning Proposer transfers all public records to the City upon completion of the contract, Winning Proposer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Winning Proposer keeps and maintains public records upon completion of the contract, Winning Proposer shall meet all applicable requirements for retaining public records.
- 3.8.4 All public records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- 3.8.5 Failure of Winning Proposer to comply with the City's request for records or any other provisions contained in this paragraph, shall be deemed a material breach of this contract and the parties agree that the City may seek immediate relief through a court of law as outlined in Section 119.11, Florida Statutes.
- 3.8.6 If Winning Proposer fails to provide the public records to the City within a reasonable time Winning Proposer may be subject to penalties under Section 119.10, Florida Statutes. If it is found that Winning Proposer has unlawfully refused to comply with a public records request within a reasonable time, and if the Notice requirements of Section 119.0701(4), Florida Statutes have been met, the City will be entitled to recover all reasonable costs and attorneys' fees for such violation in accordance with Section 119.0701(4), Florida Statutes.

3.9 FISCAL YEAR FUNDING APPROPRIATION

- 3.9.1 SPECIFIED PERIOD. 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 funds by the City Council for any additional years.

3.9.2 CANCELLATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING FISCAL PERIODS. When funds are not appropriated or otherwise made available to support continuation of the Contract for Services in any subsequent fiscal period, the Contract may be terminated or modified. If the Contract is terminated, the contractor shall be entitled to reimbursement for any work delivered or conducted pursuant to the Contract.

3.10 FLORIDA PROMPT PAYMENT ACT

3.10.1 PROPER INVOICE. For purposes of billing submission and payment procedures, a "proper invoice" by a contractor, vendor or other invoicing party shall include at least the following information:

- A description, including quantity, of the goods or services provided to the City reasonably sufficient to identify the goods or services;
- The amount due, applicable discounts, and the terms of payment;
- 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;
- The purchase order or contract number as supplied by the City;
- Identification by office, division, or department of to whom the goods or services were delivered or provided;

3.10.2 DELIVERY OF INVOICE. All invoices, to be considered a proper invoice, shall be delivered to Accounts Payable Division, City of Fort Walton Beach, 107 Miracle Strip Parkway SW, Fort Walton Beach, Florida, 32548.

3.10.3 DELIVERY ACCEPTANCE REQUIRED. An invoice will not be considered proper unless there has been delivery, installation, or provision of the goods or services to the correct City office, division, or department; there was acceptance by the City of the goods or services; and the contractor has otherwise complied with all of the contract's terms and conditions and is not in default of any of them.

3.10.4 INVOICE DISPUTE PROCEDURE. If there is a dispute between the City and contractor regarding an invoice, the City or contractor may initiate this invoice dispute procedure.

- Either party can initiate the dispute procedure, within 45 days after the receipt or denial of an invoice, by providing the other party in writing of a dispute and stating the specifics of the dispute. The parties shall exchange all materials and information to support their claims and provide a copy of all materials and information to the Financial Services Director.
- The Financial Services Director shall review all materials and information and conduct a meeting with the contractor and the responsible City office, division, or department. The Financial Services Director shall then issue a written final decision no later than 60 days after the date of notice of the dispute. The final decision shall be immediately mailed or hand-delivered to the contractor.

3.11 INSURANCE/PERFORMANCE BONDS: Insurance and/or performance bond coverage may be required by the Contract. Such insurance or bond shall be continued in effect for the term of the contract. Should a Contractor fail to provide acceptable evidence of current insurance and/or a performance bond within seven (7) days before the expiration date of an insurance policy or bond, the City shall have the right to terminate the Contract.

3.11.1 BONDS – Neither bid bond nor performance/materials bonds will be required.

3.11.2 INSURANCE: A successful proposer must provide evidence of insurance coverage, to be specified in the Contract and delivered at the time of execution of the Contract, which is equal or exceeds the City's minimum standards for this type of service. As outlined below, such insurance shall be written by a company licensed to do business in the State of Florida and have an A.M. best rating of at least A-.

- WORKERS COMPENSATION

Coverage A - To be in conformity with Fl Statutes

Coverage B - \$500,000/\$500,000/\$500,000

- 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/Completed Operations \$2,000,000

- Fire Damage: \$100,000
- Medical Payments: \$10,000
- Contractual Liability where applicable

*** Commercial General Liability must be on a comprehensive basis, including Personal Injury Liability, Products /Completed Operations, and must show City of Fort Walton Beach as an additional named insured with respect to these coverages.**

- All coverage above 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 thirty (30) days advanced notice; contractual liability; and any coverage's which are eliminated, restricted or reduced to less than what is commonly provided by standard I.S.O. forms must be indicated.

- PROFESSIONAL LIABILITY/ERRORS & OMISSIONS:

- Per Occurrence: \$1,000,000
- Aggregate: \$1,000,000

- UMBRELLA
\$1,000,000 each occurrence / \$1,000,000 aggregate

- POLICY PROVISIONS

- The City of Fort Walton Beach shall be an additional insured under any General Liability, Business Auto, Umbrella and Professional Liability Policies using an ISO Additional Insured Endorsement form CG2013 or its equivalent.
- Coverage shall apply as Primary and non-contributory.
- Waiver of Subrogation in favor of the City of Fort Walton Beach, Florida.
- Notice will be delivered in accordance to Policy Provisions.